



Appeal Decision

Site visit made on 22 August 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/G2435/W/23/3314972

Roseville, Outwoods Lane, Coleorton LE67 8PA

- 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 Darren Betteridge against the decision of North West Leicestershire District Council.
 - The application Ref 22/01126/OUT, dated 11 July 2022, was refused by notice dated 1 December 2022.
 - The development proposed is erection of a building and the erection of three lodges to be used for tourist accommodation (outline application including details of access).
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Decision

1. The appeal is allowed and planning permission is granted for the 'erection of a building and the erection of three lodges to be used for tourist accommodation (outline application including details of access)' at Roseville, Outwoods Lane, Coleorton, LE67 8PA in accordance with the terms of the application, Ref 22/01126/OUT, dated 11 July 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application for the subject of this appeal was submitted in outline with matters reserved except for access, for the erection of a building and three lodges to be used for tourist accommodation. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. I note that the footprint/location of the proposed building and three lodges are shown on the submitted plans, however the precise form and layout of the proposed development would be determined at reserved matters stage were the appeal allowed. I have therefore determined the appeal on this basis and the submitted plans in this respect are indicative only.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is a spacious plot located to the west of Lower Moor Road and to the south of Outwoods Lane. The appeal site is set within the grounds of Roseville, a two-storey semi-detached dwelling located to the north-west of the site.
5. Generally, the western side of Lower Moor Road retains an unbuilt-up frontage where residential properties are sparse. Where houses do exist, they are set

well back from the road and their visibility from it is limited. In contrast, the eastern side of Lower Moor Road, in the vicinity of the appeal site, is characterised by ribbon development. The properties have deep open frontages and are generally set within spacious plots and are clearly visible from the road.

6. The appeal site is a gently sloping grassy field that is largely enclosed with mature dense mixed hedgerow and trees on the site's boundaries. Other than the site's road frontage, it is mainly bordered on its remaining sides by the curtilages of residential properties, including an access drive to Ginn Stables Cottage.
7. There are very limited views of the appeal site from the street-scene due to the intervening vegetation. Even in winter, the mixed vegetation and tree growth would be extensive, and views through to the appeal site would be intermittent. The site is slightly more open to the south-east from Lower Moor Road, but views would be restricted by the adjacent neighbouring dwelling known as 'The Firs', which directly fronts onto Lower Moor Road. In addition, land to the south of the appeal site slopes downwards from its northern boundary thus further restricting northward views of land beyond the boundary from the south.
8. The proposal would urbanise the undeveloped nature of the appeal site. However, due to the spacious plot size, the appeal site could accommodate the proposed development in an attractive layout and landscape context. The appellant has stated that it is the intention to construct single-storey lodges on the site and to provide a detailed landscape scheme at reserved matters stage. In addition, car parking is likely to be near to the proposed driveway, minimising the amount of access related built development that would be required. I consider it necessary for the lodges to be single storey only to protect the character and appearance of the area, and as this is a matter of principle it could be controlled by means of a suitably worded condition.
9. The indicative layout plan shows the proposal positioned on the rear element of the site; the front portion of the site fronting onto Lower Moor Road to the northeast would remain undeveloped. The key characteristics of the site, in particular its mature hedgerow and tree boundaries would be mainly preserved. The visual effects from the proposal would also be largely contained to the appeal site itself, apart from very constrained and intermittent views through the extensive retained hedgerow and tree cover.
10. The indicative layout plan also shows that the lodges would be set amongst newly landscaped surroundings. Thus, views across the site from the proposed site entrance would be intercepted by both existing boundary vegetation and new planting within the site's interior around and between the lodges. A further dense buffer of planting along the site's southern boundary would provide additional visual and contextual screening between the site and the nearest neighbouring residential properties.
11. Furthermore, access into the site off Lower Moor Road has already been granted planning permission by a previous approval (19/02496/FUL). Whilst the proposal's site entrance would be slightly wider than this previous approval, its width would not be significantly larger, and the green frontage and verdant appearance of the site would be maintained. Consequently, there would be limited visual impact from the proposed new access.

12. I accept that the introduction of the proposed structures within the gently sloping site would be somewhat incongruous with the existing settlement pattern. However, the site is enclosed by mature vegetation on all sides, which would ensure that the proposed lodges would not be prominent within the landscape. Furthermore, with the mitigation of landscape planting around, and within the site, they would become largely hidden and unobtrusive within the countryside setting.
13. There is concern that the existing boundary vegetation could be cut down or be removed at any time and therefore cannot be relied upon. However, the proposed development would be landscaped to ensure that it integrates with the existing mature planting, which would be controlled through the requirements of any application for landscaping as a reserved matter, to be considered by the Council in the first instance.
14. Overall, the proposal would introduce urban form to an existing undeveloped site. I acknowledge that the layout plan is indicative only. However, it demonstrates one way of developing the site which would ensure that the proposal would be largely contained by existing vegetation with limited views, limiting its prominence within the landscape. There would be the opportunity for additional landscape planting, which would ensure the proposed lodges are well screened from public vantage points and nestle into the existing landscape. Therefore, I am satisfied that the appeal site could be developed as proposed in a manner which would ensure that the key characteristics of the appeal site would not be harmed and the proposal itself would be of modest scale.
15. For the reasons given, the proposal would therefore preserve the character and appearance of the area. As such, it would accord with Policies S3 and D1 of the North West Leicestershire Local Plan (2021) (Local Plan). Together, these policies seek to ensure, amongst other things, that development responds to its context and respects the appearance and character of the surrounding landscape, including the settlement pattern, and local distinctiveness is safeguarded and enhanced. It would also accord with the guidance contained in the Council's Good Design for North West Leicestershire Supplementary Planning Document, which provides good design principles for new development. In addition, the proposal would also accord with the design objectives of the National Planning Policy Framework (Framework).

Other Matters

16. Representations received from objectors suggest that the proposal conflicts with Policy EC13 of the Local Plan. However, the site is located within the National Forest where tourist destinations and amenities can be accessed by public transport, walking and cycling. The principle of overnight tourism accommodation is supported by Policy EC13 and is further supported by the Council's Tourism Strategy for Leicester and Leicestershire (2011-2016), the National Forest Tourism Growth Plan (2017-2027), and the Council's Economic Growth Plan (2019-2021). Although the site is a greenfield site, Policy EC13 does not state that permission should be refused for development which are located on greenfield sites outside of development limits. As explained above, the proposal is small scale and would result in acceptable impacts on the character and appearance of the area.

17. Furthermore, a test for viability of a new business use or the need to provide evidence of demand for the use is not required under Policy EC13. Paragraph 84 of the Framework states that the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings, should be supported to provide a prosperous rural economy.
18. The Highways Authority raised no objection in respect of the effect of the proposal on highway safety. Subject to conditions, visibility at the entrance to the site would be sufficient in both directions, and there is ample space on the site for parking and turning. From the evidence before me and my observations on site, I have no reason to reach a different conclusion in this respect.
19. The site is located adjacent to Coleorton Hall gardens which is a Grade II* registered landscape. The Council raised no objection to the proposal in respect of the effect it would have on this heritage asset. Based on the evidence before me and the observations I made during my site visit, I find the proposed development would have no effect on the setting or significance of this heritage asset.
20. The proposal would result in the loss of agricultural land. However, given the modest scale of the proposed development this loss would be small. I therefore attach little weight to this matter.
21. The proposal would have a small, but nonetheless positive, economic effect through adding to the range of visitor accommodation within the area, and through spending by visitors on the accommodation and at local businesses and attractions. Socially, tourists would also help to maintain the viability of community services and facilities within nearby villages and towns.
22. Environmentally, whilst there would be some reliance on the private car, the number of journeys would be limited, given the number and nature of the lodges proposed, the provision of an on-site shop and the access available to public rights of way. Consequently, the site would be within a relatively accessible location for tourist accommodation for which the development plan as a whole offers support. This does not therefore weigh against the proposal in this case.
23. I note the comparison with a previous appeal¹ scheme for a residential development of two dwellings on the site. Although I do not have the full details of that proposal before me, it appears to be for a scheme of a materially different nature that would be positioned closer to the road than the proposal before me. I have, in any event, considered this appeal on the basis of the evidence before me and the development plan context as it currently exists. I therefore attach little weight to this matter.
24. My attention has been drawn to other cases that were refused planning permission. However, I do not know the planning circumstances that led to these refusals or their specific relationship with the countryside. In any event, I have determined the appeal on its own merits.
25. I acknowledge that there were a number of representations, including those by the Parish Council in respect of the proposal, which in addition to the main issue included concerns relating to neighbouring living conditions, noise and

¹ APP/G2435/W/17/3178633

disruption, impact on biodiversity, and increase to carbon footprint. However, I have found the principle of the development to be acceptable. Specific concerns regarding the siting and appearance of the development would be considered at a later stage by the Council in the first instance which has suggested a number of conditions to address these matters. On that basis, I find no justification to dismiss the appeal on these matters.

26. Concerns have been raised regarding the accuracy of the appellant's topographical survey. Nevertheless, I have determined this appeal on the evidence before me and my own observations of the site.
27. I note the comments regarding the Council's handling of the application. However, that is not a matter for my consideration in the context of this appeal decision which needs to be made having regard to the planning matters raised.

Conditions

28. The Council has suggested conditions and the appellant has provided comment. I have considered these suggested conditions, making amendments where necessary in the interests of clarity and consistency, and to ensure compliance with the tests contained in the Planning Practice Guidance and paragraph 56 of the Framework.
29. In addition to the standard conditions requiring the submission of the relevant reserved matters applications, their timeliness, and the timing of the implementation of the proposal, a condition specifying the relevant drawings provides certainty.
30. Conditions relating to ground levels and a landscape scheme are necessary to preserve or enhance the character and appearance of the area.
31. I have imposed a condition to ensure features of archaeological interest are properly examined and recorded. In the interests of highway safety, conditions relating to vehicular access and visibility splays are imposed.
32. Conditions requiring ground investigation and a remediation scheme are necessary to ensure safe development of the site and to protect human health and the environment. These are worded as pre-commencement conditions so that the investigation and any remediation measures are implemented prior to ground disturbance.
33. I have imposed a condition relating to existing trees and hedgerows. This is necessary to ensure their protection during the construction phase. A condition relating to lighting is also necessary to protect wildlife and neighbouring residential amenities.
34. A condition limiting the development to single-storey is necessary to protect the character and appearance of the area.
35. A condition relating to retail use is necessary to preserve the amenities of the locality. A condition is imposed for refuse storage facilities and collection in the interests of sustainable waste management and recycling.
36. I have imposed conditions to ensure adequate surface water collection and disposal methods and to avoid flooding. These are worded as pre-commencement conditions so that the approved scheme is implemented in

- accordance with the agreed details. I note the appellants comments, but I consider these conditions are necessary due to the sloping nature of the site.
37. The condition restricting occupancy of the proposed lodges to be for short-term lets only is necessary to ensure that the proposal is for tourism accommodation and not permanent residential accommodation.
38. The condition relating to biodiversity net gain is necessary to ensure the protection of biodiversity and to secure opportunities for the enhancement of the nature conservation value of the site.
39. I have also considered the suggested condition to restrict the number of holiday lodges. However, the description of development is clear in respect of the number of units that would be authorised should planning permission be granted. Therefore, I have not imposed the suggested condition as it is unnecessary.
40. The Council also suggested a condition in relation to its submitted plan number LPA/22/01126/OUT. This plan shows a hatched area drawn by the Council. However, the planning application was submitted in outline with all matters reserved except for access. Therefore, matters such as layout would be for future consideration. Thus, I have not imposed the suggested condition.

Conclusion

41. I have found no conflict with the relevant development plan policies and thus there is no conflict with the development plan as a whole. The proposal constitutes a sustainable form of development within the meaning of the Framework.
42. For the reasons set out above, I therefore conclude that the appeal is allowed.

H Smith

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping, layout, and scale shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan – Drawing No 4a, dated: January 2022

Indicative site layout plan dated June 2022 with regard to access only

- 5) The reserved matters application shall include details of existing and finished ground levels and the finished floor levels of the buildings in relation to an existing datum point.
- 6) As part of the relevant reserved matters application(s) in pursuance of Condition No 3, the landscaping scheme shall include:
 - a. Existing planting/trees/hedgerows to be retained;
 - b. A full specification of all proposed plants, trees, hedgerows, noting species, plant sizes, planting plans and proposed numbers/densities where appropriate;
 - c. Hard surfacing materials; and
 - d. An implementation programme.

The agreed landscaping scheme shall be carried out in the first planting and seeding seasons following the first implementation of use or the completion of the development, whichever is the sooner. Any tree, hedge or plants which may die, be removed or become seriously damaged or diseased shall be replaced with others of similar size and species in the first available planting season thereafter, and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the local planning authority.

- 7) No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives.
- 8) Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5.25 metres, a gradient of no more than 1:30 for a distance of at least 10 metres behind the highway boundary and shall be surfaced in a bound material with a 9.2 metres dropped crossing. The access once provided shall be so maintained at all times.

9) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 65 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

10) No development shall commence until:

- a. A scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and
- b. Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

11) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the local planning authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

12) No development shall commence on site until a method statement for the drive installation including works of 'no dig' design has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the method statement as approved.

13) No development shall commence on site until a hedgerow protection plan has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the hedgerow protection plan as approved.

14) Prior to its installation, details of any external lighting proposed shall be submitted to and approved in writing by the local planning authority. The installations shall then be carried out in accordance with the approved details. Thereafter, no additional lighting shall be installed without the prior written permission of the local planning authority.

15) Notwithstanding the details submitted, nor condition 3 above, the proposed tourist accommodation shall be limited to single storey only.

16) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and / or the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking and re-enacting those Orders, with or without modification), the proposed onsite shop as part of unit 1 shall be used solely for the purposes specified in the application, hereby

permitted, and shall be strictly ancillary to the main use of the site as holiday accommodation and shall not be used, sold or occupied independently.

- 17) Prior to first use of the holiday lodges, a scheme for the storage and collection of refuse and recycling bins, and a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented in accordance with the approved details and timetable and shall thereafter be retained and shall remain available for use for their designated purpose/for bin storage only/for bin collection only.
- 18) No development hereby approved shall commence until such time as details in relation to the management of surface water on site during construction of the development has first been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details for the lifetime of the construction.
- 19) The holiday lodges shall not be occupied until details of the surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 20) The holiday lodges shall be restricted to short-term holiday letting purposes only. In particular:
 - a. The holiday/visitor accommodation shall not be occupied as a person or persons' sole, or main place of residence.
 - b. No individual shall reside on site in any accommodation hereby permitted in the calendar month of January in any calendar year.
 - c. No individual shall reside on site in any accommodation hereby permitted for more than 28 consecutive days and shall not return to occupy the holiday accommodation within four weeks of the date of their departure.
 - d. The owner/operator of the holiday/visitor accommodation shall maintain an up-to-date register of the names of all owners/occupiers of the units. This register shall be made available within 1 calendar month of a written request by the local planning authority.
- 21) No development shall take place (including ground works or vegetation clearance) until a Biodiversity Net Gain Plan (the Plan) has been submitted to and approved in writing by the local planning authority. The Plan shall be based on the Biodiversity Net Gain metric spreadsheet completed by Turnstone Ecology (Keiran Marriot 29/09/2022) and shall provide a minimum of 10% net gain on the reported baseline habitat loss. The Plan shall include the following details:
 - a. Local plan of areas to be used for Biodiversity Net Gain.
 - b. Description of existing habitats on site.
 - c. Description of planned habitat creation/enhancement, including species to be planted/sown.
 - d. Timetable for implementation of habitat creation/enhancement.
 - e. Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required.

The plan shall be supported by an up-to-date Biodiversity Net Gain metric calculation using the latest DEFRA version of the metric. The plan shall be implemented in accordance with the approved details.

****End of Conditions****