



Appeal Decision

Site visit made on 24 October 2017

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 27th October 2017

Appeal Ref: APP/K2420/W/17/3179738

52 Heath Lane, Earl Shilton, Leicester LE9 7PB.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Mac against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref: 17/00163/OUT, dated 14 February 2017, was refused by notice dated 18 May 2017.
 - The development proposed is the erection of 3 dwellings.
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Preliminary Matters

1. The description of development above accurately describes the appeal proposal, which is made in outline with matters of access, layout and scale for determination at this stage. The appeal site is indicated on the application form to have previously been a builder's yard. At the time of my site visit there was no-one at the land, but I informed the tenant of No52 that I was carrying out the site inspection and as the gate to the site was open I proceeded on an unaccompanied basis.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in the appeal are:
 - (a) The effect of the proposed development on the character and appearance of the locality;
 - (b) The impact of the proposed development on the living conditions of neighbouring occupiers;
 - (c) The impact of the proposed development on highways safety.

Reasons

Character and Appearance

4. The appeal site lies adjacent to a residential area of Earl Shilton, and the dwellings proposed would be located at the rear of the linear development which fronts onto Heath Lane. At present there is relatively little in the way of residential development nearby which is behind and to the north of the frontage development, though I have been informed of permissions having

been granted for such development. However, I have not been given full details of such permissions or how they relate physically to the appeal site. In any event I must deal with this appeal on the basis of the representations sent to me.

5. With this in mind I noted at my site visit that the appeal site forms part of the wider land holding of the Appellant, and that land to the north is largely undeveloped, albeit some is used as allotments. I am informed that the site lies outside the settlement boundary in an area which is regarded as open countryside. I noted that most of the appeal site appears to have been in use previously and contains some buildings and scattered materials commensurate with a builder's yard.
6. It seems to me that the Council is right to be concerned that the proposal is contrived. The pattern of development would bear little relationship with the houses to the south, either in terms of their orientation or plot configuration. The dwellings would be squeezed into a minor part of the site and would offer limited vehicular circulation space. Indeed I note that a turning space for emergency vehicles would be required beyond the main part of the site.
7. The relationship between the dwellings would be uncomfortable given their proximity to one another, and their external frontages to the driveway would be dominated by vehicular circulation and parking. Rear amenity space would be quite small. This type of high density form is not typical of the locality. Taken overall it is my judgement that the proposed dwellings would be out of character with the surroundings and would introduce a harmful form of development into the locality. If the Appellant is right that this land would be surrounded by recently granted planning permissions then it seem to me that a more realistic approach to development of this area would be sensible, rather than piecemeal development such as proposed on this backland plot.
8. The Hinckley and Bosworth Core Strategy includes Policy 2, which amongst other things requires development to be of the highest environmental standards. This proposal would not comply with that requirement. Similarly there would be conflict with Local Plan Development Management Policies DM1 and DM10, which taken together seek to ensure that development complements the character of the surrounding area and does not create adverse impacts which outweigh the benefits. The proposal conflicts with the development plan in this regard.
9. I am aware of Policy DM4, which safeguards the countryside from unacceptable development. However I have not been provided with full details of the settlement boundary here, or the details of planning permissions granted nearby. I accept that the proposal is outside the defined development limits of the town and consequently conflicts with this policy. However, my decision on this appeal ultimately does not turn on conflict with this policy.

Living Conditions

10. The access to the dwellings would follow the existing track from Heath Lane. This runs between Nos 44 and 46 Heath Lane. Each of those properties has a back garden which shares a common boundary with the track. I note the information which has been submitted in relation to the likely use of the track for 3 dwellings in comparison with a builder's yard. But in this case it seems unlikely to me that the use as a builder's yard would recommence at the

intensity suggested. The database used to assess likely movements does not directly relate to a builder's yard, and in my judgement the trip rates for a joinery business may well be different to that for a builder's yard. I do not doubt that in past years the yard was used by several vehicles per day, but its current configuration (including the narrow access) would be unlikely to make it attractive for a building business now. It is therefore my view that the worst case scenario painted by the Transport Note on behalf of the Appellant is unlikely to be wholly realistic. Any future use of the site for commercial purposes may well result in lower traffic flows than suggested in the Transport Note.

11. As such I cannot agree that the reintroduction of a business use on the site would inevitably have more impact on the living conditions of the occupants of Nos 44 and 46. That aside it is clear to me that the use of the access track would be likely to result in some disturbance to the occupants of those properties whatever the use of the site, although it is not for me to determine whether a business use in the form of a builder's yard could lawfully be carried on at the site. The comings and goings of vehicles alongside and in close proximity to the principal amenity areas of the dwellings would be likely to cause a degree of disturbance and noise pollution.
12. The degree of that disturbance is simply unquantifiable at this juncture for a commercial use. However, 3 dwellings would produce a moderate number of vehicular trips by their occupants which, together with deliveries and other callers would provide some basis for the conclusion that the living conditions of neighbours would be affected. But in an urban area such as this any disturbance would be of a relatively modest proportions and intermittent in its impact. Taken overall I am not satisfied that it has been shown that there would be an unacceptably harmful impact on the living conditions of neighbouring occupiers. I do not find material conflict with the relevant part of Policy DM10 in this respect.

Highway Safety

13. The access track leads to Heath Lane. At the junction with Heath Lane visibility is restricted, particularly to the left when leaving the site. The County Highway Authority has not raised objections in light of the trip generation assessment made on behalf of the Appellant. But I am not persuaded that the trip generation suggested can be relied upon, as noted above.
14. The use of the track by the vehicles associated with 3 dwellings would result in those vehicles exiting the site at a point where visibility is poor. Both vehicles and pedestrians approaching from the east would be unseen until the last moment. That would be hazardous and not in the best interests of highway safety.
15. In addition the narrowness of the access track is such that vehicles could not pass. Hence there is a distinct possibility that vehicles would be forced to wait in Heath Lane, or even reverse into Heath Lane, in order to allow vehicles to leave the site. Although Heath Lane is not likely to be busy for most of the time I do not consider that such manoeuvres would be desirable at peak times, particularly in view of the location of nearby schools. In theory it would be possible for a vehicle to reverse towards the proposed dwellings to prevent such manoeuvres, but the space around the dwellings would be so restricted

that this in itself could be problematic, especially if, for example, a delivery van was on site at the same time.

16. Taking this matter in the round it is my judgement that the use of the access by the vehicles associated with 3 dwellings would not be in the best interests of highway safety. There would be likely to be conflicts at the site access point leading to the potential for unsafe conditions to be generated.
17. I have noted the reference to paragraph 32 of the National Planning Policy Framework (NPPF). This paragraph deals with development which would generate significant amounts of movement. That does not seem to me to apply here. In my view a more holistic judgement is needed, based on the circumstances of the proposal. In this instance, based on the information before me, and without greater certainty that a business use would be likely to be recommenced on site, I consider that there would be an unacceptable risk to highway safety posed by the appeal proposals.
18. Policy DM17 seeks to ensure that there is no significant adverse impact upon highway safety from development proposals in general. The proposal runs counter to this objective of the development plan.

Overall Conclusion

19. The proposed development is unacceptable in the form proposed and would be harmful to the character of the locality and in conflict with the development plan. I also find harm to highway safety and further conflict with the development plan. Although the proposal would use previously developed land, would provide a small addition to the housing stock, would be accessible by transport other than private car, and would not cause undue harm to living conditions, these matters are insufficient to outweigh the fundamental harm in respect of the first and third main issues.
20. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR