



Appeal Decision

Site visit made on 31 January 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2023

Appeal Ref: APP/X2410/W/22/3308383

Brand Hill House, Brand Hill, Woodhouse Eaves, Leicestershire LE12 8SX

- 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 Gurdev Mattu against the decision of Charnwood Borough Council.
 - The application Ref P/22/0771/2, dated 21 April 2022, was refused by notice dated 29 July 2022.
 - The development proposed is use of existing vehicular access point and track for access to dwelling and for the creation of a section of track.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the heading above is taken from the planning application form. However, for clarity, I have omitted the phrases "Application" and "(retrospective)" as neither are a description of development.
3. At the time of my site visit, the access and the track were completed and able to provide access to the dwelling. I also note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.
4. The Council refer to the emerging Draft Charnwood Local Plan July 2021 (2021-2037), and a list of relevant policies the Council consider are broadly in line with the existing adopted policies quoted in the refusal reasons. The Examination in public is reported by the Council as ongoing. However, I have little information to suggest when the plan is likely to be adopted, if any policies will require modification, or if there are any unresolved objections; and the emerging plan doesn't add to the policies in the adopted plan relevant to this appeal. For these reasons little weight is given to these emerging policies in the determination of this appeal.
5. Policy ST1 of the Borough of Charnwood Local Plan 1991-2006 (LP), adopted January 2004 is listed in the refusal reason. The appellant has noted that this is not a saved policy, and the Council has agreed, pointing to this inclusion as being an administration error, so is not relevant to this decision.
6. The Council refers to policy ENV4 of the Woodhouse Parish Neighbourhood Plan (NP) 2020-2036, adopted August 2021, in their refusal reason. This policy relates to impacts on local biodiversity so is not relevant to character and appearance or any of the main issues of this appeal.

7. The Council also refers to policy TR18 of the LP in their refusal reason. This policy relates to the provision of parking to serve new development so is not relevant to highway safety or any of the main issues of this appeal.

Main Issues

8. The main issues in this case are:

- the effect of the development on the character and appearance of the area, including the Woodhouse Eaves Conservation Area (CA).
- the effect on highway safety with regard to vehicular and pedestrian visibility.

Reasons

Character and appearance

9. Brand Hill House is set back from the main road and has two access points, between which are a row of established trees which screen the house from the road. At the rear of the house is a Wood, and to the side going down Brand Hill is the application site and two paddock/ field parcels beyond, with hedges and trees approximately defining boundaries.
10. The appeal site is a track accessed from Brand Hill, where there is a solid electric wooden gate directly adjacent another gated access to the same site of similar width. The gate obscures views of the track from the footpath and road directly outside of the wooden gate.
11. Between the two access points is a row of hedges and trees which define the difference in character I saw at my site visit between domestic curtilage and the open paddocks and woodland.
12. The use of the track is now more intensive for domestic access use than just for the management of the woods and maintenance of the paddock. The application confirms that the track has been formed using a geotextile membrane with a base course and mill waste.
13. Although at my site visit the track itself was not clearly visible from the highway, I was able to clearly view cars going back and forth in both directions as I stood on the track, which was not screened by existing trees so any activity here would be noticeable. At night, a time the previous use was unlikely to attract any activity, there is now a need for illumination, so the application includes details of external lighting. Both, the increase in activity from the use and the lighting introduces a more domestic character, visible to highway users, where previously the domestic curtilage of the house was screened by existing boundary trees and hedges. This encroachment of the domestic curtilage is harmful to the existing character and appearance of the open countryside.
14. Contrary to the suggestion that the solid wooden gates which provide access to the appeal site are a benefit, their presence and ability to screen views of the track, at the point of access, adds to the change in character I found here, because it provides a level of privacy and security which are not usually seen serving an access to a track used for the management of woods or a paddock, where you might expect more utilitarian designed gates.

15. The Conservation Area Appraisal (CAA) for the CA describes the house that the track would serve, collectively with other nearby houses in its assessment of the character of this part of the CA states, "The road runs straight, dropping gently through woods with openings and scattered houses, some very large and important, though most of them hidden in the woods". The CAA also notes the existing illumination at Charnwood House as being inappropriate.
16. The appellants Landscape and Visual Appraisal (LVA) raises concern about the description of the paddocks as being meadows in the CAA. Whether these field parcels are meadows or paddocks, which can change over time, does not broadly affect the CAA assessment of the relationship between the houses, woods and countryside. This relationship between the large houses and the woods, the separation between development, woods and countryside, form part of the key features of the heritage asset.
17. The domestic activity through the comings and goings along the track combined with the lighting, both result in harm to the character and appearance of the CA, by eroding the existing "hidden" relationship between the woods and these large houses. The proposal would not therefore preserve the character and appearance of the CA. I find in relation to paragraph 196 of the National Planning Policy Framework, that whilst the harm to the significance of the CA would be less than substantial, there are no public benefits that would outweigh that harm.
18. I therefore conclude that the development results in significant harm to the character and appearance of the area, including the CA and as such is contrary to policies CS2, CS11 and CS14 of the Charnwood Local Plan Core Strategy (CS) 2011-2028, adopted November 2015, saved policies, ST2, CT1, CT2 of the LP, and Policy H3 of the NP, as well as the statutory duty of S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990. These seek, amongst other things to protect landscape character, heritage assets and their setting.

Effect on highway safety

19. The Council are concerned about visibility of on-coming traffic and pedestrians when egressing the site onto the highway.
20. The main road was not busy at the time of my site visit, and I witnessed only a couple of pedestrians using the footpath. The speed limit for the road is 30mph. The access is directly next to an older one with the same setback from the highway and both serve the same building so there is no reason to believe the new access creates any additional traffic, it would either replace the existing one or divide existing traffic. Consequently, the low speed limit combined with the low activity and presence of an alternative similar access means the development has little if any effect on highway safety.
21. The highway authority has no objections subject to a condition to provide consolidated surface treatment for a portion of the track behind the footpath.
22. The appellant has provided a Transport Appeal Statement which concludes that there are no unacceptable impacts on highway safety and the impact on the road network would not be severe. This information is not challenged by the Council.
23. The appellant suggests that the proposals would allow the two access points to be consolidated into one and that a condition could be attached to that effect.

The appellant suggests that to do this presents highway safety benefits for improved visibility when accessing and egressing the site. However, there is no evidence before me of any significant existing highway safety issues for this proposal to outweigh the significant harm I have found above in terms of character and appearance.

24. I therefore conclude that the development could be mitigated by condition to prevent any unacceptable impact on highway safety, and as such the proposal in this regard accords with the National Planning Policy Framework, which seeks amongst other things that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

25. The officers report concludes that they are unable to determine any biodiversity losses due to a lack of information, so they are unable to determine compliance with CS13 of the CS. I have insufficient information to consider this further and as I am dismissing the appeal on the main issues for the reasons given above, I have not considered this matter further.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR