



## **DISCLAIMER**

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## Delegated Report

Application Number: V/2019/0013

The Application	<b>Outline Application With All Matters Reserved For A Dwelling</b>
Policy Considerations	<b>Ashfield Local Plan Review (ALPR) 2002</b> ST1 – Development ST2 – Main Urban Area HG1 – Housing Land Allocations HG5 – New Residential Development  <b>National Planning Policy Framework (NPPF) 2019</b> Part 5 – Delivering a Sufficient Supply of Homes Part 9 – Promoting Sustainable Transport Part 11 – Making Effective Use of Land Part 12 – Achieving Well Designed Places  <b>Supplementary Planning Guidance Notes</b> Residential Design Guide SPD 2014 Residential Car Parking Standards SPD 2014
Relevant Planning History	<b>V/2017/0670</b> Details: Outline Application with all Matters Reserved for a Maximum of One Dwelling Decision: Outline Refusal Date: 16/01/18  <b>V/2015/0473</b> Details: Outline Application for a Detached Dwelling Decision: Outline Refusal Date: 27/10/15  <b>V/2015/0298</b> Details: Outline Application for a Detached Dwelling Decision: Withdrawn Date: 16/08/15  <b>V/2014/0200</b> Details: Outline Application for a One Dwelling Decision: Outline Refusal Date: 17/07/14
Summary of comments received	<b>Resident Comments:</b> 4x Letters of objection received from a local resident association and 13x letters of objection received from 12 local residents raising concerns in respect of the following:

- Access to the site is via an un-adopted road
  - o Poor state of repair
  - o Narrow
  - o Prevalent on-street parking will be exacerbated
  - o Unsafe for users (pedestrians and vehicles)
  - o Result in increased traffic
  - o Safety of existing residents compromised
  - o Do not have easement rights
- The Access Review document is inaccurate and contradictory
- Proposal will have insufficient parking and turning space within the site
- Site fenced off preventing turning space for road users
- Safety concerns regarding the level crossing
  - o Only a half barrier crossing
  - o Lack of turning space along the unadopted highway results in vehicles regularly reversing over the crossing
  - o Networks Rails preferred option would be to close the crossing and replace with a road bridge but does not pass cost benefit (2016 Risk Assessment)
- Site will be used for the storage of commercial vehicles and as a farm
- Proposal will exacerbate flooding in the area
- Insufficient services to support the proposal
- Query over the ownership of the land
- Proximity of the site to an industrial estate
- Site attracts vermin

**ADC Planning Policy:**

Site is located within the main urban area of Hucknall and also forms a housing site allocation. The main issues to consider are whether the proposal has an impact on visual amenity of the area, whether the proposal could offer satisfactory living conditions for any future occupier whilst protecting the amenity of existing residents, and whether there would be an impact on highway safety.

**ADC Drainage:**

No known drainage issues with the site.

**ADC Environmental Health:**

No objections to the proposal. Recommend a four stage contamination condition be attached to any approval, due to previous land use.

**NCC Highways:**

No objections to the scale or principle of the development. One additional dwelling in the proposed location will not represent a severe cumulative impact on the adjacent highway network, or an unacceptable impact on road safety. The section of the private road used to access the site meets the requirements set down in the Nottinghamshire Highways Design Guide for safe access to the highway.

	<p>Whilst it is understood that there have been safety issues with the level crossing, this is the responsibility of the Rail Authority and therefore it is their remit to object to the development on this basis.</p> <p><b>Network Rail:</b> No objection to the principle of the development, however as manoeuvring and turning space is limited along the road, consideration should be given to this issue to ensure such activity does not adversely impact on the safety of the railway line crossing.</p> <p>Recommend a condition in regards to sound proofing and informatives at the Reserved Matters stage to ensure the crossing remains clear and unobstructed at all times, and that access to railway undertakes land should be kept open at all times during and after construction.</p>
<p>Comments on above</p>	<p>The application site has been the subject of a number of previous applications which have been refused on highway safety grounds. Due to wording changes in the revised national framework (published in July 2018), the highways authority no longer offer any objection to the proposed development.</p> <p>Furthermore, this application was originally called in by a local member to be heard at planning committee, however this call-in was subsequently withdrawn.</p>
<p>Summary</p>	<p><b>The Site and Application:</b> The application site is located within the main urban area of Hucknall, where the principle of development is considered acceptable, as set out within policy ST2 of the ALPR 2002. Further to this, the application site forms part of a wider housing land allocation as identified in policy HG1 of the ALPR 2002, which has not yet been developed.</p> <p>The applicant seeks outline consent with all matters reserved for the erection of a maximum of one dwelling.</p> <p>The application site is located to the West of the Brickyard, an unadopted highway, and consists of a rectangular parcel of land which is currently grassed over.</p> <p><b>Principle of Development:</b> The application site is located within the main urban area of Hucknall, where under the provisions of saved policy ST2 of the ALPR 2002, the principle of development is acceptable providing no other material planning considerations indicate otherwise.</p> <p>The site forms part of a larger area of land (0.7 hectares) allocated for residential development under saved policy HG1Hh 'housing land allocations' of the ALPR 2002. This states that in principle up to 24 residential dwellings may be permitted on the site. Since its allocation</p>

for housing development however, a comprehensive scheme of development has not been submitted to the Council for consideration, which would meet its development potential.

There are a number of matters that would require resolution before a comprehensive scheme of development could come forward on this site. These include addressing improvements to the highway to serve a comprehensive scheme and access to the development across the railway. It is unlikely that these issues could be overcome in the short to medium timescales.

The need to assess a comprehensive scheme of development is in accordance with Part 5 of the NPPF 2019 which sets out the need to increase housing delivery. A comprehensive scheme is also supported by paragraph 127 of the Framework, which states that planning decisions should optimise the potential of the site to accommodate development.

Having said this, the application site is located on the corner of the wider housing land allocation. This means that the infrastructure required to facilitate a comprehensive scheme could still be put in place from the Brickyard at a later date should an application be submitted in the future.

The principle of residential development on the proposed site is therefore acceptable.

**Visual Amenity:**

This application is considered against the requirements of policy HG5 of the ALPR 2002, which states that residential development will be permitted where its design is acceptable in terms of appearance, scale, siting, and should also be considered against Part 12 – Achieving Well Designed Places of the NPPF 2019.

This is an outline application, which reserves all matters for future consideration. However, an indicative layout plan has been provided which demonstrates the desired siting of the dwelling within the plot.

The Indicative plan shows a dwelling set back approximately 8m from the front boundary. It is considered that this area will function as a front garden/parking and turning area for vehicles.

It is considered that the site can reasonably accommodate a detached residential dwelling which having no significant impact upon the surrounding area. It is considered that the dwelling would need to be of a form and scale which is in keeping with the existing dwellings within the street scene.

There are no significant concerns regarding the visual impact of the development and a subsequent reserved matters application would

ensure the design, siting, scale, access and landscaping are appropriate to the locality.

**Residential Amenity:**

Policy HG5 of the ALPR 2002 stipulates that residential development will be permitted where the design and layout of properties minimise overlooking and provides a reasonable degree of privacy and security.

Appropriate separation distances need to be achieved between the proposed and existing properties. Requirements set out within the Council's Residential Design Guide SPD states that 21 metres is required between main aspect elevations. It is considered that this requirement could be achieved when processing a formal application for the approval of the reserved matters.

It is likely that the development would not give rise to any detrimental impact on neighbouring residents through massing, overshadowing or overlooking.

At approximately 100sqm, the proposed rear garden area would exceed the Council's requirement of 70sqm of private garden space to be provided for a 3 bedroom property or 90sqm of garden space to be provided for a 4 bedroom property. In this regard, the proposed dwelling is likely to offer any future occupiers with an acceptable standard of amenity.

Given the sites proximity to an adjacent industrial area and railway line, it would be reasonable to request a planning condition requiring a scheme of sound proofing be installed at the proposed dwelling as part of any approval. This would be required to protect occupiers from noise emanating from the surrounding uses.

**Highway Safety:**

In the determination of this application due consideration has to be given to Part 9 – Promoting Sustainable Transport, of the NPPF 2019.

A large number of concerns have been received from both local residents and a resident's association group including existing parking congestion along the Brickyard, poor manoeuvrability/turning areas, additional vehicles using the street and its current poor state of repair. Concerns raise that an additional dwelling will introduce further vehicles, having an adverse impact upon parking congestion and create likely accidents and highway safety concerns.

The Brickyard is an unadopted residential cul de sac, which is accessed over an existing signalled railway line. Whilst a number of residential properties do exhibit off-street parking, a number of properties do not, resulting in the prevalence of on-street parking in the area.

The layout plan submitted, whilst indicative, demonstrates that a large front amenity area can be achieved for the proposed dwelling. This area is considered to have sufficient space to accommodate two or three vehicles clear of the highway, together with a vehicular turning area to allow vehicles to enter and egress the site in a forward gear. This meets the requirements of the Council's Residential Car Parking Standards SPD 2014, in providing acceptable off-street parking for dwellings.

Residents have raised concerns in regards to the poor state of repair that the Brickyard is in, which is presently constructed of roadstone, and contains numerous pot holes. Concerns are raised that the development will put the existing road under further use and strain, resulting in further deterioration leading to further expense in its repairs, and causing danger to local residents.

Whilst it is acknowledged that this is a source of frustration and aggravation for local residents, the liability for the maintenance of the road lies beyond that of the Local and County Council, and is unfortunately a civil matter that would need to be resolved between residents, outside of the planning system.

An 'Access Review' report has been submitted as part of the application, providing details of the access arrangement, traffic details and design guidance. Comments received from local residents dispute the claims made within the report, and suggest that the report is inaccurate and contradictory, and as such should not be taken into consideration when determining the application.

Despite previous applications being refused on highway grounds (applications V/2017/0670 and V/2015/0473), the Highways Authority have confirmed that they no longer have any objections to the scheme, based on the scale of the proposed development.

The difference between this current application, and the previous applications, is that this application is based on wording contained within the current 2019 Framework, which has superseded the 2012 Framework.

The current NPPF covers both major and minor developments and simply states that development should only be refused on highway grounds where there would be an unacceptable impact on road safety, or the residual cumulative impacts would be severe. By omission of reference to major development, all developments (both minor and major) are considered under this provision.

It is considered that one additional dwelling will not represent a severe cumulative impact on the adjacent highway network, nor would it lead to an unacceptable impact on highway safety. Furthermore, the section of the unadopted highway directly adjacent to the highway meets the

requirements outlined within the Nottinghamshire Highway Design Guide for safe access to the highway.

Local residents have also raised safety concerns in respect of the railway level crossing required to pass over to reach the application site.

The Council recognise that as part of Network Rail's 2016 Risk Assessment report on the level crossing, it was noted that the preferred option would be to close the existing crossing and replace it with a road bridge. However, the cost in doing so could not be justified, and as such, the existing signalled, half barrier crossing would remain in situ for the foreseeable future.

Comments received from Network Rail offer no objection to the principle of the development. Whilst it is acknowledged that manoeuvring and turning space is limited along The Brickyard, the application site is sited some 85m and its boundaries are already bounded by fencing. As such, the development of this site for one dwelling would not reduce the manoeuvring and turning space along The Brickyard.

Furthermore, it is considered that the addition of one further dwelling in this location would not give rise to an unacceptable impact the safety of the railway crossing in this location.

As such, whilst it is acknowledged that the proposal may give rise to a impact on highway safety, such an impact would be limited. Therefore, such a reason for refusal would be indefensible if taken to appeal, based on current national policy wording. Subsequently, the proposal is considered acceptable on highway grounds.

**Other Matters:**

*Drainage:*

A number of local residents have raised concerns in respect of increase flooding within the area, should the application be given approval.

The Council's Drainage team have confirmed that there are no known drainage issues with the site, however a condition recommending the submission of drainage plans for the removal of surface water and foul sewage, would be requested as part of any approval to be submitted with the Reserved Matters application.

*Land Ownership:*

Issues relating to the ownership of the land have also been raised by residents.

In circumstances where an applicant does not know who owns a parcel of land over which they are proposing a development, they are required



to complete and sign Certificate D on the application form. certificate D requires applicant's to advertise in the local newspaper their intention to apply for planning permission on the site for a period of 21 days prior to submitting the formal planning application. The applicant has followed this procedure by advertising in the Hucknall Dispatch.

In planning terms, the applicant has undertaken the correct land ownership procedure for planning purposes. Planning permission cannot be refused on the grounds that an applicant does not know who owns the land. Any issues that may arise surrounding land ownership disputes between the residents and applicant would be a private civil matter.

**Conclusion:**

In conclusion, this application does not raise any concerns with regards to the impact upon the visual amenity of the locality or upon the residential amenity of existing and future occupiers.

The provision of one dwelling within the corner of a housing land allocation site would not prejudice the comprehensive development of a residential housing scheme coming forward within the area. The proposal is therefore not detrimental to the Council's future housing supply.

Furthermore, the highways authority have confirmed that they have no objections to the proposed scheme, as the overall scale of the development will result in no severe detrimental impact upon the capacity of the transport network, nor on highway safety.

In the absence of a five year housing land supply, on balance therefore, it is recommended that conditional consent be granted for this application.

Recommendation

OUTCC

Conditions & Reason

Condition Code

Text

Monitor

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters :
  - (a) Layout
  - (b) Scale
  - (c) Appearance
  - (d) Access
  - (e) Landscaping
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before

the expiration of three years from the date of this permission.

3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. This permission shall be read in accordance with the following plans: Site Location Plan, Drawing No. 18\_969\_001 Rev A, Received 18/03/19. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
5. The Reserved Matters details for access should demonstrate appropriate vehicle parking and vehicle manoeuvring facilities can be provided within the site.
6. The Reserved Matters details for landscaping shall also detail the proposed treatment of the site's boundaries, and a phasing scheme for the implementation of the boundary treatment.
7. Drainage details and plans for the disposal of surface water and foul sewage shall be submitted with the Reserved Matters and shall be implemented in accordance with the approved details before the development is first brought into use.
8. Sound insulation details for the dwelling shall be submitted with the Reserved Matters and shall be implemented in accordance with the approved details before the development is first brought into use.
9. Prior to the commencement of any works pursuant to this permission the applicant shall submit the following to the Local Planning Authority (LPA):
  - i. A desktop study/Phase I report documenting the previous history

of the site and its immediate environs

ii. A site investigation/Phase II report where any previous use of the site indicates a potential contaminative use. The applicant/developer shall submit a Site Investigation/Phase II Report documenting the characteristics of the ground at the site. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the Local Planning Authority.

iii. A Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied.

Any variation to the Remediation Scheme shall be agreed in writing with the Local Planning Authority, in advance of works being undertaken. All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase reveal any additional contamination. Where additional contamination is found the applicant must submit in writing, details of the contingency

plan for the written approval by the Local Planning Authority.

On completion of remedial works and prior to the occupation/use of the development, the applicant must submit to the Local Planning Authority:

iv. A Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the Local Planning Authority prior to the development being put to its intended use.

**Reason Code**

**Text**

**Monitor**

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
4. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
5. In the interest of highway safety;
6. To ensure both the satisfactory appearance of the completed development and an adequate level of amenity for the dwellings in question.
7. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
8. To protect the residential amenity of future occupiers.
9. To ensure that the site, when developed, is free from contamination, in the interests of safety.

Informative	Informative Code	Informative Text
	General Liability Warning	<p>The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development &amp; Building Control Section of the Authority on Mansfield (01623 450000).</p> <p>Landowners, individual property owners and users are responsible for managing the drainage of their own land. The applicant must satisfy themselves that drainage is managed in such a way as to prevent adverse impacts of neighbouring land. The council take no responsibility for incorrect information or interpretations made by the applicant or their representatives. The responsibility for the checking of the design, calculations and details remain with the developer, or agent acting on their behalf.</p>
Proactive Working	The application as submitted is acceptable. In granting planning permission the District Planning Authority is implicitly working positively and proactively with the applicant.	

**Expiry Date: 29/03/2019**

	Signed	Dated
Case Officer		08-05-19
Development Team Manager		
Determined by Service Director Or on their behalf		8/5/19