



 **Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 07/07/2020**

**COMMITTEE DATE**    22/07/2020                      **WARD**            Hucknall South

**APP REF**                      V/2020/0030

**APPLICANT**                E Clements

**PROPOSAL**                Dwelling

**LOCATION**                    26 Brickyard, Brickyard Drive, Hucknall, Nottingham, NG15  
7PG

**WEB-LINK**                    <https://www.google.co.uk/maps/@53.0320159,-1.1904576,18z>

**BACKGROUND PAPERS**    A, C, D, E, K

App Registered: 14/02/2020                      Expiry Date: 24/04/2020

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee by Cllr. L Mitchell on the grounds of highways, visual amenity and irregularities with the application.*

### **The Application**

This application was deferred by committee on the 13 May 2020 to enable members to visit the site.

The application site is located within the main urban area of Hucknall, and consists of a parcel of garden land used in association with the residential dwelling at 26 Brickyard. The site is positioned between no. 16 and 26 Brickyard and presently comprises of an area of lawned garden and two small domestic outbuildings. The application site is accessed via an unadopted highway.

The applicant seeks planning permission for the construction of a detached dwelling, with associated parking and amenity space.

### **Consultations**

Site Notices have been posted together with individual notification to surrounding residents.

The following responses have been received:

### **Resident Comments:**

1x Letter of objection received from a local residents association and 6x letters of objection received from local residents raising concern in respect of the following:

- Access to the site is via an unadopted road
  - o Poor condition
  - o Increased traffic during construction and occupants thereafter will cause further deterioration of the road
  - o Pedestrian and vehicular conflict
  - o Narrow – no manoeuvring or turning space
  - o Prevalent on-street parking
  - o Do not have easement rights
- Safety concerns regarding the railway crossing
  - o Large vehicles (refuse trucks, emergency vehicles, HGVs) have to reverse over the crossing
  - o Intensification of the substandard crossing
- Impact on visual amenity/proposal out of character
- Proposal will exacerbate flooding
- Water pressure would be affected
- Proposal will effect ground stability
- Close proximity to industrial uses
- Plans and information submitted is inaccurate
- Query over ownership of the land
- Unauthorised business being run from the site

**ADC Environmental Health (Noise):**

No objections to the principle of development, however in the interest of the amenity of existing and future occupiers, conditions and informatives are requested as part of any approval in relation to construction hours, the submission of a construction management plan, measures to protect future occupiers from noise associated with the commercial uses on Wigwam Lane, and to ensure compliance with current legislation on noise and dust.

**ADC Environmental Protection (Contamination):**

Historical mapping shows that the site has previously been used for the manufacturing of bricks, which has the potential to adversely affect ground conditions. A Contamination and Soil Sampling Assessment has been undertaken, and the results of the investigation indicate that the site is adequate and safe for residential use.

**NCC Highways Authority:**

The highway abutting Brickyard meets the standards required to serve a private drive for the existing and committed number of dwellings, in addition to an additional dwelling. One new dwelling will not represent a severe cumulative impact on the adjacent highway nor will it result in an unacceptable impact on highway safety. The Highways Authority therefore have no reasonable grounds to raise an objection.

**Network Rail:**

No objections to the principle of the development. Recommend a condition in regards to sound proofing and informatives to ensure the crossing remains clear and unobstructed at all times, and that access to railway undertakers land is kept open at all times during construction and thereafter.

### **Policy**

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) 2019**

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

#### **Ashfield Local Plan Review (ALPR) 2002**

ST1 – Development

ST2 – Main Urban Area

HG5 – New Residential Development

#### **Supplementary Planning Guidance Notes**

Residential Design Guide SPD 2014

Residential Car Parking Standards SPD 2014

### **Relevant Planning History**

#### **V/1987/0146**

Details: Site for Dwellings

Decision: Refusal

#### **V/2018/0152**

Details: Outline Application with all Matters Reserved for 3 Dwellings

Decision: Refusal

### **Comment:**

The application site comprises of a parcel of land situated between 16 and 26 Brickyard, and is presently used as part of the residential curtilage associated with the dwelling at 26 Brickyard. The site itself fronts onto the highway known as the 'Brickyard', and currently consists of an area of well-maintained lawn and two small domestic outbuildings.

The site is accessed off the Brickyard, which is an unadopted highway. Access to the Brickyard is taken over the tram/train line via an automated barrier from an adopted road known as Brickyard Drive to the south of the site.

Sited directly adjacent to the north and south of the site is existing residential development sited on the eastern side of the Brickyard. Directly opposite the site to

the west is an area of open land which is predominantly used as paddocks. To the north-west of the site, on the western side of the Brickyard, is further residential development, in addition to a vacant parcel of land where permission has recently been granted for the construction of one dwelling.

To the east of the site is an area of open land, comprising of a pond, which extends to the rear of properties along the Brickyard to the south of the site. Further afield to the east of site, approximately 40-50m away, is the established industrial estate of Wigwam Lane.

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.

**Visual Amenity:**

The applicant proposes the construction of one, four bedroom, two-storey dwelling with rooms in the roof space. A detached garage is also proposed to be constructed to the rear of the site.

Within the vicinity of the application site, there are examples of both single and two storey dwellings, albeit predominantly two-storey properties. There are also examples of detached, semi-detached and terraced properties along the Brickyard.

The proposed dwelling will be sited approximately 5m back from the highway edge, in line with the building line created by properties on the eastern side of the Brickyard. The proposed garage will be sited approximately 30m from the highway edge, in line with a garage at neighbouring property 26 Brickyard.

In terms of the design, the dwelling and garage are proposed to be constructed from brick and tile. Whilst the specific materials have not been provided at the present time, within the vicinity of the site there are examples of properties which have been constructed using comparable materials. As such, a dwelling constructed in brick and tile would not appear significantly out of keeping with the appearance of buildings found within the vicinity of the site. A condition will be attached to any approval requiring details of the brick and tile to be used in the construction of the dwelling to be submitted for approval.

Stone cills and headers are also proposed to be incorporated into the design of the scheme, improving the overall appearance of the proposed dwelling, and drawing upon the design features of a number of properties along the Brickyard. Dormer windows are also proposed to be incorporated into the roof slope on the front and rear elevations. Such a feature is already apparent in the street scene.

Whilst it is acknowledged that the proposed dwelling is larger in scale and appearance to those adjacent to the north and south of the site, the footprint of the

dwelling is however comparable to properties to the north-west of the site, and others along the Brickyard which have previously been extended.

Whilst specific details regarding landscaping and boundary treatments have not been provided, these matters can be appropriately conditioned as part of any approval.

With the above in mind, it is considered that the siting and design of the dwelling is acceptable, and the proposal will not appear significantly at odds with the existing surrounding development, which would warrant the refusal of the application.

**Residential Amenity:**

The room sizes and area of private amenity space to the rear of the dwelling exceed the minimum requirements, as detailed in the Council's Residential Design Guide SPD for a 4+ bedroom property. There are therefore no concerns regarding the proposal being an overdevelopment of the plot, and the proposed dwelling will provide adequate living conditions for any future occupiers of the property.

Concerns have been raised by local residents in respect of the overlooking impact that the proposal will have on neighbouring residential occupiers. The Council's Residential Design Guide 2014 stipulates that a minimum of 21m should be obtained between main habitable room windows to protect privacy. Given that the main habitable room windows in the proposed dwelling do not face onto any other residential development, the proposal therefore cannot be seen to give rise to a significant loss of privacy to neighbouring residents. Whilst a window is proposed in the northern side elevation of the proposal facing 26 Brickyard, this is a ground floor window which would face onto the driveway and parking area associated with the proposed dwelling. Whilst neighbours have also raised concerns regarding the overlooking of amenity space, it is considered that any overlooking of amenity space would be no greater than what is already experienced from the linear pattern of development.

Whilst not raised by residents, matters relating to massing and overshadowing have also been fully considered. The development will be sited approximately 2m from the neighbouring property at 16 Brickyard, which has no windows sited in the side elevation facing the application site. Given that the dwelling will be sited in line with the existing pattern of development and will not project further forward or to the rear than the neighbouring property, it is considered that there is no significant massing impact arising from the proposal.

It is however acknowledged that the neighbouring property at no. 16 has two dormer windows in the front elevation which are set back from the principle elevation of the dwelling by approximately 1m. The BRE 45 degree code has therefore been assessed in respect of these windows, and the 45 degree code is not breached in plan or elevation. The proposal therefore would not result in a detrimental loss of light to these windows.

A Construction Management plan has been submitted by the applicant to reduce the impact from construction works on neighbouring residential occupiers, in accordance with the comments received from the Council's Environmental Health officer. Hours of construction have also been included in the plan, which reflect those suggested by the EHO. Should the application be approved, a condition would be attached requiring the construction of the dwelling to be carried out in accordance with this plan.

It is therefore considered that the proposal will not give rise to any significant impacts on the amenity of nearby residents.

### **Highway Safety:**

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

The majority of concerns raised by local residents as part of the consultation process relate to the proposed access. This includes concerns regarding existing parking congestion along Brickyard, poor manoeuvrability/turning areas, additional vehicles, such as HGVs, using the access road, and its current poor state of repair.

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.

A parking plan, as requested by the Highways Authority, has been submitted with the application which demonstrates that the proposed scheme will provide sufficient space within the curtilage for a minimum of four off-street parking spaces, both externally and within the garage/carport space, exceeding the minimum requirement stipulated for a 4+ bedroom property in the Council's Residential Car Parking Standards SPD 2014, in addition to appropriate manoeuvring space, allowing vehicles to enter and egress the site in a forward gear.

The proposal would therefore be unlikely to exacerbate on-street parking along the highway, nor would it result in any increased likelihood of vehicular/vehicular and vehicular/pedestrian conflict.

Local residents have raised concerns in regards to the poor state of repair that the Brickyard is in, which is presently constructed of road stone, and contains numerous pot holes of varying sizes. Concerns are raised that the development will put the existing road under further use and strain, resulting in further deterioration of the driveway leading to further expense in its repair, and causing danger to local residents. Issues relating to easement rights over the access drive have also been raised.

Whilst it is acknowledged that the access driveway remains 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 a civil matter that would need to be resolved between residents outside of the planning system. Again, the legality over rights of access for any future occupiers is also a civil matter and does not form a consideration during the determination of this application.

The Highways Authority have confirmed that the highway abutting the Brickyard meets the standards required to serve a private drive of the existing and committed number of dwellings, in addition to an additional dwelling, and therefore one new dwelling will not represent a severe cumulative impact on the adjacent highway, nor will it result in an unacceptable impact on highway safety. The Highways Authority therefore do not object to the scale or principle of the proposed development.

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 recognises 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 proposed development, subject to informatives being attached to any approval requesting the applicant provides any future occupiers with railway crossing safety information, and requesting that access to railway undertakers land should be kept open at all times.

As such, it is considered that the addition of one further dwelling in this location would not give rise to an unacceptable impact on the safety of the railway crossing in this location. It is therefore considered that the proposal will not result in any significant detrimental impact on highway safety in this location, and the application is subsequently considered acceptable on highway grounds.

**Other Matters:**

*Flooding:*

Concerns have also been raised by local residents regarding the increased likelihood of flooding should the development be approved. The Environment Agency's flood mapping system has been reviewed and the site is not located within zones 2 or 3, nor is the site known to be susceptible to surface water flooding.

Nevertheless, to ensure that an appropriate drainage scheme is implemented to ensure that any increased risk of flooding is reduced, a condition will be applied to any grant of permission requiring drainage plans to be submitted.

*Land Ownership:*

Local residents have raised concerns regarding land ownership. A land registry search has been undertaken which demonstrates that the application site, adjacent to 26 Brickyard, is owned solely by the applicant. However, given that the access driveway, known as the Brickyard, is unadopted, notice is required to be served on all parties with ownership or access over this land. The applicant has subsequently signed Certificate D in the application form, and a press notice has been issued in the local paper, in accordance with national requirements/procedures.

**Conclusion:**

The Council are presently unable to demonstrate a five year housing land supply, and as such, the presumption in favour of sustainable development applies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposed development scheme does not raise any significant concerns with regards to the impact upon the visual amenity of the locality or upon the residential amenity of existing and future occupiers.

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. Additionally no objections have been received from Network Rail in respect of increase traffic over the existing railway line crossing and subsequent safety implications.

In addition to the above, the proposal would also assist in providing a contribution towards the Districts housing supply, albeit modest, in a sustainable main urban area location. The scheme would also provide a number of economic benefits, including support for a small house builder and other economic benefits that would be generated during the construction of the dwelling and occupation thereafter.

In conclusion, it is therefore recommended that this application be approved, subject to the planning conditions listed below:

**Recommendation: Full Application Conditional Consent**

**CONDITIONS**

- 1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.**
- 2. No development shall take place above slab level until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those**

materials, unless the Local Planning Authority gives written approval to any variation.

3. This permission shall be read in accordance with the following plans: Site Location Plan Scale 1:1250, Received 12/03/20; Proposed Block Plan, Elevations and Floor Plans, Drawing No. RS/EC/27/10/19/01 Rev B, Received 23/04/20. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
4. No development shall take place above slab level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. No development shall take place above slab level until the following matters have been submitted to and agreed in writing by the Local Planning Authority:
  - (a) Full details of the proposed treatment of the site's boundaries.
  - (b) A phasing scheme for the implementation of the agreed boundary treatment.

The boundary treatment shall be undertaken in accordance with the agreed details.

6. No development shall take place above slab level until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
7. If during the ground excavation works any visibly or olfactory contaminated ground is encountered, the Applicant shall immediately inform the Council's Environmental Protection Officer to allow inspection of the excavations and agree a way forward.
8. The scheme to protect the dwelling from noise associated with the industrial activities on Wigwam Lane and from the adjacent railway, as

detailed on drawing no. RS/EC/27/10/19/01 Rev B (received 23/04/20), shall be completed before the dwelling hereby permitted is first occupied and retained at all times thereafter. Evidence of the agreed measures shall be submitted to the local planning authority prior to occupation of the property.

9. The hereby permitted development shall be carried out in accordance with the Construction Management Plan (received 26/03/20) unless written agreement is given by the Local Planning Authority for any variation.
10. The area shown for car parking and turning on the approved block plan (drawing no. RS/EC/27/10/19/01 Rev A) shall be hard surfaced in a permeable material, before the development hereby permitted is first occupied. The area shall not thereafter be used for any other purpose other than for the parking and turning of vehicles.
11. Pedestrian visibility splays of 2m by 2m shall be provided on each side of the vehicle access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstructions over 0.6m above the carriageway level at all times.

## **REASONS**

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure the satisfactory appearance of the development.
3. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
4. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
5. To safeguard the amenities of residents living in the vicinity of the application site.
6. 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.
7. To ensure the site is free from contamination once developed.

8. In the interests of residential amenity.
9. In the interests of residential amenity.
10. To ensure adequate off-street parking, in the interests of highway safety.
11. In the interests of highway safety.

## **INFORMATIVES**

1. 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 & Building Control Section of the Authority on Mansfield (01623 450000).
2. The contractor must ensure compliance with current legislation on noise and dust control including the Environmental Protection Act 1990 and the Control of Pollution Act 1974. Relevant Codes of Practice set out procedures for dealing with the control of noise on construction and demolition sites are contained in BS5228: 2009 Noise and Vibration Control on Construction and Open Sites.
3. This permission grants consent for the construction of a domestic dwelling. Any business operations undertaken at the site may require further planning permission, and any future business uses at the site may be liable to enforcement action if the correct permissions are not obtained.
4. The safety of railway level crossings and crossing users is of paramount importance. Level crossing safety leaflets should be included in information/welcome packs provided to the new homeowner at the site. These can be provided by Network Rail upon request from the developer or online on the Network Rail website at the following address: <https://www.networkrail.co.uk/communities/safety-in-the-community/levelcrossing-safety/>
5. All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. As indicated above, the level crossing should remain clear and unobstructed at all times both during and after construction.