

Appeal Decision

Hearing held on 12 April 2017

Site visit made on 12 April 2017

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 June 2017

Appeal Ref: APP/F2415/W/16/3155173

Land North of Frolesworth Road, Leire, Leicestershire, LE17 5HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by R D Assets Limited against the decision of Harborough District Council.
 - The application Ref 16/00055/FUL, dated 12 January 2016, was refused by notice dated 15 March 2016.
 - The development proposed is the erection of a village shop, accompanying store, yard, car parking and access road.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the hearing an application for costs was made by R D Assets Limited against the Harborough District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for a shop with particular regard to reducing the need to travel and the requirements of the development plan; and
 - The effect of the proposal on the character and appearance of the countryside.

Reasons

Whether the appeal site is a suitable location for a shop

4. The appeal site forms part of a larger area of open land at the edge of the village of Leire. The site as a whole is comprised of rough grassland currently used as paddocks for horses. It is located to the north of one of the main routes through the village, which is variously called Frolesworth Road, Leire Road and Dunton Road at different points on its length, and connects Leire with Frolesworth to the west and Dunton Bassett to the east.
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5. Leire is a small village and does not currently have a shop. From the evidence, there was formerly a shop in the village which closed some years ago. Residents of the village consequently have to travel to meet all of their shopping needs at present, most likely to Broughton Astley to the north or to Lutterworth to the south.
6. Policy CS1 of the Harborough District Core Strategy 2011 (Core Strategy) sets out the spatial strategy for the district. The policy seeks to maintain the district's rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services. Outside the town of Market Harborough, the Policy seeks to direct new development primarily to Broughton Astley and Lutterworth as key centres and to a number of rural centres which are identified based on the presence of a specified number of key services and public transport links. Policy CS9 of the Core Strategy re-iterates the requirement to direct new development to the most sustainable locations and seeks to reduce the district's carbon emissions.
7. The broad spatial strategy in policy CS1 is elaborated on with regard to rural development by Core Strategy Policy CS17 requiring that outside of the identified key centres and rural centres development will be on a scale which reflects the site and the character of the village concerned. Outside of these rural settlements, in the countryside and in other settlements not identified as selected rural settlements new development will be strictly controlled. Leire does not meet the criteria to be identified as a "selected rural village" and therefore occupies the lowest tier of the hierarchy established by the spatial strategy.
8. It is not in dispute between the parties that the appeal site is located outside the development limit for Leire and, as such, is located in the countryside for the purposes of Policy CS17. Whilst I have noted the appellant's point that the emerging Harborough Local Plan proposes to replace development limits with criteria-based policy, it was advised at the hearing that this new local plan is still some way from being submitted for examination. Therefore, I can give only very limited weight to this point and have to determine the appeal in the context of the current adopted policies.
9. Retail is not one of the types of development that Policy CS17 contemplates as appropriate in the countryside and in this respect the proposal is contrary to the requirements of Policy CS17. I have been referred to Paragraph b)(i) of Policy CS17 which states that, in order to deliver rural development, proposals will be supported which reduce the need to travel from rural areas such as development for permanent shopping provision. The appellant suggests this is supportive of the appeal scheme.
10. If read in isolation this would be the case, however, the Council contend that this element of the policy has to be read in the context of the Development Plan as a whole and the spatial strategy for the countryside, rural centres and rural villages, which seeks to develop and enhance the roles of Broughton Astley as a district centre and Ullesthorpe as a rural centre within the vicinity of Leire. I would agree with the Council's position as otherwise this element of the policy would undermine the spatial strategy and settlement hierarchy set out in Policies CS1, CS9 and the first part of Policy CS17 which seek to strengthen the role of centres to which people already travel.

11. The proposed shop would undoubtedly provide a shopping facility for Leire, notwithstanding the substantial number of third party representations stating that it would not be used by local residents. However, the scale of the development is such that it would also draw customers from other nearby villages. The size of the floor area of the proposed shop relative to other local shops cited in the evidence is indicative of more than a local facility to serve Leire, and the inclusion of facilities such as a café and picnic area and the level of car parking to be provided also suggest that the proposal seeks to attract business from a wider area. The appellant advised at the hearing that the shop was intended to cover a greater catchment area than just the village.
12. Whilst the appeal site is close to bus stops, the Council suggest that the frequency and route of the bus service is such that customers from beyond Leire would drive to the shop. My attention has also been drawn to a previous appeal decision from 2013¹ in respect of an albeit slightly larger scheme on part of the wider site. In this case the Inspector concluded that people travelling from outside the village to use the proposed shop would also have to travel to other centres such as Broughton Astley for primary convenience shopping and access to other services and are likely to be making linked trips. Top up shopping trips to Leire would, consequently, result in an increase in travel rather than reduce it. There is no evidence to suggest that circumstances have changed since that decision was made.
13. The residents of Leire currently have to travel to meet their shopping needs and to access services, and many of these will necessarily be linked trips. Whilst the proposal would reduce the need for residents of the village to travel for some of their shopping requirements, there would still be a need to travel for items not available at the proposed shop and to access other services. Therefore, I am not persuaded that the proposed development would reduce the overall need to travel.
14. The proposal is therefore contrary to Policies CS1, CS9 and CS17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 14 of the National Planning Policy Framework requires that development which accords with the development plan should be approved without delay. It is implicit in this that development which does not accord with the development plan should be refused. It is not suggested that the relevant policies in the development plan referred to in the reason for refusal are out of date.
15. I have been referred by the appellant to Policy SH/5 of Harborough District Local Plan 2001 which it is contended supports the development of small shops in villages. At the hearing the Council could not confirm whether this Policy was a saved policy and still extant, however, I note that it is not referred to as a relevant policy in the report to the Council's Planning Committee and that Appendix 3 to the Core Strategy states that Policy SH/5 has been replaced by Policy CS17. Within this context, I am not able to attribute weight to this policy. My attention has also been drawn to Core Strategy Policy CS7 which seeks to enable employment development that contributes to retention and viability of local services or land based businesses. However, there is no

¹ Appeal Reference APP/F2415/A/13/2190725

substantive evidence that the proposed development would contribute to the retention and viability of other, existing, services within the village.

16. Paragraph 28 of the National Planning Policy Framework (the framework) supports the sustainable growth and expansion of all types of businesses in rural areas and the retention and development of local services and community facilities in villages. I have noted the appellant's point that this is unqualified in respect of the types of business and can include shops, nonetheless, this growth and expansion must also be sustainable. As, on the balance of the evidence, the proposal would not reduce the need to travel and would encourage journeys to an additional destination over and above those that people are currently travelling to, this would not be sustainable growth.
17. Whilst the Framework does recognise that opportunities to maximise sustainable transport options will vary from urban to rural areas, and it is not in dispute that the site could be accessed on foot, the Council's strategy for sustainable growth set out in policies CS1 and CS17 seeks to locate new shops and services in locations that people already travel to. Both main parties agree that the proposed shop would serve a larger area than the village of Leire. As there are limited opportunities for linked trips within the village, I do not find that the Framework offers any support to the proposal that would overcome the conflict with the policies in the Core Strategy.
18. I therefore conclude that the appeal site is not a suitable location for a shop with particular regard to reducing the need to travel and the requirements of the development plan. It would conflict with the relevant requirements of Core Strategy Policies CS1, CS9 and CS17 which seek to direct new development to the most sustainable locations and reduce the need to travel.

The effect of the proposal on the character and appearance of the countryside.

19. The appeal site is located on the western edge of the village and mainly comprises rough grassland. There is a hedgerow on the southern boundary and eastern boundary abuts residential properties on Frolesworth Road and Oak Avenue. It forms part of two fields which are enclosed by hedgerows and shows evidence of earlier ridge and furrow cultivation. The north and west boundaries of the appeal site do not correspond with any physical features on the ground.
20. To the east of the appeal site lies the main part of the village of Leire and built development continues in a more sporadic manner along the south side of Frolesworth Road opposite the appeal site, with some outlying dwellings and larger, agricultural style, buildings associated with a riding establishment. To the west of the appeal site a heavily wooded former railway cutting forms a strong, linear, feature in the landscape and also the limit to built development on the south side of Frolesworth Road. Beyond the village the countryside is a largely open pattern of small to medium sized fields with hedgerow boundaries and scattered groups of trees.
21. It is not in dispute that the landscape around the appeal site is not of special character or particularly distinctive. The Council's principal concern is the value of the site to the local area and the effect on its immediate surroundings at the edge of the village. The Landscape and Visual Impact Assessment submitted with the planning application also concluded that the effects of the proposed development would be highly localised. From what I saw when I visited the

site, I would agree with this conclusion, as although the landform rises to the south and west beyond the appeal site, the wooded former railway cutting effectively screens the appeal site in longer views from the west. From the south and east the existing built form of the village interrupts views and trees on the northern boundary of the wider site screen it in views from this direction.

22. In the more immediate vicinity, the proposed new building would extend the built form of the village into an area which is currently open and undeveloped. However, this would be directly adjacent to the existing built up area and would read as a logical continuation of the developed area of the village. In visual terms the proposed access road would have a similar appearance to the cul-de-sac of St Margarets Drive which is immediately opposite the appeal site. The development would also be visually consistent with the continuation of development on the south side of Frolesworth Road to the west of St Margarets Drive. The proposed development would make the currently undeveloped field necessarily built up in character, but as a result of the location and adjacent built form, this of itself would not be harmful.
23. Whilst the removal of a length of the established hedgerow on the site frontage to create the access road and visibility splay would alter the appearance of this section of the road, this would be seen in the context of the more open frontage on the opposite side of the road west of the junction to St Margarets Drive and the existing houses on the north side of Frolesworth Road. The appeal site, and the larger field of which it is part, form a discrete area which, as they are used as pasture for horses, has a different character from the agricultural fields that surround the village. Although it has a transitional role in the progression from the built up area to the agricultural fields further west, the loss of openness that would result the appeal scheme would not, in my view, fundamentally alter this transitional nature.
24. At the hearing it was agreed that the general height and form of the proposed building reflected the design of agricultural buildings in the area. The Council however, are of the view that the design of the rear of the building, incorporating a glazed atrium and arched screen wall, is at odds with the local vernacular. Although this may be the case, these elements of the building would be much less visible, only being seen from the proposed car park at the rear of the building and from the proposed realigned Footpath W71. The Framework is clear that planning policies and decisions should not attempt to impose architectural styles or particular tastes. In addition, the appeal site is not within the Leire Conservation Area and the architectural character of this part of the village, consisting of mid-Twentieth Century housing on Oak Avenue and St Margarets Drive, is much less well defined than in the village core.
25. Due to the limited visibility of the rear of the building, and the fact that it would be seen in the context of the rear of the adjacent housing in Oak Avenue, I do not consider that the design of the north elevation of the proposed building taken in isolation would cause significant harm to the character or appearance of the countryside.
26. The proposed development would be visible from public footpath W71 from the south, although in medium to long range views it would be partly screened by trees and buildings. From the section of footpath W71 that crosses the site, and which would have to be diverted as part of the development, the visual

effect would be significant but highly localised. The Council suggest that this would be harmful, but the extent and nature of the harm were not elaborated on. Although there would be a permanent change, change of itself is not necessarily harmful. In the absence of any substantive evidence as to what harm would arise, and within the context set out above that the development would be adjacent to the existing built form of the village with restricted visibility beyond the immediate surroundings, I do not consider that any harm that might result to views or the character of the appeal site where it is crossed by footpath W71 are sufficient grounds upon which to refuse planning permission.

27. The proposal would result in the loss of an area of ridge and furrow landform. Whilst this does form part of the landscape character, the proposal would not result in the loss of the whole area of ridge and furrow evident in the two fields that adjoin the appeal site, and this would limit the effect on the character of the landscape. I also am mindful that the County Archaeologist has not objected to the proposal on the grounds of loss of this area of ridge and furrow subject to appropriate recording. Whilst this latter is from the point of view of the landform as a heritage asset, had there been particular significance to the site, it would have been reflected in the County Archaeologist's comments.
28. My attention was also drawn to Paragraph 77 of the Framework, however, there is no indication that the appeal site is designated or likely to be designated as Local Green Space and I do consider that this is relevant to the appeal proposal.
29. I therefore conclude that, from the evidence before me, the proposed development would not cause harm to the character and appearance of the countryside. It would comply with the relevant requirements of Core Strategy Policies CS1 and CS17 which seek to ensure that new development conserves and enhances the district's built heritage, and is located and designed in a way that is sensitive to its landscape setting. Whilst Policy CS9 requires development to mitigate any potential impacts on the environment, this is within the context of climate change and I do not consider that this policy is relevant to this aspect of the proposal.

Other matters

30. I have had regard to the representations from local residents which were received by the Council in response to the application and which were received in connection with the appeal. In general these raise matters which have already been covered above.
31. Concern has been expressed in relation to the effect of the proposal on highway safety in the vicinity of the appeal site, however, there is no substantive evidence that would support this. I note that it is proposed that the existing footway adjoining Frolesworth Road would be widened and that a link from this would be formed into the appeal site. I am also mindful that no objections were raised by the highways authority to the proposal and this matter has not been raised as a concern by the Council.
32. Similarly, there is no substantive evidence that development of the appeal site would result in flooding of nearby land, and in particular the former railway cutting to the west. Although the submitted ecology report is more than two

years old, I note that the County Ecologist did not consider that any further survey work was required.

33. The appellant submitted evidence that showed that there was not another suitable or available site in within the village and this evidence was not challenged by Council. From what I have read, and what I saw when I visited the site, I have no reason to find otherwise.
34. Concern was expressed regarding the potential of noise from servicing of the proposed shop and from air handling equipment. However, this could be addressed by suitably worded conditions.
35. There is some conflation of viability and sustainability in the comments received in connection with the application and the appeal. Neither the Council's policies, nor the Framework require that a scheme of the scale of the appeal proposal has to demonstrate that it is viable, or that a retail impact assessment would be required.
36. It is also suggested that the appeal proposal is a mechanism to achieve permission for residential development on the site. There is no evidence which would support this suggestion. In any event, any future change of use of the proposed building, were it to be constructed, would be subject to obtaining planning permission from the Council and would have to be considered on its own merits.
37. None of these points, however, lead me to a different conclusion on the main issues.

Conclusion

38. I have found that the proposed development would not cause harm to the character and appearance of the countryside. However, I have found that the proposed development would not reduce the need to travel and that it would be in conflict with the spatial strategy for the district set out in the Core Strategy that seeks to promote the service role of larger settlements and smaller settlements that already have a service role. I consider that this is an important matter, such that the development is consequently contrary to the development plan as a whole, notwithstanding compliance with some aspects of the policies set out above. There are no material considerations of such weight as to warrant a decision other than in accordance with the development plan.
39. For the reasons given above, and taking all matters into account, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ian Reid DipTP DipLD MRTPI CMLI	Ian Reid Landscape Planning Ltd.
Dennis Singer BA BArch RIBA (retired)	Appellant
Rupert Detheridge BA MA MSc MRICS	Lambert Smith Hampton

FOR THE LOCAL PLANNING AUTHORITY:

Helen Wallace	Landmark Planning
Christopher Brown MRTPI	Harborough District Council Planning
Neil Bannister	Ward Councillor Harborough District Council

INTERESTED PERSONS:

Philip Sullivan	Frolesworth Parish Council
Brian Mullin	Marrons Planning on behalf of Leire Residents Group
Debbie Morgan	Leire Parish Council

42 members of the public signed the attendance list

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement by Mr Philip Sullivan
- 2 Costs Application by RD Assets Limited
- 3 Costs Response by Harborough District Council