



Appeal Decision

Site visit made on 14 December 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 7th February 20124

Appeal Ref: APP/X2410/W/23/3320992
5 Far Street Wymeswold LE12 6TZ

- 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 Mitchell Gregory against the decision of Charnwood Borough Council.
 - The application Ref: P/22/0992/2 dated 23 May 2022 was refused by notice dated 27 January 2023.
 - The development proposed is Erection of 3 dwellings, alterations to existing vehicular access, refurbishment of existing outbuilding and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for Erection of 3 dwellings, alterations to existing vehicular access, refurbishment of existing outbuilding and associated works at 5 Far Street Wymeswold LE12 6TZ in accordance with the terms of the application Ref: P/22/0992/2 dated 20 May 2022 and the plans submitted with it subject to the schedule of 15 conditions attached.

Main Issues

2. The main issues are:
 - whether the appeal site is a suitable location for residential development and, if so,
 - whether the site can be afforded safe and suitable access.

Reasons

Principle of development

3. The appeal site is a narrow piece of land and part of an agricultural holding associated with No.5 Far Street in the 'other settlement' of Wymeswold which is defined as being a suitable location for additional housing. The site is accessed from Main Street by an inclined private drive which opens out onto a level plateau of agricultural land where the proposed development would be located.
4. Although in large part located outwith the development limits of Wymeswold as set out in the 'saved' policy ST/2 of the Charnwood Local Plan 2004 (CLP) the appeal site is now enclosed along its western side¹ by a recent development of two storey housing² set at a lower level. This development is of significant size

¹ which was not the case in 2016 when a proposal for 4 dwellings on the same site was dismissed on appeal ref: APP/X2410/W/16/3142646

² Storkit Lane

relative to the settlement and now forms its western edge along the north side of the A6006 Rempstone Road. The setting of the development proposal is, therefore, significantly changed from that at the time of the dismissed appeal ref: APP/X2410/W/16/3142646 relating to four dwellings in the same location and making use of the same access.

5. The emerging Charnwood Local Plan 2021-2037 (emerging LP) is under examination, however the Council concede that policies comprised in the development plan relevant to the delivery of housing are out-of-date by reference (at the time of determination) to a 3.04 year housing land supply. It is not disputed that the provisions set out in paragraph 11(d) of the NPPF apply. Further, although the site is within open countryside it does not benefit from any designations as provided by Footnote 7 of the NPPF. Consequently, my conclusion will address the main and other main issues, to which I turn next, within the provisions of the 'tilted balance' which is thereby engaged.

Access

6. The Council's single reason for refusal derives from the objection of the Local Highway Authority (LHA) and concerns about visibility for cars emerging from the site onto the A6006 Main Street. Proposed access arrangements have been subject to adjustment since the original submission. Drawing 001Rev.D sets out changes to the alignment of the front boundary wall such that the visibility to the right (west) would be greater than that which currently exists to an extent which the Local Highway Authority (LHA) find acceptable. Visibility to the left (east) for emerging vehicles would be 2.4m x 38m when measured along the nearside kerb and is not proposed to be improved. In terms of conventional 'x' and 'y' distances the visibility available to the east (left) is significantly less than that prescribed by the LHA having regard to data gathered in a speed survey. The footway at the point of access is of generous width, around the required 'x' distance of 2.4m between edge of highway and drivers eye line. It is material that this access is currently in use and in practice emerging users can sit further forward to improve their view of oncoming traffic.
7. My observations at the site, from use of the highway, access drive and footpaths, and of the behaviour of traffic along this gently curving two-lane road is that a general awareness of the various access points creates a degree of uncertainty such that any overtaking of westbound moving traffic is highly unlikely. Also, the curving profile of the road provides better forward visibility of any vehicles waiting to emerge than the 'y' distance stated.
8. The LHA object to the development on the basis that the proposal 'intensifies the use of an access on an A road which has substandard visibility'. The access currently serves two dwellings and the application site which is referred to as being agricultural land. It is not accepted by the LHA that an extant agricultural use exists sufficient to justify the appellant's contention that the proposed new use of the land would be a non-intensification of the use of the existing access, but nor is it suggested that the site currently has a 'nil' planning use or that existing substandard visibility has resulted in collision or accident despite its use for two dwellings and being available to gain access to that land. Consultation responses provided at the time of the application (and therefore the Council's decision) from the LHA refer to the National Planning Policy Framework (The

Framework) and claim that there would be 'severe cumulative impacts on the road network', however I have nothing before me to justify such an extreme assertion³ within the general meaning of what is set out in those parts of national policy⁴.

9. The LHA have also confirmed in their statement that there were no highway objections to a previous proposal for 4 dwellings at the site⁵ where similar visibility improvements were offered. Quite reasonably, the applicant points to this as an unjustified inconsistency in the position taken by the Council which has led to a single refusal reason. Overall, given the improvement to visibility which would result from the proposal for those who currently use the access (which is not accounted for in the position of the LHA) taken with my observations at the appeal site, I conclude that subject to suitable conditions to ensure delivery of necessary improvements, the impact upon highway safety of the proposal would be negligible and that the proposal would be afforded safe and suitable access as national policy requires⁶.

Other Matters

10. Although the new residential development lies outwith the Wymeswold Conservation Area (CA), the initial section of the driveway lies within it. The initial submission intended to significantly reduce the height of the section of front boundary wall in order to improve visibility to the right for emerging vehicles. What is before me intends move the wall back to a new position which would, if subject to appropriate conditions as to appearance and material, retain an appropriate retaining structure in front of No.5 Far Street. This change will have a minor impact on the character and appearance of the conservation area, so whilst any harm to a designated heritage asset must attract considerable importance and weight, the harm in this instance is nominal.
11. I note representations have also been made as to overlooking and additional traffic. Although there will be some impacts from the introduction of additional dwellings, I have not been pointed to any consequences of the proposal which, if made subject to conditions that require suitable boundary treatments and attend to landscaping, parking and construction management issues, that would justify the refusal of what is proposed, given my overall reasoning.

Planning Balance and Conclusion

12. Whilst I note the Council suggest, other than in relation to the development strategy, moderate weight should be attached to several emerging local plan policies it is not contended that this would lead to additional reasons for refusal nor is it disputed that saved policies of the CLP or of the Core Strategy relevant to the supply of housing are out of date. In consequence, no weight can be attributed to conflict with the 'saved' policy ST/2 which places the proposed development outwith the development limits of Wymeswold. In any event the

³ Which it seems the LHA recognise since their subsequent appeal statement refers to 'highway safety'.

⁴ NPPF 2023 Paragraph 115: 'Development should only be prevented or 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. (emphasis added)

⁵ P/15/0701/2 refused on appeal for non-highway reasons

⁶ NPPF Paragraphs 114(b) and 115.

site is now largely contained by existing development which effectively set the natural limits of the settlement on its west side.

13. In the circumstances described, paragraph 11(d) of the Framework indicates permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies set out in the Framework taken as a whole. Footnote 7 does not apply in this instance.
14. Although the Council suggest the tests set in paragraph 11(d) are not met, I have concluded that the impact on highway safety would not be unacceptable; and that the impact of the development upon the character and appearance of the CA is nominal. Although even that nominal degree of harm should attract considerable importance and weight, overall this, and any other harm, is outweighed by the provision of dwellings in a sustainable location, notwithstanding the modest number involved.
15. Consequently, taking all matters raised into account, my reasoning directs that the appeal succeeds subject to the usual timing and plans condition. I have considered the Council's and Highway Authority's suggested conditions and, having regard to the 6 tests set out in national policy, incorporated or adjusted these as necessary. Conditions are necessary to ensure the works are completed in accordance with the basis of my decision in relation to details of the access works, and to ensure the works are carried out in a manner which is sympathetic to the character and appearance of the conservation area. Given the concerns as to use of the access a condition is necessary to ensure the management of the site does not cause unnecessary nuisance or obstruction of the access road. Having regard to the protection of amenity for neighbouring users, conditions are necessary to ensure no new windows or allow ready views into neighbouring properties. Securing the implementation of suitable biodiversity gain, landscaping, and boundary treatments is necessary and relevant to make the proposal acceptable together with choice of materials. Given the proximity of existing dwellings to the access drive a working hours restriction would also be necessary but the general limitation of permitted development rights is not necessary in this case having regard to the other conditions attached.

Andrew Boughton

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:

3847-100 Rev I – Proposed Block Plan
3847-101 Rev F - Proposed Site Plan
3847-102 Rev A – Plot 1 Plans and Elevations
3847-103 Rev B – Plot 2 Plans and Elevations
3847- 104 Rev B – Plot 3 Plans and Elevations
3847-105 Rev A – Carport Plan and Elevation
3847-106 Rev A – Outbuilding Plans and Elevations
3847-107 Rev D – Existing and Proposed Front Boundary Wall Plan
3847-108 Rev B – Parking Plan
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing and proposed revised ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development of the proposed dwellings above ground level shall take place unless and until details of all proposed external facing materials have been submitted to, and approved in writing by, the Local Planning Authority. The development shall proceed in accordance with the details approved.
- 5) Demolition or construction works shall take place only between 7.30 and 18.00 on Mondays to Fridays and between 7.30 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - The parking of vehicles of site operatives and visitors;
 - Loading and unloading of plant and materials;
 - Wheel washing facilities;
 - Measures to control the emission of dust and dirt during construction;The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 7) The development hereby permitted shall not be occupied unless and until the rebuilt front boundary wall shall have been constructed and related footway reinstated, in accordance with details to include materials and construction precise location and height, to be submitted to, and previously approved in writing by, the Local Planning Authority. The works shall be carried out in accordance with the approved details.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the west elevations of the development hereby permitted.
- 9) Notwithstanding details appearing on drawings referred to in Condition 2, no part of any roof window in west-facing roof slopes shall have clear glass below the height of 1.6m when measured from the relevant internal floor level.
- 10) Prior to the first occupation of the development hereby approved details of an Ecological Mitigation and Enhancement Strategy to secure Biodiversity Net Gain, which has been submitted to and approved in writing by, the Local Planning Authority, including long term objectives and management responsibilities with maintenance schedules, shall be fully implemented in accordance with the approved details.
- 11) Prior to the first occupation of the development hereby approved, a scheme of planting and landscaping, including parking and hard surfacing of all paved areas including turning areas, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details within the first planting season following the first occupation of the development hereby approved.
- 12) No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.
- 13) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Hub Transport Planning Ltd. drawing number T22528 001 Revision E have been implemented in full.
- 14) The development hereby permitted shall not be occupied until such time as the access drive has been completed and surfaced with materials previously approved in writing by the Local Planning Authority for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
- 15) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

END