



Appeal Decision

Site visit made on 13 September 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal Ref: APP/F2415/W/23/3319293

Land at Melton Road, East Langton LE16 7TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Malcolm Foulkes-Arnold of Corporate Architecture Ltd against the decision of Harborough District Council.
 - The application Ref 22/00681/FUL, dated 9 March 2022, was refused by notice dated 11 October 2022.
 - The development proposed is described as 'Creation of a veterinary building with associated car park works for Rutland Veterinary'.
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Decision

1. The appeal is allowed and planning permission is granted for creation of a veterinary building with associated car park works, at Land at Melton Road, East Langton LE16 7TG in accordance with the terms of the application, Ref 22/00681/FUL, dated 9 March 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for a full award of costs was made by Mr Malcolm Foulkes-Arnold of Corporate Architecture Ltd against the decision of Harborough District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have amended the description of the development within my decision above, removing any wording that does not describe an act of development.

Main Issue

4. The main issue is the effect of the proposed development upon highway safety.

Reasons

5. The appeal site comprises part of a field used for grazing, with an existing access off Melton Road (the B6047), to the east. This road is single carriageway, with no footways or lighting. Traffic is subject to a 50mph speed limit.
6. The Council's refusal reasons include reference to Section IN5 of the Leicestershire Highway Design Guide (LHDG), as well as policies GD8 and IN2 of the Harborough Local Plan 2011 to 2031, Adopted 30 April 2019 (LP), and paragraphs 110 and 111 of the National Planning Policy Framework (NPPF). This LHDG states, amongst other things, that for A and B class roads, restrictions on new accesses and the increased use of accesses will be applied

on roads with a speed limit above 40mph, or where measured speeds are above 40mph.

7. Whilst a material consideration, which LP Policy IN2 requires decision makers to have regard to, the LHDG is guidance and not policy. LP Policies GD8 and IN2 ultimately require that schemes provide safe access. Paragraph 111 of the NPPF, confirms that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As such, an increased use of the access onto Melton Road would be insufficient in itself, to demonstrate that the appeal scheme would lead to unacceptable highway safety issues. The proposal requires consideration in its site-specific context.
8. The Local Highway Authority (LHA) confirmed as part of its consultation response to the planning application, that the existing site access width, junction radii, and achievable visibility of 2.4m x 160m would accord with the requirements of the LHDG for a 50mph road. The LHA has subsequently undertaken its own speed survey, demonstrating that 85th percentile speeds are below 50mph in both directions. Whilst the LHA raises in its appeal statement that no tracking drawings for larger vehicles have been submitted, no substantive evidence is then provided by the LHA to demonstrate that this would be problematic for an access that accords with the LHDG standards. As such, the evidence before me suggests that an appropriately designed access exists with a suitable level of visibility that could be secured by a condition.
9. In its appeal statement, the LHA states that the B6047 has been subject to measures to reduce collision rates, and that whilst there have been improvements, the road still experiences a higher rate of collisions than the national average. On this basis, it considers that the proposed development requires consideration in the context of Melton Road having existing road safety problems.
10. Melton Road is a lengthy route and I find the information provided by the LHA to be generalised in terms of identifying where concerns exist in relation to the safety of this road, what specific measures have been implemented to reduce the collision rate and whether they have any relevance to the appeal site and its surroundings. Having considered the PIC data provided by the LHA within 500m of the site, none of the three recorded incidents appear to relate to vehicles turning onto or off Melton Road. Whilst one incident was in relatively close proximity to the site, this incident involved only one vehicle leaving the carriageway. As such, the evidence before me does not demonstrate any specific or persistent problem with highway safety at, or close to the site, nor can I see any pattern of collisions that would be obviously exacerbated by the proposed development.
11. The extent of any increase in use of the access that would result from the proposed development, over and above the existing or lawful use of the site, is a matter of dispute. However, whilst concluding that the proposal would increase the use of the existing access, contrary to Section IN5, neither the Council, or the LHA, go on to provide any objective analysis of this increase, or any substantive evidence to demonstrate that it would generate any safety concerns or capacity issues for the road network. The trip generation figures in the AM and PM peak periods when Melton Road will be at its busiest, are minor. Whilst higher figures are anticipated during the course of the day, these would

fall outside peak times. Accordingly, even if I were to adopt the LHA's stance as to the likely number of additional trips that would be generated by the development, the evidence before me indicates that the proposed access would be safe.

12. Consequently, I conclude that the proposal would have an acceptable effect on highway safety. The proposal would accord with LP Policies GD8 and IN2, which amongst other matters, require new developments to ensure safe access, and safe, efficient and convenient movement for all highway users. Further, the proposal would meet with the requirements of the NPPF which seeks to ensure safe and suitable access to the site for all users.

Conditions

13. I have considered the conditions put forward by the Council and the LHA with reference to the NPPF and Planning Practice Guidance. The appellant has had the opportunity to comment and has confirmed acceptance of these conditions, subject to a number of suggested amendments which I have taken into account.
14. Further to the conditions discussed above, I have imposed a condition which concerns the statutory time limit. In the interests of certainty, I have also imposed a condition concerning the approved plans.
15. A condition is imposed requiring the submission of a Construction Traffic Management Plan (CMP), which is necessary and reasonable in this instance, to effectively manage traffic associated with the construction phase of the proposed development, given that parking on the highway would not be feasible. As it relates to the construction phase, this information would be required prior to development commencing and the appellant has accepted this, as required by Section 100ZA(5) of the Act.
16. Conditions requiring submission and approval of materials, lighting levels and landscaping details to be used in the development are necessary in the interests of the character and appearance of the area. Details of lighting levels are also necessary given the proximity of residential properties.
17. For the proper functioning of the proposed development, drainage details should be agreed, along with the provision of parking and turning as approved.
18. LP policy GD8 requires all proposals to be designed to minimise impact on the amenity of existing residents by not generating noise which cannot be mitigated to an appropriate standard. A Noise Impact Assessment has been submitted with the appeal, which includes a number of mitigation measures to minimise noise pollution for nearby residential receptors and a condition is imposed to secure these measures.

Conclusion

19. For the reasons set out above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (ref: 5223/MT/21/001 Rev P0), Topographical Site Plan (ref: 5223/MT/21/002 Rev P0), Proposed Masterplan (ref: 5223/MT/21/003 Rev P1), Proposed Site Plan (ref: 5223/MT/21/004 Rev P1), Proposed Floor Plan and South Elevation Plan (ref: 5223/MT/21/005 Rev P1), Proposed Elevation Plans (ref: 5223/MT/21/006 Rev P1)
- 3) No development shall commence on the site until a construction traffic management plan, including as a minimum, details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 4) No part of the development hereby permitted shall be built above damp-proof course level until details of all external materials to be used in the construction of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
- 5) No external lighting shall be installed on the site until details (including luminance levels and measures to minimise light spillage) have been submitted to and approved in writing by the Local Planning Authority. External lighting shall only be installed in accordance with the approved details.
- 6) Before the development is brought into use, a landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include: (a) full details of proposed hard and soft landscape works, including access, driveway, parking, turning and all other surfacing materials; (b) boundary treatments (c) retained planting, hedges or trees, (d) new planting, (e) screened bin store area, and (f) a timetable for implementation. The landscape scheme shall be carried out in accordance with the approved timetable. Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, die or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) The development shall not be brought into use until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 8) No part of the development hereby permitted shall be brought into use until such time as vehicular visibility splays of 2.4 metres by 160 metres have been provided at the site access. These splays shall thereafter be permanently maintained, free from any obstruction higher than 0.6 metres above the level of the adjacent verge/highway.
- 9) The development hereby permitted shall not be brought into use until such time as all parking and turning provision has been provided, hard surfaced (and demarcated) in accordance with approved plan Proposed Masterplan (ref: 5223/MT/21/003 Rev P1). The approved onsite parking and turning provision shall be kept available for such uses in perpetuity.

- 10) In line with the recommendations of the Noise Impact Assessment dated 25.2.22, the following mitigation measures shall be implemented as per the approved plans before the building is brought into use, and shall be retained in perpetuity: (a) a bonded road surface, (b) an acoustic fence as shown on the proposed site plan 5223-004 P1; and (c) external fixed plant installations shall be screened, such that the rating level when all plant is running simultaneously should be greater than 5dB below the prevailing background sound level at the most exposed noise sensitive property to the south.