



Appeal Decision

Site Visit made on 3 August 2021 by G Sibley MPLAN MRTPI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/G2435/D/21/3275069

Willow House, Rempstone Road, Griffydam, Coalville LE67 8HP

- 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 Mr S Cleaver against the decision of North West Leicestershire District Council.
 - The application Ref 20/00689/FUL, dated 15 April 2020, was refused by notice dated 23 March 2021.
 - The development proposed is new vehicular access onto B5324 Rempstone Road.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. A vehicular access has already been built and as such the application and appeal have been made retrospectively.
4. Additional plans, drawing no. HAS/20-054/18 and 19 were submitted with the Grounds of Appeal. These plans indicate the provision of a widened access with widened inward opening gates. I have carefully considered the implications of the additional plans and proposed revisions in the light of the principles of the judgement in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*. The 'Wheatcroft Judgement' is essentially premised upon whether a development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
5. I have also had regard to the advice set out in the '*Procedural Guide – Planning Appeals – England*'. The Procedural Guide advises that if an amendment to an application proposal would be likely to overcome a reason for refusal, then this should normally be made by a fresh application. The appeal process should not be used to evolve a scheme and what is considered at the appeal should essentially be what was considered at the application stage.
6. In this instance, I find that the alterations to widen the access materially alter the scope of the proposal and could not be regarded as a minor amendment to the scheme. The proposed revision clearly seeks to address some of the issues

of dispute upon which the Council based its decision at the application stage, and specifically the Council's views on the need for an increased width of the access to allow two-way vehicular movements as well as an inward opening gate.

7. The scheme would therefore differ from that which consultees understood as the proposal and if allowed, the effect of the revision would be that the appeal process would have been used as a means to amend the scheme so as to at least in part overcome a reason for refusal. I am also mindful that the Household Application Service procedure also precludes the Council from being able to make any further submissions or comments on the Grounds of Appeal.
8. On this basis, I am satisfied that it would be prejudicial to the Council and consultees to include the additional plans, drawing no. HAS/20-054/18 and 19 in my decision-making, and it is therefore my conclusion that the proposed revisions should not be accepted within the context of the appeal. These plans have not therefore formed any part of my assessment of the appeal scheme.
9. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issue

10. The effect of the proposed development upon highway safety.

Reasons for the Recommendation

11. The completed vehicular access provides access to a single dwelling off Rempstone Road which is a B road that has a 50 miles per hour (mph) speed limit. The driveway is deep enough to allow a car to wait on it without overhanging the highway and wide enough for a single car to be parked on it. Nevertheless, the gate currently opens outwards meaning a car could not wait on the driveway whilst the gates were being opened. This would therefore require the car to be parked within the highway which would lead to the potential for conflict and the creation of resultant harm from a highway safety perspective, particularly given the speed limit of the road. The plan submitted with the application would amend the gate to allow it to open into the site which would address this particular concern.
12. The building is used in association with the running of the adjoining Glensmoor Inn which is a restaurant and includes offices and ancillary staff accommodation. As such, Leicestershire Highways Authority have stated that the driveway should be wide enough for two cars to pass each other and the gate should open inwards. The appellant notes that the driveway would only be used by the family but given the interconnected layout of the house and ancillary buildings, this would in all probability be difficult to enforce. As such, given that the driveway could be used by the staff as well as the occupiers of the dwelling, I concur that it would be necessary for the driveway to be wide

- enough to allow two cars to pass on highway safety grounds given the existing highway characteristics of Rempstone Road.
13. Notwithstanding the issues regarding the detailed design of the vehicular access, Rempstone Road is a long straight road and the submitted plans show that there would be visibility for up to 215 metres in both directions. This visibility display was calculated based on an average speed of 62 mph which allows for a contingency for drivers that drive beyond the speed limit. The hedgerows along the road are set back behind a grass verge and because of this there are clear views along the road in both directions. There is a junction located to the west of the site as well as the access to the Glensmoor Inn but given the distance between the site and these vehicular accesses, there would be sufficient time for those using the accesses or the junction to make a safe manoeuvre.
 14. Furthermore, because the driveway would provide a separate driveway for the house which previously took its access via the Glensmoor Inn access, the proposal would not result in an increase of vehicular movements via Rempstone Road. It is noted that there were two recorded accidents near to the site, nevertheless, substantive evidence has not been provided that identified what was the cause of those accidents and whether they could be related back to this development. Whilst it is accepted that the development represents an additional access where manoeuvres would be undertaken including right hand turning manoeuvres, the location of the access would not have a severe impact upon highway safety.
 15. The supporting text for section IN5 of the Leicestershire Highways Design Guide (DG) (adopted 2007) notes that the Council will adopt a flexible policy on new connections to the road network but will severely restrict access to the most important high-standard routes. The policy itself states that the Council will *normally* (my emphasis added) apply restrictions on new accesses for vehicles on A and B class roads. Substantive evidence has not been provided that identifies Rempstone Road as a most important high-standard route. Given the rural location of the site along this section of the road which does not provide a direct route to any major settlements, I do not consider the road is an important high-standard route. As such a driveway in this location, given the movements associated with a new driveway for a house and ancillary use, would not have a severe impact upon highway safety and a vehicular access off this road would comply with section IN5.
 16. The detailed design of the vehicular access would cause harm to highway safety. Consequently, the proposal would not comply with Policy IF4 of the North West Leicestershire Local Plan (adopted 2017) as well as the DG which states that development should ensure that they incorporate safe and accessible connections to the transport network. Furthermore, the development would be contrary to paragraphs 110 and 111 of the Framework which state that development proposals should ensure that safe and secure access to the site can be achieved for all users, and prevent development where there would be an unacceptable impact on highway safety.

Other Matters

17. I have carefully considered the appellant's contention that it would be appropriate to condition the submission of a revised plan that would address the outstanding concerns given that third parties would not be legally obligated

to be involved in the discharging of the condition. However, irrespective of this, it would not be reasonable to grant a planning permission for a development with a condition requiring fundamental changes to the scheme in order to render the development as acceptable.

18. Whilst I note the vehicular accesses referred to by the appellant that were approved by the Council, the design of each access is specific to its location and proposed use and as I have found issue with the detailed design of the proposed access, they have not had any significant bearing on my decision.

Conclusion and Recommendation

19. There are no material considerations that indicate that the development should be determined other than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Martin Seaton

INSPECTOR