

Appeal Decision

Hearing Held on 28 October 2020

Site visit made on 28 October 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/G2435/W/20/3246990

Land East of Carnival Way, Castle Donnington

- 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 Brackley Property Developments against the decision of North West Leicestershire District Council.
 - The application Ref 17/01136/OUTM, dated 9 August 2017, was refused by notice dated 6 November 2019.
 - The development proposed is described as employment development incorporating a mix of Class B1(c), B2 and B8 uses (up to 23,838sqm GEA) together with associated new access roads, footpaths, cycleways, car parking, ground remodelling, drainage and landscaping works together with green infrastructure (Outline – all matters reserved except for access).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Throughout the time the planning application was under consideration by the Council, some changes were made. Whilst not fundamental, they have resulted in a change to the description of development which I have used above. The main parties were content with my use of this description and I have therefore considered the appeal scheme accordingly.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area with specific regard to the separation of Castle Donnington and Hemington.

Reasons

4. The appeal site is formed by four grass fields enclosed mainly by hedging and trees. It is to the east and abutting the edge of Castle Donnington, outside of the defined settlement and thus in the countryside. There are a number of industrial and commercial land uses present which include open storage, small scale manufacturing and a car sales business accessed off Station Road. Some dwellings are located in patches along Station Road, concentrated more to the southern end. The appeal site is part of a number of mostly enclosed fields that together form an open and undeveloped break between the built up edges

of Castle Donnington and Hemington. The latter is a much smaller rural linear and settlement arranged either side of its Main Street. The land around said open break is flat but there is a defined and steep rise to the south. A public footpath runs north to south along the spine of the open break.

5. Policy S3 of the Local Plan sets out types of development that may be acceptable in the countryside in order to reduce the impact of new development thereon in the interests of its intrinsic character and beauty. One of which is employment development in accordance with Policy Ec2. It is common ground between the appellant and the Council that the appeal scheme would be such. Having seen and heard the written and verbal evidence from both parties to this effect, I have no reason to disagree.
6. There are a number of further exception criteria set out by S3 which explain where any development may be deemed acceptable. Relevant to the appeal site and scheme, development will be supported where it does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open and undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries. Since the appeal scheme would be, in effect, added onto the existing built edge of Castle Donnington, the second of these two circumstances would not be relevant. I therefore focus on the first.
7. The appeal site, as I have said, is a number of grass fields. They are open and undeveloped. In conjunction with other land to its south and east it forms a clearly identifiable gap and thus break between the settlements of Castle Donnington and Hemington. That gap is a narrow and noticeably constrained one. Constrained by the already relatively close proximity of the two settlements. To the north extent of the appeal site, there is some open storage that extends some distance further east than any existing built development or land use. In essence, Castle Donnington at this point 'leans' towards Hemington already. That said, Hemington and its corresponding point also curves away where it then seems to follow Ryecroft Road. A gap of some substance therefore remains.
8. Drawing me then further south, there would therefore be a definite creep of built development in the direction of Hemington. Not only through the loss of open and undeveloped space, but also that the appeal scheme would represent development of the backland type, presenting a mutli tier depth to that which branches off Station Road. In this case there seems little doubt that the extension of Castle Donnington would be a contiguous one. These effects would be exacerbated by the substantial swathe of land the large scale of the appeal scheme would subsume.
9. Land to the south of the appeal site, being on a much higher level, gives a clear and unobstructed vantage point over it. From this level, mainly at the rears of dwellings accessed off the Barroon and at the top of Hemington Hill, one can appreciate not only the open and undeveloped break between the two settlements but just how close they are already, without any development taking place within it. It would be clear and obvious from these points that, as a result of the proposed development, the two settlements would appear closer still, blurring further where one ends and the other begins.

10. There is some credence to the argument that the substantial tree and landscaping belt that runs the spine of the open break (and to some extent 'contains' the aforementioned footpath) represents a defensible barrier to any further development that may lead to a connection of the two settlements. Indeed, an open and undeveloped break between the two settlements would still exist. It would however be limited to in the region of two fields' width and constrain further an already constrained area of land. Thus impinging, in plan and visual terms, on the separate identity of the two settlements.
11. Coming back to the footpath, in running up the spine of the open break it allows users to experience open and undeveloped countryside on both sides. Due to background noise and the tops of buildings punctuating views they would be aware of the presence of existing development but not so much that it would detrimentally affect the enjoyment of the footpath. The appeal scheme would result in a not insignificant amount of built development and activity associated with it up against a substantial length of its run. This would greatly alter and accordingly reduce the quality of the open break and how it would be perceived as well as in physical terms. The experience of the open and undeveloped break contributes significantly to the character and appearance of it.
12. The network of fields that make up the break between the settlements are themselves enclosed by a mix of hedging and trees. Whilst this limits the intervisibility between the edges of the two settlements one can still appreciate them, particularly from the aforementioned footpath. The flatness and somewhat compartmentalised nature of the land's enclosure between Castle Donnington and Hemington does not, for me, downplay its effectiveness as a whole. It shares common characteristics, mainly the absence of built development or large scale activity. In addition, the flatness of it and degree of built form around its edges does to some extent limit views of it from the wider landscape. But, again, even the localised influence of the open and undeveloped land does not reduce it's value in terms of the function it serves.
13. There was discussion at the hearing and in the written evidence about what is meant by the concept of undermining since it seems sufficiently clear in the wording of Policy S3 that development in an open and undeveloped break between two settlements would not necessarily be prohibited. Then again, and in regard to the scale of the appeal scheme and the setting of the appeal site, we aren't talking about two settlements that a mile or so apart. They are indeed very close and it seems to me that, when taking into account the above factors, the scale and land take of the appeal scheme would be such that it would reduce the effectiveness of the land between Castle Donnington and Hemington in ensuring they can be acceptably identified and read as sufficiently separate settlements.
14. I can only therefore conclude that the appeal scheme, as a contiguous extension to Castle Donnington, would undermine the physical and perceived separation and open and undeveloped character between it and Hemington. As such the proposed development would harm the character and appearance of the area, contrary to Policy S3 of the Local Plan, the aims of which I have set out above.
15. The appeal scheme would create and sustain not insignificant targeted local employment and there would be consequent knock on effects of additional

expenditure and investment into the local economy. The appellant has recorded some interest in new units. Both the Council and the appellant agree that the appeal scheme would respond to a current unmet need for employment land. The appellant also explains that the buildings would include measures to generate renewable energy and be of a high energy efficiency in themselves.

16. At the hearing, the Council emphasised that the unmet need was at a modest level against current assessed provision. This would therefore temper to some extent the positive weight I would afford to it against the harm I have found and subsequent conflict with the development plan. In any case, and even if that need were to be greater, it would still have to be met with development of the right type in the right place and referring to my earlier findings, this would not be the case here.
17. I ascribe substantial weight to the harm that the proposed development would cause and the subsequent conflict there would be with the development plan. The harm would be of an environmental nature and be wide ranging and long lasting. Whilst the economic benefits of the scheme would not be insignificant in themselves and the green energy approach laudable, they would not in my view be sufficient to make the proposed development acceptable.

Other Matters

18. The appeal scheme would be acceptable in a number of other respects. Such as for example its access, its likely affect on the living conditions of existing neighbouring occupiers, drainage and ecology. Accordingly, there would be some compliance with the development plan. That said, these would have to be the case for the proposed development to be acceptable. In any event, a lack of harm cannot, by definition, be used to weigh against it. This does not therefore change my conclusions on the main issue of the case.
19. The appeal scheme is supported by a bilateral agreement between the appellant and Leicestershire County Council for the provision of support towards travel plans and bus passes in order to promote sustainable transport. Whilst this is a positive, the provisions of the agreement, as a completed planning obligation in this case, relate more to responding to the impact of the proposed development rather than being a tangible benefit of it. The obligation does not therefore lead me to allowing the appeal.
20. The appellant has suggested that the Local Plan is out of date given it does not make sufficient provision for employment land. This would not however necessarily mean its policies would be out of date for the purposes of the Framework and consistency therewith. In any case, and in regard to employment land, the Local Plan has provision to explore the possibility of proposals outside of existing settlements. Per those that are referred to in my decision.

Conclusion

21. For the reasons set out above, the appeal is dismissed.

John Morrison

INSPECTOR

APPERANCES

FOR THE APPELLANT:

Mr Anthony Marshall MRTPI	Brackley Investments
Mr Matthew Parry MRTPI	Brackley Investments
Mr Tim Jackson CMLI	FPCR (Landscape Consultant)

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Knightley	North West Leicestershire District Council
Mrs Sarah Lee	North West Leicestershire District Council
Mr Jon Etchells	Jon Etchells Consulting (Landscape)

INTERESTED PARTIES:

Mr Tony Saffell	Local Ward Member
Mr Steven Haberfield	Local Resident
Miss Phyllis Cartwright	Local Resident
Mr Ian Tonks	Local Business Owner
Mr Chris Hoyle	Local Business Owner