



Appeal Decision

Site visit made on 22 September 2020

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 30 October 2020

Appeal Ref: APP/G2435/W/20/3246116

67 Station Road, Hugglescote, LE67 2GB

- 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 T Marsden against the decision of North West Leicestershire District Council.
 - The application Ref 19/00141/OUTM, dated 22 January 2019, was refused by notice dated 13 January 2020.
 - The development proposed is an outline application for residential development on land at the rear of No. 67 Station Road.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application subject of this appeal is in outline, with all detailed matters except access reserved for future consideration.
3. In support of the appeal scheme, the appellant has provided a formally completed unilateral undertaking (UU), pursuant to section 106 of the *Town and Country Planning Act 1990*. I have taken it into consideration.

Application for costs

4. An application for costs was made by Mr T Marsden against North West Leicestershire District Council. This application is the subject of a separate Decision.

Main Issues

5. I consider that the main issues in this case are the effect of the proposed development on highway safety and flood risk.

Reasons

6. The appeal site comprises No. 67 Station Road and an area of grassland to the rear of the existing dwelling. The appeal proposal involves the redevelopment of the site, with the demolition of No. 67 and the erection of up to 30 dwellings.

Highway safety

7. The appeal site fronts onto the northwestern side of Station Road on the outside of a bend in the highway. The Council has raised particular concerns

regarding the adequacy of the visibility splay to the north of the proposed site entrance, which it considers would fall short of the standards set out in the *Leicestershire Highways Design Guide* (LHDG).

8. In relation to this matter, the Council has drawn my attention to a previous appeal decision Ref. APP/G2435/A/92/198027, which related to the erection of up to 5 dwellings on part of the current appeal site, with access from Station Road. The appeal was dismissed principally on the basis that the proposed development would cause substantial and unavoidable highway dangers, due to inadequate visibility splays. This conclusion was informed by traffic surveys undertaken by the County Council, which showed 85th percentile speeds in the vicinity of up to 40 mph. I acknowledge that policy and guidance has changed during the significant period of time which has passed since that decision was made. However, regarding speeds along Station Road and with reference to the range of speeds recorded during the 7-day speed survey undertaken on behalf of the appellant in 2018, it appears to me that the circumstances in the current and previous cases are not materially different. Whilst the speed survey indicates that the 85th percentile speed over 24 hours of southbound vehicles is around 33 mph, in the periods between 2200 hrs and 0700 hrs 85th percentile speeds were routinely in the range 36-40 mph and on the Saturday this extended into the period 0700 hrs to 0800 hrs. This is unsurprising, given the Council's confirmation that the alignment and gradient of Station Road has not altered since the previous decision was made.
9. The appellant's assessment of visibility requirements is based on the 85th percentile speed of around 33 mph. The LHDG requires a visibility splay, measured from a point 2.4 metres back from the edge of the carriageway, of 59 metres for 85th percentile speeds in the range 31-35 mph. The Council has suggested that looking in a northerly direction the required visibility splay may be impeded by the front boundary enclosure of No. 79 and overhanging vegetation, and as a result it would fall short of 59 metres. However, there is no evidence before me to show that it has undertaken its own survey to verify the position and I give greater weight to the assessment undertaken on behalf of the appellant by Mewies Engineering Consultants (MEC), which is informed by a topographical survey. It indicates that the available sightline would exceed 59 metres, albeit marginally, with a sightline of around 61 metres, a view which is consistent with my own observations.
10. However, that is not the end of the matter, the LHDG indicates that for speeds in the range 36-40 mph a major road distance of 73 metres is required. This would not be available to drivers emerging from the appeal site when looking north towards traffic approaching in a southerly direction along Station Road.
11. With reference to the TRICS data provided, which relates to manual weekday traffic counts, that traffic movements from the site are likely to be at their peak between 0700-1900 hrs on Mondays-Fridays when an 85th percentile speed of around 33 mph is generally representative of southbound traffic along Station Road. However, in my experience traffic from residential properties is unlikely to be limited to those hours and it would be reasonable to expect that there will be some vehicle movements from the site in the period 1900-0700 hrs on weekdays, when 85th percentile speeds in the range 36-40 mph are likely to be reasonably representative of conditions on Station Road. The same is likely to be said in relation to Saturdays and Sundays, for which no TRICS data has

been provided. At those times the intervisibility between drivers emerging from the site and those approaching in a southerly direction along Station Road would fall well below the requirements of the LHDG. I acknowledge that there is no evidence of accidents being caused by the use of the existing access serving No. 67. However, I consider that the proposal, which would involve the replacement of a single dwelling with up to 30 new properties, would give rise to a significant risk of conflicting vehicle movements on Station Road.

12. In the absence of a speed survey to support their assertion, I give little weight to the view of some local Councillors that speeds along Station Road have risen since the appellant's speed survey was undertaken in 2018.
13. The Highway Authority did not object to the scheme. However, it appears that it assessed the adequacy of the available visibility splays with reference to the 30 mph speed limit on Station Road, rather than the actual speeds recorded by the appellant's speed survey, the results of which indicate that a more onerous visibility standard is applicable than had been assumed by the Highway Authority. Under these circumstances, I give little weight to the lack of objection from the Highway Authority.
14. I conclude overall that the proposal would have an unacceptable effect on highway safety, contrary to the aims of the *National Planning Policy Framework* (the Framework) and Policy IF4 of the *North West Leicestershire Local Plan* (LP) insofar as it seeks to ensure that development incorporates safe connections to the transport network. I consider that the likely detrimental impact of the scheme on highway safety weighs heavily against the proposal.

Flood risk

15. The section of the appeal site to the rear of No. 67 comprises, for the most part, of pasture generally sloping in a southerly direction towards the section of the River Sence alongside its southern boundary. The majority of the site lies within Flood Zone 1, with only a small part of the southern section of the site, which would be used as open space, falling within Flood Zones 2 and 3. A network of drainage ditches run around and through the site towards the River Sence. The appellant's *Flood Risk Assessment* (FRA) indicates that most of the surface water runoff on site is likely to either be collected by that network or drain directly to the river. However, there is some evidence of ponding within the site during rainfall events and minor flooding along parts of the footpath that runs through the site to Station Road.
16. The Lead Local Flood Authority (LLFA) for the area has indicated, having regard to existing ground levels, that it is likely to be possible to provide a surface water drainage system to serve the development that drains to the River Sence by gravity. It has not objected to the scheme, subject to the imposition of conditions. Furthermore, the FRA, supplemented by the MEC statement on *Flood Risk and Drainage-January 2020*, indicates that the scheme would include works to improve the condition of the existing ditch network and control run-off rates through the provision of attenuation facilities. It also gives an indication of the proposed maintenance regime, the implementation of which would be the responsibility of a management company employed for that purpose, if local public bodies do not wish to adopt the facilities.
17. I consider that the provision and maintenance of an appropriate surface water drainage system for the site could be secured through the imposition of

suitable conditions, requiring, amongst other things, that details of a management and maintenance plan for the lifetime of the development be provided for approval and thereafter adhered to. The plan would be expected to set out who would be responsible for the operation and maintenance of the scheme throughout its lifetime, whether that be a public body, statutory undertaker or others. As I have indicated, the LLFA is also content that satisfactory safeguards could be secured through the imposition of suitable conditions. In my judgement, the Council has not provided any compelling evidence to support its assertion that such conditions may be difficult to enforce or could not be relied upon for other reasons. Furthermore, it appears to me that the works proposed by the appellant would be likely to reduce the existing risk of surface water flooding elsewhere, albeit a matter to which I attribute limited weight, given the relatively minor nature of historic flood events detailed in the evidence.

18. With respect to foul flows, I understand that Seven Trent Water (STW) has indicated that its sewerage network has sufficient capacity to accommodate the proposed development. Furthermore, STW has informed the Council that recent sewerage flooding incidents in Station Road resulted from mis-directed surface water flows from elsewhere, the cause of which has been addressed.
19. I conclude that, subject to conditions, the effect of the proposal on flood risk would be acceptable and in this respect it would not conflict with LP Policies Cc2 and Cc3 or the Framework insofar as they seek to ensure that the risk and impact of flooding is minimised.

Other matters

20. The Council does not dispute that the proposal would bring forward a mix of housing within the limits to development of a preferred area of growth within the district and in a location from which jobs, shops and services are likely to be reasonably accessible by means other than the car. The scheme would also be likely to make a contribution towards the stock of Affordable Housing in the District. I conclude that, in these respects, it would gain some support from a number of Development Plan policies, such as LP Policies S2, H4, H6 and IF4 as well as the Framework insofar as they give encouragement to new mixed housing and development in locations from which jobs, shops and services can be accessed by means other than the car.
21. In support of the appeal scheme, the appellant has provided a UU, the purpose of which is to secure planning obligations related to matters such as Affordable Housing, transportation, education, library services, civic amenity, landscaping and woodland planting. I am satisfied that the planning obligations would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Furthermore, the provisions made by the UU would accord with the requirements of LP Policies IF1, En1 and En3.
22. The appeal site is located to the west and southwest of the Hugglescote Conservation Area and to the west of a Grade II Listed garden building within the curtilage of No. 77 Station Road. In my judgement, the separation distance between the appeal site and the Conservation Area, together with existing planting between the two, would be sufficient to ensure that the appeal scheme would not have an adverse effect on the setting of the Conservation Area. The original scheme before the Council included the demolition of a red brick

outbuilding close to the entrance of the site. However, following concerns raised by the Council that this may adversely affect the setting of the Listed Building at No. 77, the scheme was amended to retain the outbuilding. Under these circumstances, I share the view of the Council that the scheme would not harm the setting of the Grade II listed garden building. It would result in no harm to the significance of the identified designated heritage assets; a view shared by the Council's Conservation Officer. I conclude that the scheme would not conflict with the aims of LP Policy He1 or the Framework insofar as they seek to safeguard the significance of designated heritage assets.

23. Nonetheless, in my judgement, neither these, nor any other matters raised would be sufficient to outweigh the significant harm that I have identified in relation to the first main issue.

Conclusions

24. I conclude on balance, that the adverse impact of the scheme in relation to highway safety would significantly and demonstrably outweigh any benefits likely to be associated with it. Furthermore, it would conflict with the Development Plan taken as a whole and would not amount to sustainable development under the terms of the Framework. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR