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## Appeal Decision

Inquiry held on 17 January 2017

Site visit made on 19 January 2017

by **C Thorby MRTPI IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2017

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### Appeal Ref: **APP/F2415/W/16/3151978**

### Land at Coventry Road, Lutterworth, Leicestershire, LE17 4FR

- 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 Mulberry Property Developments Limited against the decision of Harborough District Council.
  - The application Ref 15/01665/OUT, dated 19 October 2015, was refused by notice dated 4 May 2016.
  - The development proposed is the erection of up to 250 dwellings with associated access, pedestrian links, public open space, car parking, landscaping and drainage (all matters other than access reserved).
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 250 dwellings with associated access, pedestrian links, public open space, car parking, landscaping and drainage (all matters other than access reserved) at land off Coventry Road, Lutterworth, LE17 4FR in accordance with the terms of the application, Ref 15/01665/OUT, dated 19 October 2015 subject to the conditions attached in Annex A.

### Main Issues

2. The main issues in this appeal are:
  - i) The effect on the character and appearance of the area.
  - ii) The contribution the appeal scheme makes to the provision of housing.

### Reasons

#### *Character and appearance*

3. Lutterworth is a fairly compact town with a strong eastern boundary formed by the M1 motorway. Growth over previous years has therefore taken place incrementally to the west. The existing western town boundary is currently defined by Coventry Road, built within the last 25 years to serve the more recent housing. The appeal site is in the open countryside outside the settlement boundary to the west of Coventry Road.
4. The appeal site is within the Council designated Magna Park Open Farmland, part of the much wider Lutterworth Lowlands Landscape Character Area, comprised of gently rolling, mainly arable land. The main part of the site,

where housing would be located, is arable land which slopes gently down away from the town to Bitteswell Brook and this forms part of the Bitteswell Valley, an undeveloped landform which sweeps around the western side of Lutterworth.

5. Some of the existing houses within Lutterworth marginally encroach onto the highest part of the valley slope. Nevertheless, the proposed houses would be a new built feature on the otherwise undeveloped eastern slope and this would result in a considerable adverse impact on the landscape character of the area. However, there are no views of the valley as a whole from public places as the landscape is contained by hedgerows, trees and the valley's slopes and curves. The most immediate effect would be to walkers on a public footpath running through the site, but, because of the planting and the slope, there are few places on the path where there is a sense or appreciation of being in a valley and the visual harm from this aspect is low.
6. There would be a loss of countryside which in itself has intrinsic character and beauty. However, the site is unremarkable in appearance, mostly plain grassland with little planted relief. Moreover, the built-up edge of Lutterworth exerts a strong suburban influence along Coventry Road and the footpath entrance. It is not until the walker has gone some way into the site where views of the built edge of Lutterworth are reduced that there is a sense of walking in a natural, open environment and, even then, the views are contained and not scenic. The loss of countryside and change from a rural to an urban character would have an adverse effect but for these reasons the harm would not be of a high order.
7. Taking account of all of these factors, I consider that there would be adverse impacts arising from the appeal scheme to the character and appearance of the area. Therefore, it would be contrary to the aims of Harborough District Local Development Framework Core Strategy 2006 – 2028 (CS) policies CS1 and CS17 c) which seek, among other things, to protect the character and appearance of the area.
8. The appeal site is within an Area of Separation (AOS), open land which separates Magna Park (a substantial distribution centre) and Lutterworth. Physically the scheme would reduce the gap but this would mainly be appreciated at its narrowest point by drivers using the busy A4303 (a busy road where cars are driving past at relatively high speeds) from where the loss of the gap would be mostly unnoticeable. From other public views there would be little impact as once on the public paths it is difficult for a walker to see much of Magna Park until they are fairly close because of the topography, hedgerows and trees, and the large scale buffer planting. Only in a few places, on the higher ground, can Magna Park and Lutterworth be seen together in any longer, local views.
9. There would still be a considerable area of open space retained between the two places allowing Lutterworth to be experienced as a completely separate settlement and its identity and character would not be influenced by the large distribution park. For these reasons the scheme would comply with CS policies CS1 h) and CS14 e) which aim to ensure that the principle of separation is maintained to safeguard character. Harborough District Council Local Plan 1991 - 2006 (LP), policy EV/3 relating to the AOS, restricts development which reduces this separation. However, as this would not take a balanced approach

to development as sought by the National Planning Policy Framework (NPPF) and has been overtaken in its approach by NPPF compliant policies CS1 and CS14, I afford it limited weight in my consideration.

10. I appreciate that the open appeal site is valued by local residents who use the footpath; however, as stated, visually, it is unremarkable in appearance, lacks any especially attractive scenic views, and is influenced in places by the urban edge of Lutterworth and by the noise from the A4303. This is largely recognised in the key characteristics of Magna Park Open Farmland which alongside noting the arable land and the gently sloping, broad valley, identifies the influence of the Magna Park Distribution Centre, poor hedgerows and trees, the prominent edge of Lutterworth and the limited historic value of the landscape. Consequently, it would not be a valued landscape as referred to in Paragraph 109 of the NPPF. The circumstances differ from the Nanpanton Road, Loughborough appeal where the site formed an important part of the setting of Charnwood Forest which is part of the National Forest.
11. The public footpath through the site is clearly very well used and access to walks in the open countryside would no doubt be beneficial to the health and well-being of local residents. However, there is not a lack of local countryside paths as the appeal site is adjacent to the Lutterworth Country Park, a large and very attractively landscaped public park with access off Coventry Road, where local residents could enjoy walks. Moreover, the illustrative plans show that the footpath within the site would be retained, a second public right of way which has disappeared on the ground would be re-established and both paths would be enhanced. In addition, access to the Country Park and walks along the brook are proposed as part of the scheme. Therefore, there would not be a detrimental effect on the health and well-being of local residents in this respect.
12. The remainder of the appeal site, located on the western valley slope would be open land which, if set out as parkland as shown on the indicative landscape masterplan (rather than allotments), would not give rise to any adverse effect. The detailed design and layout could be of a high quality and reflect the existing development character of Lutterworth, meeting the criteria set out in CS policies CS2 b) and CS11 which seek to promote high design standards. However, there would be conflict with policies seeking to protect character and appearance, including that of the countryside, as I have already mentioned.
13. Reference has been made to other appeal decisions and the Inspector's reasoning relating to settlement gaps and wedges, and character and appearance. However, the appeals are for sites outside Harborough District which do not appear to have the same characteristics or policy designations as that of the appeal scheme. I attach limited weight to them in my consideration of the appeal proposal.

*Contribution to the provision of housing*

14. The Council accept that they cannot demonstrate a five year supply of land for housing. There is no doubt that up to 250 proposed houses, of which 30 percent would be affordable, would contribute significantly to housing supply. I have also taken into account that the existing settlement boundaries are predicated upon the 1991 - 2006 Local Plan and the Council are not pursuing a review of these boundaries to meet the CS figures through a site-allocation plan. On this basis I consider that criterion a) of policy CS2 seeking to resist

development outside the settlement boundary limits carries little weight. The CS indicates that Lutterworth should provide at least 700 new dwellings. CS policy CS14 a) suggests these could be delivered in part to the north of the town; however, this policy criterion is out of date and carries little weight as further consideration of where development can be delivered has been deferred to the emerging local plan. Options for Lutterworth in the emerging local plan include a large urban extension or other smaller scale solutions. However, these cannot be relied upon as the emerging plan is at an early stage and carries little weight.

15. There is no dispute that Lutterworth, the second largest settlement in the District and identified in CS policy CS1 as a key centre, is capable of taking the proposed housing as it contains a wide range of services and facilities. This is particularly so as only around 300 of the 700 new dwellings sought by the CS have planning permission or have been built.
16. In this context, in the absence of a 5 year housing land supply and policies indicating where new development would be allocated to meet demand, substantial weight would be attached to the provision of deliverable housing.

#### *Other Matters*

17. *Highway safety and transport* - There would be additional traffic generated by the appeal scheme driving in and out of the site and using local roads. However, there is capacity along these roads and at junctions to cope, even taking into account other proposed development in the area. Visibility at the point of access would be acceptable and there would be no risk to the safety of users of the highway or to the local transport network.
18. *Flooding* - Hydraulic analysis (secured by condition) would ensure that accurate flood zones are identified as the Environment Agency's flood map is the result of macro modelling and not site specific. There is sufficient flexibility within the illustrative layout to ensure that development takes place within safe limits. In addition, the Flood Risk Assessment demonstrates that, subject to attenuation measures to be secured by condition, there would be no risk to the future occupiers or surrounding land from flooding.
19. *Planning obligation*. The necessity for contributions towards affordable housing, healthcare, open space, policing, education, travel packs, bus stop improvements and a Traffic Regulation Order has been justified by comprehensive evidence from the local and county councils, and the police authority. There would be an impact on community facilities and although not all of the projects have been specified in the deed, these would be local projects to meet the impact of the development such as improvements to Lutterworth Sports Centre. There is no dispute that the provisions of the legal agreement would meet the Council's policy requirements, the tests set out in paragraph 204 of the National Planning Policy Framework (NPPF) and CIL regulations 122 and 123 relating to pooled contributions. I have taken the planning obligation into account in reaching my decision.
20. *Conditions*. An agreed schedule of conditions was put forward and discussed at the Inquiry. The conditions are attached at Annex A. Conditions relating to the reserved matters and their timing are necessary to comply with the relevant legislation. The early provision of the roundabout and the details of highway design including parking and turning are necessary in the interests of highway

safety. The timing of the submission of a travel plan and the upgrading of the footpaths are necessary to provide and promote a range of sustainable transport options. Details of surface and foul drainage, and flood prevention are necessary to prevent flooding and reduce pollution.

21. The construction method statement would minimise the detrimental effects on the local environment during construction. Measures to protect, mitigate or enhance ecology would be necessary to protect local wildlife and habitats. Details of the design and appearance of the play equipment would ensure that adequate facilities have been provided for recreation. The access plan has been specified in the interests of certainty. Conditions relating to these matters are necessary and have been imposed. Landscaping would be covered by the reserved matters and conditions have not been imposed in this regard. An archaeological survey has been carried out and further conditions would not be necessary. It is not necessary to specify that the scheme should be in general accordance with the master plan as the Council has control over all of the reserved matters.

*Planning balance*

22. The Council has not demonstrated a 5 year supply of housing land and paragraph 49 of the NPPF means that policies relevant to the supply of housing would therefore be deemed out of date. Although this would include policies CS2 a), CS14 a) and EV/3 which seek, respectively, to restrict development in the countryside, direct development to the north of Lutterworth or restrict development in the AOS, as I have already stated, these policies carry little weight for other reasons.
23. There would be considerable harm arising from the impact on the landscape character and some modest additional, localised harm arising from the loss of countryside and adverse visual impact. The appeal scheme would be in conflict with the development plan as it not would comply with relevant CS policies seeking to protect character and appearance. The aims of these policies are consistent with the NPPF and carry full weight of development plan.
24. The provision of up to 250 new dwellings on a site that is available, deliverable and in an accessible location, carries substantial weight in favour of the proposal in meeting housing need. Moreover, future residents would help to maintain and support local businesses within Lutterworth, providing some economic benefit, according with the aims of CS policy CS14. Other benefits include a considerable number of jobs relating to construction and social benefits with new residents supporting community infrastructure. There may be areas of improved biodiversity at the site and improved footpaths. These benefits add further weight in favour of the proposal.
25. Overall, the benefits would carry substantial weight. Any adverse effects would not be so great as to significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. The appeal scheme would be sustainable development and the presumption in favour applies. This is a significant material consideration that would outweigh any conflict with the development plan and the appeal is, therefore, allowed.

*Christine Thorby*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Ms T Osmund-Smith of Counsel

She called

Mr J Billingsley, Director, The Landscape Partnership

Mr N Harris, Area Planning Officer, Harborough District Council

### FOR THE APPELLANT:

Mr P Cairnes QC

He called

Mr A Cook, Director and Head of Environmental Planning Division, Pegasus Group

Mr D Hutchison, Planning Consultant, Pegasus Group.

### INTERESTED PERSONS:

Mr A Tyrer

Developer Contributions Officer, Leicestershire County Council

### Documents received at the Inquiry

- 1 Letter of notification
- 2 Unilateral Undertaking
- 3 Monitoring cost contribution, supplementary evidence
- 4 SHLAA review extracts
- 5 Emails and plan relating to highway access
- 6 Extract from GLVIA
- 7 Appeal Decisions
- 8 Typographical update to Mr Billingsley's Proof of Evidence
- 9 Summary of comparison of landscape and visual effects impacts
- 10 Map of Great Bowden site
- 11 Report to the Executive meeting 9 May 2017
- 12 Council's response to cumulative assessments
- 13 Suggested conditions
- 14 Attendance sheets

## **Annex A**

### **Schedule of conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") 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.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following plans, but only in respect of those matters not reserved for later approval: Location Plan:17394 1006, Proposed Site Access 17416/LUTT/5/500 Rev.C
- 5) No other development shall commence on the site until such time as the approved roundabout junction works serving the site from Coventry Road / Brookfield Way as detailed on drawing 7394/LUTT/5/500 Rev.C have been provided in full and are available for use by vehicular and non-vehicular traffic.
- 6) The reserved matters submitted in pursuance of Condition 1 shall include full details of all parking and turning facilities, access widths, gradients, surfacing and visibility splays. The development shall then be carried out in accordance with the approved scheme prior to the occupation of that part of the development to which it relates.
- 7) Prior to first occupation, a travel plan, including a timetable for implementation shall be submitted to the local planning authority and approved in writing. The travel plan shall then be implemented in accordance with the approved details.
- 8) Prior to the commencement of development, other than that permitted in accordance with Condition 5, a scheme for the improvement of Public Footpaths X57 and X35, including an implementation timetable shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall include the provision of a 3 metre wide all-weather sealed surface for the contiguous section of Footpaths X57 and X35, a 3 metre wide all-weather sealed surface to the remaining sections of Footpath X57 and a 1.8 metre wide all-weather sealed surface to the remaining sections of Footpath X35. In addition, the scheme shall include details of signage and way marking. The footpaths shall then be improved in accordance with the approved scheme.
- 9) No development, other than that permitted in accordance with Condition 5, shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme.

- 10) The reserved matters submitted in pursuance of Condition 1 shall be prepared in line with the recommendation and conclusions contained within the Flood Risk Assessment – September 2015 prepared by Woods Hardwick.
- 11) No development, other than that permitted in accordance with Condition 5, shall commence on site until full details of the design, implementation and maintenance / management of the foul drainage for the development have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include full details as to location, design, specification and timetable for construction of the proposed pumping station. The development shall then be carried out in accordance with the approved details and maintained as such thereafter.
- 12) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following: a) the parking of vehicles of site operatives and visitors, b) loading and unloading of plant and materials, c) storage of plant and materials used in constructing the development, d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate, e) wheel washing facilities, f) measures to control the emission of dust and dirt during construction, g) a scheme for recycling/disposing of waste resulting from demolition and construction works, h) measures for the protection of the natural environment, i) hours of construction work, including deliveries, j) measures to control the hours of use and piling technique to be employed, k) measures to control and minimise noise from plant and machinery, l) details of any security lighting on site and m) A Construction Traffic Routing Agreement, has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.
- 13) The development hereby approved shall be implemented in accordance with the approved mitigation measures detailed in the Ecological Survey by Brindle and Green dated Sept 2015.
- 14) The reserved matters submitted in pursuance of Condition 1 shall include details of the siting, design, external appearance, landscaping, means of access, facilities and equipment for all formal and informal recreation areas and a timetable for their implementation. These areas are to be provided in accordance with the approved details.
- 15) Prior to commencement of the development, hydraulic modelling analysis of the watercourse showing safe developable limits shall be submitted to and approved in writing by the local planning authority. The reserved matters submitted in pursuance of Condition 1 shall be prepared in line with the analysis.