

PLANNING COMMITTEE – 19th February 2013

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: APPEALS LODGED AND DETERMINED



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Wards affected – Burbage, Twycross, Barlestone, Osbaston, Hinckley, Ratby, Groby,

1. **PURPOSE OF REPORT**

To inform Members of appeals lodged and determined since the last report.

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

Appeals Lodged

Appeal by Mr M Broderick against refusal to remove condition 4 of planning permission 09/00266/FUL to enable the existing access to be retained at 2 Alridge Road, Burbage

Format: Written Representations

Appeal by Mr Henry Egerton against the refusal to grant planning permission for the erection of one wind turbine at Elms Farm, Atherstone Road, Appleby Parva,

Format: Written Representations

Appeal by Mr Paul Cerone against the refusal to grant planning permission for extension and alterations to dwelling at 29 Cunnery Close, Barlestone

Format: Written Representations

Appeal by Mr S Mcgrady against the refusal to grant planning permission for extension and alterations to dwelling at 37 The Fairway, Burbage.

Format: Written Representations

Appeal by Mr A Ingram against the refusal to grant planning permission for the change of use of existing lakes to commercial fishing lakes, change of use of agricultural land to playing fields, erection of

changing room and formation of associated access at Gnarley Farm, Ashby Road, Osbaston.

Format: Written Representations

Appeals Determined

Appeal by Lighthouse Property Limited against the refusal to grant planning permission for the erection of 11 flats and 1no. dwelling house at the junction of Gladstone Terrace and London Road, Hinckley.

The application was initially recommended for approval by the case officer, however at a planning committee meeting, members exercised their powers to refuse the application for the following reason.;

“In the opinion of the local planning authority, the proposed development has inadequate car parking provision that would result in an increase in on street parking and a significant danger to users of the highway and therefore constitutes over-development of the site impacting upon neighbouring amenity, contrary to the objectives of the NPPF, paragraphs 17 and 32, Policies T5 and BE1 of the Hinckley and Bosworth Local Plan”.

The Inspector considered the main issues of the appeal to be;

1. The effect of the proposal on local infrastructure and facilities; and,
2. the effect of the proposed level of on site parking on highway safety.

Local infrastructure and facilities

The Inspector recognised that the LPA sought financial contributions towards open space, play space and education in order to mitigate against the impact of the development. In respect of these financial contributions, the Inspector found the sums sought by the Council to be reasonably related in scale and kind to the proposed development and necessary to make the development acceptable in planning terms. Therefore in the Inspectors opinion, the contributions sought satisfied the tests in the Framework and accorded with the CIL Regulations.

However, the Inspector acknowledged that no completed section 106 agreement was submitted with the appeal, and, in the absence of such an obligation, the development would result in an unacceptable harm to local infrastructure and services contrary to policies IMP1, REC2 and REC3 of the Local Plan and SPD.

Highway Safety

The on site parking provision proposed for the 11 two bedroom flats and 1 house amounted to 13 spaces. In respect of parking, the Inspector clarified that although Policy T5 of the Local Plan requires that the parking targets contained within the Local Plan are applied unless a different level of provision can be justified, the Local Highway Authority has adopted the “6C’s Design Guide” and as this guidance has been adopted following public consultation, the Inspector attached significant weight to it.

The Inspector noted that the 6Cs design guidance suggests that parking provision should be provided on the basis of the Department for Communities and Local Government methodology contained within ‘Residential Car Parking Research’ (June 2007). The Inspector acknowledges that following this methodology, the Highways Authority considered the provision of 13 parking spaces would be acceptable. However, he further acknowledges that the Local Planning Authority refused permission on the basis that the level of on site parking provision would be inadequate and that the resulting increase in road parking would be harmful to highway safety.

In his consideration of parking matters associated with this development, the Inspector acknowledges that the appeal site is on the edge of Hinckley Town Centre within easy walking distances of its services, facilities and public transport and therefore future occupiers would not need to be dependant upon a car to meet their day to day needs. As such, he finds that a provision of 1 parking space per unit of accommodation and 1 visitor space would be acceptable.

The Inspector concedes that if greater demand for on site parking should occur than the provision that has been made, it would increase pressure on the limited amount of on road parking on London Road. However, the Inspector considers that enforcing existing parking restrictions could mitigate this impact. In respect of Gladstone Terrace, the Inspector accepts the occupiers of the development could take up the little amount of provision within this street if the amount provided on site were insufficient, however, he notes that Gladstone Terrace is an unmade no through road where vehicles travel through it slowly and as such, there would be sufficient reaction time should there be a conflict between pedestrians and vehicles.

The Inspector is therefore of the opinion that on site parking provision in relation to the development would be sufficient and that highway safety would not be harmed.

Conclusion

The Inspector dismisses the appeal on the absence of a completed section 106 agreement only. It is therefore anticipated that if an application was to be re-submitted with an accompanying completed satisfactory section 106 agreement, the Local Planning Authority would

be unable to resist granting planning permission, in light of the Inspectors decision on parking matters.

Associated Costs Decision

The applicant applied for an award of costs in relation to the decision to refuse planning permission for the development of 12 flats and 1 dwelling. The Inspector refused the applicants application for an award of costs as he concluded that the local planning authority has explained why it considered the development should not be permitted and therefore the Council has not acted unreasonably.

Appeal by Mr Jeffery Allen against the refusal to grant outline planning permission for the demolition of redundant buildings and erection of one dwelling.

This decision was delegated to officers who refused the application for the following reason;

In the opinion of the Local Planning Authority the proposed development by virtue of its location, removed from the main built forms of Ratby and Desford and the services they contain would result in a unacceptable form of unsustainable development, decreasing the travel choices of future residents, contrary to Policies RES5, NE5 of the adopted Hinckley and Bosworth Local Plan and contrary to the objectives of the NPPF, particularly paragraphs 14, 15, 30 and 55

The Inspector considered the main issue of the appeal to be whether the proposal could be regarded as a sustainable form of development, bearing in mind its countryside location, and, if not, whether there are any other matters that should be taken into account in arriving at a decision.

In the Inspectors view, the Councils concerns of the reliance on car travel are clearly relevant and justified. Furthermore, the Inspector agrees that the proposed scheme fails to meet the objectives of policies RES5 and NE5 which seek to locate residential development within existing urban and rural settlements and to restrict development within the countryside. However, whilst the Inspector notes that failure to comply with the development plan indicates that planning permission should be withheld, he considers that another factor is relevant in this instance.

The Inspector explains that whilst the current use will cease once the appellants no longer resides in the adjacent house, the building and infrastructure could be expected to persist as the 1995 permission (for the erection of the buildings) makes no reference to the restoration of the site. Having regard to this, the Inspector judged that allowing this appeal would have a beneficial effect in ensuring the removal of the current infrastructure that persists.

Conclusion

The Inspector subsequently took the view that in this particular instance, the advantages of making beneficial use of the site by creating a new dwelling along with the removal of existing infrastructure, are of sufficient merit to override the identified conflict relating to sustainable development found both within the development plan and The Framework.

The Inspector grants outline planning permission subject to conditions.

Appeal by Mr Sachkhand Nanak Dham against the refusal to grant planning permission for the change of use of residential to mixed use of premises to provide accommodation and teaching facilities, extension and alterations, alterations to access and provision of associated car parking at Stretton House, Watling Street, Burbage.

The case officer recommended this application for approval, but the decision by the planning committee was to refuse the application for the following reason;

“In the opinion of the local planning authority the proposed development, if permitted, would result in an intensification of use of the existing access and a material increase in traffic turning onto or off the A5 Watling Street Trunk Road in an area remote from main development where traffic volumes and speeds are generally high to the detriment of highway safety. The proposed development is therefore contrary to policies NE5 and T5 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Guidance 13: Transport”.

The Inspector considered the main issue to be the effect of the proposal on highway safety.

The Inspector began his consideration by clarifying the parameters of the site when it is explained that Watling Street is a single carriageway road, subject to a 40mph speed limit, with restrictions on overtaking to either side of the Stretton House access.

In respect of traffic generation from the development, the Inspector clarifies that there is expected to be an increase in 2-5 vehicles for day centre use and weekday meetings, 10 to 20 cars over a three hour period on Saturdays and 15 to 30 cars over a three to four hour period on Sundays. Special events that attracted over 200 people, which had been previously held, would not take place within Stretton House or its grounds. In addition, alterations to provide a slightly wider access drive would ensure a two way operation along the access, and 22 additional parking spaces would be provided.

The Inspector noted that the Highways Agency had considered and verified the peak trip generation against similar community use activities and they consider that there would not be a significant increase in trip generation relative to the former residential use. Furthermore, they raise no objection to the proposal in terms of highway safety subject to conditions relating to restricting the use to matters within Class D1 of the Use Class Order, the removal of Permitted Development Rights for temporary activities on the whole site and the submission of a hedgerow management scheme along the Watling Street frontage to ensure that 120 x 4.5 metres visibility splays are provided and retained.

In the Inspectors view, having considered all arguments in respect of highway safety, the traffic generation arising from the proposal (based on the submitted details) would not give rise to conditions that would be prejudicial to highway safety through use of the existing access. However, the Inspector accepts that the traffic generation must be subject to specific control, as any increase would need to be assessed on its relative merit to ensure continued safety. The Inspector considers that planning conditions could not adequately control the degree of traffic generation and states that a planning obligation (legal undertaking) would be necessary.

Conclusion

As no such obligation was submitted with the appeal, the Inspector concluded that the lack of a suitable obligation to control traffic generation could lead to conditions arising that would be prejudicial to highway safety, and subsequently contrary to policies NE5 and T5 of the Hinckley and Bosworth Local Plan and the Framework. Therefore the appeal was dismissed.

It is worth noting that the Inspector refused this appeal because of the absence of a suitable planning obligation to control traffic movements, and therefore, if the applicant was likely to re submit identical details, with an accompanying adequate planning obligation, the local planning authority would find it difficult to resist granting planning permission in light of this appeal decision.

Appeal by Bloor homes east Midlands Ltd against the refusal to grant planning permission for the erection of 91 dwellings with garages, parking spaces, open space, landscaping and associated infrastructure.

This application was recommended for refusal by officers and following a planning committee meeting, Members decided that this application should be refused for the following reasons;

1. "In the opinion of the Local Planning Authority the proposed development is contrary to Policy 9 of the Core Strategy by virtue of the

site being outside of the settlement boundary and within the Rothley Brook Green Wedge resulting in a loss of Green Wedge. Furthermore, it would be premature to the plan making process in that it would result in a site allocation and amendment to the Green Wedge Boundary ahead of full consideration and consultation of the Site Allocations and Generic Development Control Policies DPD. Therefore the proposals are considered contrary to Policy 9 of the Core Strategy and the principles of the National Planning Policy Framework with regards to plan making and consultation”.

2. “In the opinion of the Local Planning Authority the proposed development is contrary to the objectives of Policy 8 of the Core Strategy which seeks to support the local services and the improvement of GP facilities in Ratby and Groby to provide for the increase in population, and contrary to Paragraph 72 of the NPPF which seeks to ensure that a sufficient choice of school places is available to meet the needs of existing and new communities. Paragraph 72 of the NPPF requires local planning authorities to give great weight to the need to create, expand or alter schools. The existing schools and health care facilities have insufficient capacity to expand and the local planning authority is not satisfied that the developer contributions can mitigate against the impact of development. Therefore the proposals are not considered to be sustainable in accordance with the principles of the NPPF and are considered contrary to Policy 8 of the Core Strategy and Paragraph 72 of the NPPF”.

The Inspector considered that there were two main issues in respect of this appeal;

1. The adequacy of the supply of housing in the borough;
and
2. The effect of the proposed development on the character and appearance of the Rotherley Brook Meadow Green Wedge.

A further consideration in each is the impact of the appeal proposals on the emerging Site Allocation and Generic Development Control Policies Development Plan Document. (SAGDCP).

Housing Supply in the Borough

The Inspector began by drawing attention to the fact that both parties (the Council and the Appellant) agree that at least 110 new dwellings are needed in Groby and that this will involve the use of land outside the settlement boundary. The land to be allocated will be identified by the SAGDCP.

In respect of housing supply, an argument put forward by the appellant is that housing supply policies should not be considered up to date if

the local planning authority can not demonstrate a 5 year supply of deliverable housing (paragraph 49 of the NPPF).

The Inspector explained that there are different methods to calculating 5 year housing land supply and that it is not an exact science. The current method used by the local planning authority is the "Liverpool" method which spreads any shortfall in a given year over the remainder of the plan period and is appropriate where there is not a severe shortage. In the Councils opinion, it has a satisfactory supply of housing for 5.27 years or 5.02 years if a 5% buffer is applied.

The appellants argue that a different method should be used, the Sedgfield method. This method seeks to meet any shortfall earlier in the plan period, on the basis that this approach accords with the views of the government, as set out in paragraph 47 of the NPPF. The appellants also consider that a 5% buffer is insufficient and that a 10% or 20% buffer would be more appropriate.

In the Inspectors view, the Liverpool method is a recognised way of calculating housing supply, and he considers it to be a method that chimes with the approach of the Core Strategy and subsequently, in his opinion concludes that the Council has shown that it has a five year supply of housing land. However, the Inspector proceeded to clarify that, in the context of this appeal, it is not the amount of housing that is in dispute, but its location.

The Inspector noted the fact that the council has identified the appeal site as a preferred option for housing development as clearly a factor which lends its support to the appellant's position. Nevertheless, the Inspector outlined the importance of the plan led process arguing that it empowers local people to shape out a positive vision for the future of the area and provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. In his opinion, to grant planning permission at this time, would pre-empt a decision that should properly be made through the development plan process and would render futile the work done by the Council and the contributions made by the local community, thereby reducing confidence in the planning process, contrary to the spirit of paragraphs 12 and 17 of the NPPF.

On the matter of housing land supply, the Inspector concluded that the council has an up to date development plan in the form of the 2009 Core Strategy, that it has shown the existence of a five year supply of housing and it would be premature to grant planning permission for the development of the appeal site in advance of the adoption of the SAGDCP.

Green Wedge

The Inspector drew attention to Core Strategy Policy 9 which requires the carrying out of a Green Wedge review which, along with the Strategic Housing Land Availability Assessment (SHLAA), will inform the SADPD. The current methodology for the review sets out four objectives for Green Wedges; to prevent the merging of settlements, guide urban form, provide a “green lung” and to act as a recreation resource. The review will establish how much land should be released from different parts of the Green Wedge and be allocated for development,

The Inspector adds that in purely physical terms, the development would reduce the gap between Ratby and Groby and that although the site adjoins an extensive area of suburban housing this is effectively screened by the railway embankment which forms a logical boundary to the built up area. The Inspector clarifies that although “openness for its own sake “ is not one of the four green wedge review objectives, the character of the land in question clearly has a bearing on its contribution to those objectives. To add to this, he considers that the appeal site has an open rural character while the cemetery and a nearby school playing fields, though less rural in character, also have an open aspect that helps to emphasise the separation of the two villages. Furthermore, the Inspector took the view that although the site itself is privately owned and direct access is restricted, the site is flanked by two public footpaths and as the appeal site is visible, it adds to the general enjoyment of the countryside and, in his view, is considered to be a valuable informal recreation resource.

As stated above, it is accepted this site is allocated as a preferred option for housing development. However, the Inspector points out that the SAGDCP is still in draft stage and although it may result in this site being allocated for housing, it is far from a forgone conclusion. The Inspector once again, attached only a limited amount of weight because of this stance.

To conclude on the issue of Green Wedge policy, the Inspector stated that he must consider the proposal against the development plan as it stands and as such, he considered that the proposed development would detract from the character and appearance of the area and would conflict with Policy 9 of the Core Strategy.

Conclusion

The Inspector concluded his considerations by deciding in favour of the local planning authority and agreeing that the proposal would harm the appearance of the green wedge and considers that the Councils housing supply is up to date to level not to warrant the granting of planning permission on this site in advance of decision on the draft SAGDCP and Green Wedge Review, both of which are well advanced.

Appeal by Mr S Hallam against the refusal to grant planning permission for the change of use of land to residential curtilage including extensions and alterations to dwelling and sun room.

The decision was delegated to a case officer who refused the application for the following reason;

“In the opinion of the Local Planning Authority, resultant of the overall design of the scheme, the proposed side extension will appear as visually dominant addition, compromising the character and overall form of the main property and will un-balance the pair of semi-detached properties. Further, the extensive massing and limited detail of the gable will render it as a prominent, bland feature within the prominent corner position within the street scene, and will therefore be detrimental to the visual amenity of the area. The proposal is contrary to Policy BE1 (criteria a and b) of the adopted Hinckley and Bosworth Local Plan and the Council's Supplementary Planning Guidance on House Extensions”.

In this appeal, the Inspector considered that the main issue to be the effect on the character and appearance of the area.

In respect of the proposed extension to the dwelling house, the Inspector broadly agreed with the local planning authority that the introduction would of a large, featureless expanse of brick flank wall would introduce an overly dominant and visually intrusive feature into the street scene.

Furthermore, in the Inspectors view, the proposal would appear as an unduly large addition which would fail to harmonise with the proportions and appearance of the host dwelling and would serve to unbalance the symmetry that currently exists between the semi-detached pair.

In respect of the proposed extension, the Inspectors opinion aligned with that of the local planning authority in that the proposal is contrary to local plan policy BE1 and the Councils House Extensions Supplementary Planning Guidance.

In respect of the change of use of land, erection of fence and erection of sun room, the Inspector notes that the Council does not object to this part of the proposal.

The Inspector subsequently issues a split decision to dismiss the appeal in respect of the house extension and allows the appeal in respect of the change of use of land, erection of boundary fence and erection of sun room.

4. FINANCIAL IMPLICATIONS [PE]

None arising directly from this report.

5. LEGAL IMPLICATIONS [MR]

There are no legal implications arising from this report as the report is for noting only.

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None	None	[

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This report is for information purposes only to draw member's attention to recent appeals lodged with the Authority and appeal decisions issued by the Planning Inspectorate. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- | | |
|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications | None relating to this report |
| - ICT implications | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications | None relating to this report |
| - Voluntary Sector | None relating to this report |
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Background papers: Committee Reports and Appeal Decisions:

Appeal decision APP/K2420/A/12/2183796 – 7 Brenfield Drive, Hinckley

Appeal decision APP/K2420/A/12/2181080/NWF – Land East of Groby Cemetery, Ratby Road, Groby

Appeal decision APP/K2420/A/12/2177905 – Stretton House, Watling Street, Burbage

Appeal decision APP/K2420/A/12/2185082 – Land Adjacent to Medworth, Desford Road, Ratby

Appeal decision APP/K2420/A/12/2183465 – 5 London Road, Hinckley

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