



Appeal Decision

Site visit made on 22 August 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 5th September 2017

Appeal Ref: APP/W2465/W/17/3173097

Goodwood Bowls and Social Club, 8A Crofters Drive, Leicester LE5 2FH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andrew Ward against the decision of Leicester City Council.
 - The application Ref 20161331, dated 18 June 2016, was refused by notice dated 23 March 2017.
 - The application sought planning permission for variation of condition 2 attached to planning consent 19981004 (as amended by planning permission 20011147) to allow permanent opening hours of clubhouse from 0800-2300 Mondays to Saturdays, 0800 to 2230 Sundays; 0800 to 2330 on 8 occasions per year; 0800 to 2400 hours on one Saturday in November and until 0100 on New Years Day without complying with a condition attached to planning permission Ref 20021239, dated 18 October 2002.
 - The condition in dispute is No 6 which states that: *Before the use has begun details of a traffic management scheme, including details for signage and circulation of traffic, identifying access and egress points, shall be submitted to and agreed with the City Council as Local Planning Authority. The agreed scheme shall be implemented before the use has begun.*
 - The reason given for the condition is: *In the interests of the amenities of nearby residents and in accordance with policy H7 of the City of Leicester Local Plan.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has referred me to an earlier appeal on this site¹. While this took place some time ago, I still consider this an important decision to which I have given some weight. Additionally, similar concerns raised by that Inspector in relation to the description of development also apply here insofar as the decision notice for 20021239 does not refer to the original form of development. However, as I am minded to dismiss the appeal, this is not something to which I need give further consideration.

Background and Main Issues

3. The bowls club has been in-situ for a number of years. The planning history informs me that the club received permission for a new clubhouse in 1995 which included an access off Crofters Drive. This appears to include no form of restriction in terms of access or egress. There have been a number of

¹ Appeal reference: APP/W2465/A/03/1110395

subsequent permissions relating to the operation of the clubhouse. The most recently quoted of these included three conditions relating to the management of traffic and parking within the site. These were all imposed in order to address highway safety or living conditions concerns. This included the disputed condition, which required the details of a traffic management scheme to be agreed. This condition was discharged in 2006 and resulted in an agreed approach whereby vehicles would access the car park via Crofters Drive and exit onto Uppingham Road.

4. The application essentially seeks to alter or remove that condition such that both access and egress would be permitted off Crofters Drive. The appellant has argued that the details agreed under the condition no longer provide for safe exit from the site owing to reduced visibility at the junction with Uppingham Road caused by a recently built brick garden wall. Taking all matters raised into account, I consider that the main issues in this case are whether the condition remains necessary and reasonable, with particular regard to:
 - (a) The living conditions of the residents of Crofters Drive, with particular regard to noise and disturbance, and;
 - (b) highway and pedestrian safety in the vicinity of the site.

Reasons

Living Conditions

5. The appeal relates to a bowls club and clubhouse that is surrounded on all sides by residential development. Crofters Drive, from which the site is accessed, is a small cul-de-sac. The long road leading to it from Scraftoft Lane could be described as a somewhat typical residential estate distributor road. Interested parties have described the cul-de-sac as a quiet and peaceful location and, from what I observed, there is no reason for me to conclude differently.
6. The evidence provided suggests that the club is thriving and that the clubhouse is used for a range of activities. The clubhouse can operate until between 2230 to 2300 on most nights, with some exceptions that allow later opening. While it is possible that vehicles could already be entering the site near to closing time, it would be reasonable to assume that activity around the entrance is not as intensive further into the evening, with most vehicular movements taking place at the Uppingham Road exit. I have limited evidence about the number of vehicles coming and going from the site, but an inevitable consequence of altering the access arrangements would be a significant increase in the amount of vehicular activity around the Crofters Drive access, some of which would be late at night. The change in approach proposed would therefore be likely to result in a significant potential increase in noise and disturbance from vehicles leaving the site, particularly when the street will be at its quietest.
7. The Council's officer report notes that the two dwellings immediately adjacent to the access are separated by a hedge and garage respectively, and that dwellings opposite are set well back from the road. Notwithstanding the physical relationship between the dwellings and the access, allowing both access and egress from this location would have a fundamental effect on the generally quiet residential character of the cul-de-sac. The general increase in comings and goings from the club both in the day and at night would, in my

view, make this a far busier location with far more vehicular activity than might be usual for a small cul-de-sac such as this. This change in character would result in the degradation of the living environment of current occupants.

8. This would not only result from the general increase in vehicular activity at the access, but also from the likely increase in vehicles meeting at the entrance, or on the road immediately outside the site and on the approaches to it. This is likely to lead to an increase in manoeuvring, particularly if or when cars are parked on the street in the cul-de-sac. The general noise and disturbance from additional manoeuvring would add to the cumulative effect and harm associated with the increase in vehicular activity on the close. I am also mindful of comments received from local residents about the likely effect of car headlights shining into windows of the dwellings opposite. If there were a steady stream of vehicles leaving the site in the evening at closing time, then the combination of additional noise and headlights would be likely to exacerbate an unwelcome effect.
9. There is clearly some dispute between the appellant and local residents as to the nature of the activities that take place at the clubhouse. However, the conditions that are in place on opening hours are such that it is possible for it to be open every night until late in the evening. The scale and nature of activities taking place will inevitably ebb and flow over time, but I must consider both the likely and possible effects of the proposal over the long term. The proximity of the clubhouse to dwellings is clearly a potential source of general noise and disturbance to nearby residents. The existing traffic management arrangements at least allow for some separation of the cause of potential noise and those most likely to be harmed by it.
10. I have noted reference in the previous appeal to arrangements that were in place at that time and the effect of traffic leaving the site late at night was considered to have on No 274a and No 274b. This demonstrates that noise resulting from traffic leaving the site has clearly been a long standing and recognised issue. The officer report in the case before me suggests that the alteration of the access arrangements would provide some benefit to the living conditions of residents in these dwellings. Nonetheless, the Council saw fit to agree the details of the existing traffic management plan in 2006 and thus were presumably satisfied that the effect on living conditions of those properties would be acceptable. The current arrangements have also been in place for some time and, while I recognise there might be some improvement to the situation for these dwellings, this does not outweigh my concerns about the increasing effect of noise and the change in character of Crofters Drive that would result from the proposal.
11. Indeed, the Inspector who considered the previous appeal stated that "*there are clearly difficulties with both points of access and it seems to me to be appropriate to seek a degree of control over the use of the access points and to have orderly parking arrangements to minimise disturbance to the neighbouring residents from the passage of manoeuvring cars*". While this decision was written some time ago, little has changed in my view. I have seen nothing to suggest that some form of traffic management does not continue to be required to effectively minimise disturbance.
12. Taking all factors into account, I consider that allowing both access and egress from Crofters Drive would result in an increase in noise and disturbance, such

that it would have an unacceptable effect on the living conditions of existing residents. The Council has not referred to any relevant development plan policies in its decision notice or appeal statement. Nonetheless, paragraph 17 the National Planning Policy Framework (the Framework) seeks, amongst other things, for development to achieve a good standard of amenity for all existing occupants. Accordingly, I consider that the change proposed to the existing access arrangement would be in conflict with this policy.

Highway Safety

13. The issue of highway and pedestrian safety relates to both the existing access arrangements and those that are proposed. The existing exit onto Uppingham Road from the site is along a relatively long narrow track. There is limited visibility at the junction resulting from the recently built boundary wall on the right hand side and garden landscaping and vegetation to the other.
14. Although my site visit can represent only a snapshot of normal highway conditions, Uppingham Road appeared fairly busy with a steady, but not unbroken, stream of traffic in both directions. I also saw that there are a number of residential driveways near to the club's exit. This junction has been in use for some time and regular drivers in the area will be aware of the potential for vehicles to be exiting both this site and other accesses along the lane. The long standing use of the junction by the bowls club and the presence of residential driveways in the immediate vicinity of the site would mean that drivers, pedestrians and cyclists are likely to be aware of the potential for vehicles exiting onto Uppingham Road. There is also a drop kerb at the junction which would give a visual clue to passing pedestrians, or cyclists using the pavement, that vehicles may be exiting the site. As a result, it would be reasonable to assume that due care and attention is given to this by passers-by.
15. While visibility is limited and there would have to be some edging out across the wide pavement before being able to see, this is unlikely to have a particular effect on the safety of passing vehicles on Uppingham Road as there is little or no need to enter the carriageway in order to see clearly in both directions. The main area of risk, therefore, relates to pedestrians crossing in front of the access. From what I saw, the building of the wall has not changed anything in terms of visibility to the left of the access. I also have nothing before me which demonstrates that visibility from this side has become materially worse since the condition was discharged. Moreover, while the previous boundary to the right was described as a low fence, it is not clear to what extent visibility has been reduced. Nonetheless, the nature of the junction with Uppingham Road is such that it would be reasonable to assume that regular visitors to the club are aware of the need to take care when leaving the site. The building of the wall is unlikely to have changed this.
16. The appellant has raised a particular concern about cyclists using the pavement. While cyclists should not be riding on the pavement, I recognise that this is an additional risk. However, the wall has now been in place for some time and there is nothing before me to suggest that it has been the result of any accident or particular issues since it was built. Moreover, I am mindful that any pre-existing constraints or issues with this exit would have been understood when the details were first approved in 2006.

17. The Council's officer report highlights the presence of a junction opposite the site as a contributory factor in potential problems around the exit. There is nothing before me which suggests this junction was not in existence when the condition was originally discharged and details agreed. For this reason, I have not given significant weight to this factor in my decision. I recognise that the proposal would remove the potential conflict between vehicles exiting the club and residents of No 274a and No 274 entering their dwellings via the driveway. However, this potential conflict would have been understood and taken into account when the details were originally agreed and the building of the wall will not have altered this relationship. Both this, and the length of time the arrangement has been in place limit the weight that I have given to any benefits in this regard.
18. Taking all above matters into account, I accept that there are some constraints associated with this exit and there would be some benefit in removing a potential source of conflict at this point. However, while there are some potential risks I am also mindful that the exit has been in place for some time, has pre-existing constraints not associated with the wall, already requires due care and attention by drivers exiting the site and that pedestrians and drivers passing the site will be aware of the potential for vehicles leaving this and other accesses along the road. In this context, I am not convinced, therefore, that the risk to safety is unacceptably high.
19. Notwithstanding my views on the effect of the proposal on living conditions, I am less convinced that the proposed arrangement would lead to an unacceptable reduction in highway or pedestrian safety on Crofters Drive. There would be an increase in use of the access and more vehicles using the road. Vehicles would however generally be moving quite slowly through the area and I saw nothing to suggest there would not be sufficient visibility to enable cars to exit the site safely. If the road is subject to on-street parking, its width might require cars to wait in the carriageway to allow oncoming traffic to pass by, at least for a short distance from the site. However, this is unlikely to result in significant safety issues when considering the speed at which traffic would be moving in this area. Moreover, it is unlikely to have a significant effect on the efficient operation of the highway network in the vicinity of the site.
20. Existing residents may feel it is safe for children to play in the cul-de-sac, which might reflect its existing quiet nature. However, Crofters Drive is nevertheless part of the public highway and I see no reason why additional traffic would necessarily result in an unacceptable risk to pedestrian safety provided that the highway and pavements are being used appropriately.
21. The junction from Crofters Drive onto Scraftoft Lane has good visibility in both directions and again, I see no reason why an intensification of the use of this junction should inevitably lead to any particular safety issues. Comments from local residents refer to 'near misses', but I have not been provided with any substantive evidence which indicates this junction is particularly unsafe or problematic.
22. In conclusion on this matter, I find that there would likely be some potential benefits in terms of risks to pedestrian safety if the exit from the site was moved to Crofters Drive and that this approach would not lead to an unacceptable impact on highway or pedestrian safety on Crofters Drive or

Scraptoft Lane. Nonetheless, while there would be some benefit, I do not consider the existing situation necessarily leads to an unacceptable level of risk in its own right. The nature of the exit, and its long standing use, already means that due care and attention is required by drivers leaving the site and by pedestrians approaching the junction. As such, with or without the condition in place, I see no conflict with paragraph 32 of the Framework which requires that safe and suitable access to the site can be achieved for all people.

Other Matters

23. The appellant has sought to address a number of specific concerns highlighted by interested parties in relation to the on-going activities relating to the clubhouse. A number of these do not relate to the main issue before me and thus have not had a significant bearing on my decision. Nonetheless, nothing the appellant has said in rebuttal to such issues leads me to a different overall conclusion.

Planning Balance

24. While I have had regard to the visibility issues on Uppingham Road, continuing with the existing long standing access arrangements would cause less overall harm than the alternative in my view. The benefits to pedestrian safety that would be derived would be outweighed by the significant and long term effect on the character of Crofters Drive and the resulting effect of this on the living conditions of existing occupants. Moreover, the evidence provided does not convince me that the only way to address any issues that exist at the Uppingham Road junction is by directing all vehicular movements through Crofters Drive and causing harm to living conditions as a result. I consider therefore that the condition and approved details remain reasonable and necessary in the interests of the living conditions of nearby residents.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR