



COMMITTEE DATE 24/01/2024 **WARD** Underwood

APP REF V/2023/0355

APPLICANT Mr Richard Purewall

PROPOSAL Four Semi-Detached Houses.

LOCATION 102 Cordy Lane, Brinsley, Nottinghamshire, NG16 5BZ.

WEB-LINK <https://www.google.com/maps/place/102+Cordy+Ln,+Brinsley,+Nottingham+NG16+5BZ/@53.0440836,-1.3013965,140m/data=!3m1!1e3!4m5!3m4!1s0x487994aa415cca3b:0xe60afe3781e2f403!8m2!3d53.04418!4d-1.3008256?entry=ttu>

BACKGROUND PAPERS A, B, C, D, F, G & K.

App Registered: 14/08/2023

Expiry Date: 08/10/2023

Consideration has been given to The Equality Act 2010 in processing this application.

This application has been referred to Planning Committee by Cllr Gregory to discuss highway safety and the Green Belt.

The Application:

This is a full planning application for the erection of 4 semi-detached dwellings within designated Green Belt.

The application has been subject to revisions since its original submission, with the changes largely relating to the application site boundary given its relationship with the adopted highway and the district boundary with Broxtowe Borough Council. A re-consultation was undertaken in light of these changes.

The site area measures approximately 1620 sqm, and is used in part for storage purposes. Planning permission has previously been granted on the site for a replacement office/storage building (planning application reference V/2022/0928), and a condition was attached to that permission restricting wider outdoor storage at the site. On a parcel of land immediately adjacent to the south of the application site, another replacement office/storage building has also been approved (planning application reference V/2022/0929).

Consultations:

A site and press notice has been posted together with individual notifications to surrounding residents.

The following responses have been received:

Resident comments:

12 written representations have been received from 9 residents, 9 objecting to the proposal and 3 neither objecting nor supporting it, raising the following points:

- The site is within the Green Belt.
 - Conditions from previous application have prevented outdoor storage to protect the Green Belt.
- Building material currently stored on site.
- Asbestos is buried on site.
- Hedgerows and trees removed September 2022.
- Increased potential to pollute the brook from surface water run-off.
- Traffic concerns:
 - Conflict with bus stop.
 - Increase accident risk.
 - Steep gradient into site.
 - No pavement for pedestrians.
 - Existing on-street parking issues.
 - No proposed visitor parking.
 - Disruption by delivery vans.
- Impact on protected species.
- Could lead to further residential development.
- Query how storage uses and the dwellings can both be implemented.

Selston Parish Council:

- Object – site is in Green Belt.

Environment Agency:

- Site is Flood Zone 1 – no fluvial flood risk concerns.

Nottinghamshire County Council Highways:Comments dated 23/06/2023:

- Cordy Lane is otherwise known as the A608.
- The site does not have any extant access points; the proposal seeks to create 2 single driveways, plus one shared driveway.
- The Highway Authority's expectations for residential accesses are set out in Part 3.1 of the revised Nottinghamshire Highway Design Guide in terms of access width, gradient, surfacing, disposal of surface water runoff and visibility splays.
- No visibility splays have been demonstrated for any of the accesses. The area within the splays must be within the applicant's ownership, and or highway extents.
- What gradients are the proposed driveways to have?
- The single dwelling accesses i.e., Plots 1 and 4 need to have a minimum width of 3m, increasing to 3.6m if bound.
- The shared access will need to be a minimum of 4.8m for the first 8m behind the highway boundary, widening to 5.8m if bound on both sides.
- All the driveways will need to have turning provision due to the fact that access is proposed off the A608. This needs to be demonstrated using swept path analysis. For the shared driveway there should be space for 3.5t van to enter, and exit in a forward gear i.e., home shopping van.
- Internal dimensions for garages must meet standards to count as a parking space.

Comments dated 17/08/2023:

- Visibility splays remain unclear – Not satisfactorily demonstrated.
- Uncertainty over driveway surfacing.
- On-site parking provision is tight. Has consideration been given to visitor parking?

- Consideration should be given to a reduction in the number of accesses, dwellings or house types to help overcome the above.

Comments dated 19/09/2023:

- Gradients should be no steeper than 1:12.
- Possible reliance on highway land for turning/landscaping associated with the dwellings.
- Obstructions are within the visibility splays – namely the bus shelter. No consideration of planned reinstatement of the hedgerow.
- On-site parking/manoeuvring is cramped and contrived resulting in vehicles likely reversing out onto Cordy Lane, or parking on Cordy Lane itself.
- Cannot support the proposal for 4 dwellings.

Nottinghamshire County Council Rights of Way:

- No objections – no public rights of way are affected.

Severn Trent Water:

- Condition and informative advised.

Broxtowe Borough Council:

- Have no observations to provide as a Neighbouring Authority.

Policy:

Under the Planning and Compulsory Purchase Act 2004, section 38(6) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies). The National Planning Policy Framework (NPPF) is a material consideration.

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF) (December 2023):

Part 5 – Delivering a Sufficient Supply of Homes.

Part 8 – Promoting Healthy and Safe Communities.

Part 9 – Promoting Sustainable Transport.

Part 11 – Making Effective Use of Land.

Part 12 – Achieving Well Designed and Beautiful Places.

Part 13 – Protecting Green Belt Land.

Part 15 – Conserving and Enhancing the Natural Environment.

Ashfield Local Plan Review (ALPR) (2002):

ST1 – Development.

ST3 – Named Settlement.

EV1 – Green Belt.

EV8 – Trees and Woodland.

HG5 – New Residential Development.

Jacksdale, Underwood, Selston (JUS-t) Neighbourhood Plan (2017-32):

NP1 – Sustainable development.

NP2 – Design principles.

NP4 – Housing type.

Supplementary Planning Documents:

Residential Design Guide (2014).

Residential Extensions Design Guide (2014).

Residential Car Parking Standards (2014).

Nottinghamshire Highway Design Guide (2021).

Relevant Planning History:

V/1987/0650 - Building for Cow and Calf suckler yard - Conditional Consent.

X/2022/0014 - Prior Approval for a Change of Use of 2 Agricultural Buildings to 2 Dwellings - Agricultural Prior Notification Refused.

V/2022/0577 - Replace Existing Storage Unit with New Build Storage Unit of Same Size - FULL Withdrawn.

V/2022/0928 - Application for Rebuild of Storage Unit Historically used as Agriculture to Office and Storage - FULL CC.

V/2022/0929 - Application for Rebuild of Two Existing Office & Storage Units in to One Purpose Built Office & Storage Unit - FULL CC.

Material Considerations:

- Principle of Development.
- Visual & Residential Amenity.
- Highway Safety & Transport.
- Other.
- Conclusions.

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan, unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies).

The National Planning Policy Framework (NPPF) (December 2023) is a material consideration. The policies in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 225). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether or not development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

Principle of Development:

The application site is located within the Nottinghamshire Green Belt, and as such Policy EV1 of the ALPR 2002 and Part 13 (Protecting Green Belt land) of the NPPF are applicable.

Policy EV1 of the ALPR identifies that permission will not be granted for inappropriate development in the Green Belt, except in very special circumstances, and identifies various forms of 'appropriate' development. All development must be located and designed so as not to adversely affect the purposes of the Green Belt, its openness, and the purposes of including land within it.

Part 13 of the NPPF identifies that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances (paragraph 152). Paragraph 154 of the NPPF goes on to identify various forms of development which are deemed to be 'appropriate' uses within the Green Belt, however residential dwellings explicitly are not identified, and as such, are considered to be an inappropriate use within the Green Belt.

Paragraph 153 of the NPPF states that "substantial weight" should be given to any harm to the Green Belt, and that 'very special circumstances' will not exist unless the potential harm to the Greenbelt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Infill Development

Paragraph 154(e) of the NPPF identifies the 'limited infilling in villages' to be appropriate within the Green Belt. Infill development is not defined within the NPPF, but the ALPR (2002) defines an 'infill site' as "an area which can accommodate one or two dwellings within a small gap in existing development." Policy EV1 of the ALPR (2002) on Green Belt does permit limited infilling within only certain named villages, which does not include Brinsley.

There is no indication within the NPPF that the term "limited infilling in villages" relates only to land that falls within a settlement boundary, as defined in a development plan. In this regard it is considered that the ALPR Green Belt policy is overly prescriptive and is not consistent with the policy exceptions of the NPPF.

The width of the application site measures approximately 44 metres, and occupies a space in an otherwise built-up part of the village.

The supporting text of ALPR Policy EV1 identifies that where limited infill development would be acceptable, this would normally comprise one or two dwellings. The inclusion of the word 'normally' is considered to recognise that a greater amount of housing may also be considered acceptable in some cases.

Based on this, and the limited weight given to ALPR Policy EV2 due to its inconsistency with the NPPF on infill development, it is considered that the application site would constitute infill development in accordance with exception (e) of paragraph 154 of the NPPF (December 2023).

Accordingly the proposal would not be inappropriate development in the Green Belt. As a result it is not necessary to consider the effects of the proposal on the openness of the Green Belt, or its purpose because these matters are implicitly considered in this exception. Whilst there would be a degree of conflict with ALPR Policy EV1 in terms of development in the Green Belt, and by association with Policies ST1 and ST3, the NPPF takes precedence as Policy EV1 is more restrictive than the NPPF in terms of limiting infill development to certain named villages. The conflict with the development plan in this regard is outweighed by the Green Belt policies of the NPPF.

Previously Developed Land

Paragraph 154(g) of the NPPF also identifies the partial or complete redevelopment of previously developed land as also constituting an exception to Green Belt policy, however this is also predicated on the proviso that the proposal would:

- a) not have a greater impact on the openness of the Green Belt than the existing development; or
- b) not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Planning permission was granted on 27/03/2023 for the rebuild of a storage unit, to be used for offices and storage, on the application site under planning application reference V/2022/0928. That application and this application for dwellings occupy broadly the same red-boundary of site, albeit some variation to account for points of access etc. Therefore given the proposed siting of the storage building, if this application for dwellings was to be implemented, the storage/office building under application reference V/2022/0928 could not be implemented. At the time of the Council's site visit a concrete slab and low level block wall had been installed on site.

The application for the storage building, although the site (as defined by the red-boundary plan submitted with the application) extended up to the northern boundary adjacent to No.108 Cordy Lane, the site was to be used for no purposes associated with the storage/office building and a condition was attached to that approval accordingly which restricted the rest of the site being used for outdoor storage. The outdoor areas of the site were therefore to remain open, in the interest of protecting the character and openness of the Green Belt and wider area.

The NPPF defines Previously Developed Land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. Excluded from this definition is land which was last used by agriculture/forestry buildings, land used for waste disposal by landfill, and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

The application site has been surfaced in gravel hardcore and is currently being used for the storage of building material and waste, without the benefit of planning permission. The former use of the site was identified as agriculture (as part of application V/2022/0928), and the unlawful development which has taken place at the site is considered not to trigger the exception criteria for the wider site being 'developed'.

On this basis it is considered that the application site, excluding the area where the concrete slab/wall has been installed associated with the permitted storage/office

building, would not constitute Previously Developed Land, and the proposal as submitted would not therefore meet exception criteria (g) of paragraph 154 of the NPPF (December 2023).

Immediately adjacent to the application site to the south, planning permission was also granted on 24/03/2023 for a second storage/office building. The implementation of this second storage building would not be affected by the possible implementation of this application for 4 dwellings.

It is therefore considered that the proposed development would meet criteria (e) of paragraph 154 of the NPPF (December 2023) Green Belt policy, and would represent a form of infill development.

Visual and Residential Amenity:

The proposed dwellings would be semi-detached and would be sited in parallel (approx.) to the dwellings on neighbouring sites to the north and south. Across from the site, on the West side of Cordy Lane, a mix of dwelling types is visible. Immediately opposite there is a row of town houses with small front gardens and no off-street parking. Further to the north and south is a mix of detached and semi-detached dwellings, mostly having off-street parking to their side/frontages.

The existing dwellings within the vicinity display a mix of designs and styles, and incorporate a mix of external materials in their finishes.

The proposed properties will have a hipped roof to the main dwelling, with the single storey elements of the proposal incorporating a gable ended roof for the front porches and attached side garages.

It is proposed to incorporate red brick and slate grey tiles into the construction of the dwelling, although no specific details have been forthcoming. These details could be secured via the use of a suitably worded planning condition.

Overall it is considered that the actual design of the dwellings themselves would not harm the character of the area or wider street scene.

No windows are proposed in the side elevations of the dwellings to protect the amenity of neighbouring properties. The separation distance to the dwellings across from the site is considered to be acceptable. A roof light is proposed in the side and rear roof slopes serving a bedroom and ensuite within the roof (bedroom 3) and the kitchen-diner at ground floor level. Although as these windows are high level there are limited overlooking concerns.

Overall it is considered that, given the siting and scale of the proposed dwellings, that the amenity of neighbouring properties would not be detrimentally affected as a result of this development.

Highway Safety:

One of the principle concerns with this application is the impact upon highway safety. Nottinghamshire County Council as Highway Authority (HA) have been consulted on this application and it is considered that their comments carry significant weight.

Three new points of access are proposed onto Cordy Lane (the A608), two single driveways and one shared driveway. There would be a requirement for all vehicles to manoeuvre within the application site boundary to ensure they are leaving the site in a forward gear, in the interest of highway safety. The agent has provided a layout plan which indicates parking areas and manoeuvring space for each plot, discussed further below.

Each property is 3-bedroomed which would require each dwelling to provide 2 off-street car parking spaces. One of these spaces is proposed to the frontage of the property, and another proposed to be accommodated within an attached garage to the side of each dwelling. Whilst the internal measurements of the garages do appear to meet the requirements to 'count' as a space, it has not been satisfactorily demonstrated that a vehicle can enter/exit the garage and leave the site in a forward gear, without encountering an obstruction.

If a vehicle was parked on the site frontage this would restrict vehicle movements into/out of the garage. Even if a singular vehicle was parked on the driveway, it has not been demonstrated that this in itself would be able to manoeuvre within the site and leave in a forward gear. The limited vehicle tracking provided does indicate vehicles would collide with the proposed front porch areas when manoeuvring.

The prospect of visitor parking was raised with the agent, given the limited availability of on-street parking. A visitor parking space was subsequently added to each plot, however this has just restricted vehicle movements even further. It is considered that any opportune parking on Cordy Lane associated with this development, by owner occupiers or visitors, would represent a significant risk to highway safety.

Clear unobstructed visibility splays for each of the 3 proposed points of access have not been satisfactorily demonstrated. Along the road frontage, outside Plot 4, is a bus shelter and pole. This shelter/pole would be an obstruction within the visibility splay(s), restricting visibility for drivers egressing the application site but also for vehicles travelling northwards along Cordy Lane being unable to have clear sight of an emerging vehicle.

The Council also highlighted that provision should be made to accommodate a 3.5tonne home delivery van within the site to prevent obstructions to the public highway. Limited vehicle tracking has been shown for such a delivery vehicle, only for the shared driveway area for Plots 2 and 3. In any event the limited vehicle tracking provided indicated a vehicle of this size would be unable to manoeuvre

within the application site boundary and would either be forced to reverse out on the highway or remain parked on the adopted highway disrupting the free flow of traffic.

No details have been forthcoming in relation to bin storage on collection days. Any refuse bins left on the highway outside the properties have the potential to further restrict pedestrian and vehicle visibility splays.

The HA cannot support the application for 4 dwellings on this site for many of the reasons listed above.

Overall it is considered that the development would lead to a cramped and contrived layout, which would result in vehicle being unable to suitably manoeuvre within the application site boundary, and thus resulting in them likely reversing out onto the Adopted Highway. This is considered to represent a significant highway safety risk, which is exacerbated further by the inability to achieve unobstructed visibility splays.

Opportune parking on the highway would also affect highway safety, represent an obstruction to the free flow of traffic, and affect the capacity of the local highway network.

The proposal is therefore considered to be contrary to paragraphs 114 and 115 of the NPPF (December 2023), which states that development should be refused where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other:

Ecology and Arboriculture:

A number of trees/hedgerows were removed from along the frontage of the site in Circa 2022-2023. It is unclear whether any of these trees/hedgerows fell within the adopted highway.

Hedgerows are to be reinstated along the site frontage, save for where the new accesses are proposed, although a limited amount of other planting is proposed. Existing trees to the rear of the site are indicated to be retained.

No assessment as to the level of biodiversity net gain which may be achieved on site has been provided.

Flooding:

The site slopes to the east, quite steeply towards the eastern boundary of site. Along the eastern edge of the site is a stream. The Environment Agency have raised no concerns regarding fluvial flooding, confirming the site is within Flood Zone 1.

A condition could be attached to any favourable decision requiring drainage details for foul and surface water to be submitted for approval.

Contamination:

Resident comments submitted during the consultation process allege that asbestos is buried on the site and seek assurance from the Council that should any be encountered during construction, that no neighbours would be affected. All liabilities and responsibility for the safe handling and disposal of any asbestos materials is the responsibility of the landowner/developer and not the Council.

Conclusion:

A number of concerns were raised with the agent during the consideration of the application and opportunities were provided for these to be addressed, but unfortunately a scheme to satisfactorily overcome these concerns has not been forthcoming.

It is considered that the development would meet the exceptions criteria within Paragraph 154 (e) of the NPPF (December 2023) Green Belt policy, and would represent a form of infill development.

However the proposed development is considered to represent a significant highway safety risk due to the cramped and contrived layout of the site, which fails to provide sufficient level of usable parking, is unable to provide satisfactory manoeuvring space for vehicles, and it has not been demonstrated that the new points of access onto cordy Lane (the A608) can achieve the necessary unobstructed visibility splays. The proposal therefore amounts to the overdevelopment of the site which is considered to lead to opportune parking on the highway, affecting the capacity of the local highway network.

It is therefore recommended this application be refused planning permission, for the reasons as outlined below:

Recommendation: Refuse planning permission.

Reasons:

Highways:

It is considered that the proposed development fails to provide safe and suitable access for all users, and is considered to result in an unacceptable impact upon the safety and capacity of the local highway network as a result of contrived accesses, parking arrangements and manoeuvring space. Suitable unobstructed visibility splays for all users have also not been suitably demonstrated, leading to an increased likelihood of pedestrian-vehicle conflict. Consequently the proposal is considered to conflict with Policies ST1 (a, b and c) and HG5 (e and g) of the

Ashfield Local Plan Review (2002), and paragraphs 114 and 115 of the NPPF (December 2023), which states that development should be refused where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.