



Appeal Decision

Inquiry opened on 1 December 2015

Site visit made on 3 December 2015

by **C Thorby MRTPI IHBC**

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

Decision date: 08 February 2016

Appeal Ref: APP/X2410/W/15/3007980

Land rear of 62 Iveshead Road, Shepshed, LE12 9ER

- 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 the Rosconn Group against the decision of Charnwood Borough Council.
 - The application Ref P/14/0777/2, dated 24 April 2014, was refused by notice dated 26 November 2014.
 - The development proposed is the erection of up to 77 dwellings following demolition of 62 Iveshead Road (access only to be determined).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 77 dwellings following demolition of 62 Iveshead Road (access only to be determined) at land rear of 62 Iveshead Road, Shepshed, LE12 9ER in accordance with the terms of the application, Ref P/14/0777/2, dated 24 April 2014, subject to the conditions set out in Annex A.

Procedural Matters

2. An amended scheme was put forward during the appeal process changing the development proposed from the erection of 103 dwellings to the erection of 77 dwellings. There would be no prejudice in accepting the amendments as the appeal site covers the same area, the scheme would not introduce new issues and all parties were consulted with adequate time to respond. I have considered the appeal on this basis and amended the description above accordingly.
3. The Council were satisfied that the amended layout would ensure the development would not affect the nature conservation interest of Morley Quarry, a local nature reserve, and they did not defend the reason for refusal relating to this matter.
4. The Charnwood Local Plan 2011 – 2028 Core Strategy (CS) was adopted on 9 November 2015 and some of the policies referred to in the Council's decision notice have been superseded. I have referred to the adopted CS policies where relevant. The CS is the subject of a High Court Challenge. However, at this point in time it is extant and the challenge does not affect the weight to be attached to the status of its policies.

Main Issues

5. The main issues in this case are:
 - i) The effect on the character and appearance of the area,
 - ii) Whether the location is sustainable, in terms of access to services and facilities,
 - iii) The planning balance including the weight to be attached to the provision of market and affordable housing.

Reasons

Character and appearance

6. The appeal site is comprised of two fields located behind an existing row of bungalows on Iveshead Road. The western field, now open land, was a former nursery/market garden. The illustrative layout of the proposed development demonstrates that the houses could be of a similar density and type to other properties in Shepshed. The wide buffer of open land proposed between the new houses and open land to the south and east and the large, well established hedgerows to be retained would limit the visual impact of the development. There may be small glimpses of the new houses from surrounding footpaths and from Iveshead Lane through gaps in the hedges, but the existing hedges are substantial and proposed additional hedge planting would diminish these views over time.
7. Nevertheless, there would be views over the site from the higher paths within the nearby, disused Morley Quarry, an important area for ecology, geology and leisure. However, the majority of paths within the quarry would not be affected and vegetation (both existing and proposed) would go some way towards providing screening. Moreover, the visual interest lies in the old quarry features and natural planting. Views towards the site already contain both open land and housing in Shepshed and this would not be altered to a significant degree.
8. There is no doubt that views from the houses backing onto the site could be affected, particularly as the illustrative plans show the flank of the proposed houses close to boundaries which could be visually intrusive. The design, siting and size of the houses can be controlled at the reserved matters stage and there is scope on the site for the houses to be sited further away from the boundary or to be bungalows which would reduce their impact. Overall, the visual impact would be localised and limited, and the harm to the appearance of the area would be of a low order.
9. The site is within Charnwood Forest, a distinct character area which is part of the National Forest. However, it is a very small area of land within the Forest, it is not wooded nor one of the more picturesque parts and there would be no discernible harm to the landscape character of Charnwood Forest from the loss of open land. There would be no conflict with CS policy CS12 which, among other things, aims to protect the character of Charnwood Forest.
10. The appeal site slopes toward the houses on Iveshead Road, it has an unremarkable appearance and is self-contained. Therefore, it does not share the attractive characteristics of the extensive local character designation (Area of Particularly Attractive Countryside), a superseded character designation from a prior plan, and the appeal site contributes little to the open countryside

surrounding Shepshed. Nevertheless, the landscape change to one of an urban form would give rise to some harm to its intrinsic quality as open land which is part of the rural fringe surrounding this part of Shepshed. The settlement framework at the edge of the town is changing and has become more urban with the construction of a housing estate of 65 houses opposite the site and the development could be assimilated into the area. The level of harm to the landscape character is modest.

11. I am satisfied that the detailed design could be of a high quality, meeting the criteria set out in CS policy CS2 and the Borough of Charnwood Local Plan (LP) policy EV/1. Nevertheless, there would be some harm to the landscape character and appearance as identified and in this regard the scheme would be contrary to CS policy CS11 and LP policy CT/2 which seek to protect the countryside.

Whether it would be a sustainable location in terms of access to services and local facilities.

12. The proposed houses would not be within 400 metres of a bus stop or 800 metres of a range of facilities as sought by the Council. Nevertheless, there would be a bus stop within a relatively easy walking distance, taking less than 10 minutes, which includes using the pedestrian crossing at the A512. There is a regular and fast bus service to the centre of Shepshed where there is a wide range of local services and facilities. The centre of Shepshed is some 30 minutes walk away along a main road and would attract those who wish to walk, despite the changes in level and pedestrian crossing. Buses also go to Loughborough, a nearby major service centre, albeit on a circuitous route. There are cycle routes to Shepshed and Loughborough and the site is accessible by a range of non-car modes.
13. For a site at the edge of a major town, the access to facilities would be reasonable and I note that planning permission has been granted for 65 houses on the opposite side of the road to the appeal site, which is in a similar position in relation to the centre of Shepshed. It is inevitable that some future residents would travel by car. However, a travel plan for the site is proposed seeking to reduce car based journeys by more than 6% which would meet the aims of CS policy CS17 relating to sustainable travel. The Barrow upon Soar appeal decision (ref APP/X2410/W/3004925) relates to a much smaller settlement where the range of facilities is more restricted and it is not directly comparable with the appeal site.
14. I conclude that the appeal site would be in a suitable location and there would be access to facilities and services by a range of sustainable transport modes. It would comply with CS policy CS17 which seeks to promote sustainable transport.

Other matters

15. *Highway safety and transport.* There would be additional traffic generated by the appeal scheme using the local roads and driving in and out of the site. Nevertheless, transport studies show that there is capacity at the junctions and along nearby roads to cope, even taking into account other proposed development in the area. The figures put forward by local residents which differ in the methodology from the appellants show that Iveshead Road can be very busy but there is no evidence that the local network could not cope with

- the traffic associated with the appeal scheme. Visibility at the point of access would be acceptable, and subject to improvements to the highway network secured through the planning obligation, there would be no risk to the safety of users of the highway or to the local transport network.
16. *Flooding*. The Flood Risk Assessment indicates that there is a low flood risk. Sustainable drainage methods (including a new pond) together with the disposal of foul water could be provided without any increased risk of flooding elsewhere in the area.
 17. *Amenity*. The proposed houses could be sited a sufficient distance away from nearby properties to ensure that there would be no harm to the amenities of the occupiers.
 18. *Ecology*. The illustrative plan shows that a detailed scheme could be successfully shaped by existing features of ecological value, taking account of species diversity, trees and hedgerows. Safeguarding and mitigation secured by condition and/or legal agreement would protect or create habitats for all of the species found at the appeal site, minimising the long term impacts on biodiversity and providing net gains where possible. The large buffers and aforementioned mitigation would ensure that there would be no harm to the biodiversity of the adjoining local nature reserve. Natural England is satisfied that the scheme would not be likely to have a significant affect on any designated site of nature conservation within the wider area.
 19. *Planning obligation*. The necessity for contributions towards affordable housing, on site open space, policing, healthcare, travel plan, transport, education and civic amenity have been justified by comprehensive evidence from the local and County Council, and the Police Authority. 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 am satisfied that this is the case and am taking them into account.
 20. *Conditions*. An agreed schedule of conditions was put forward and discussed at the Inquiry. The conditions are attached at Annex A together with the reason for imposition. This sets out their purpose with reference where appropriate to the relevant policy background and I am satisfied that the conditions comply with the tests set out in paragraph 204 of the NPPF. I have removed conditions relating to landscape and internal layout which would be covered by reserved matters condition. I have added a condition specifying the access plan to avoid doubt and in the interests of proper planning.

The planning balance

21. Whether or not there is a five year housing land supply can determine the weight to be attached to the provision of housing. It seems to me that although one of the Sustainable Urban Extensions (SUEs) identified in the CS is behind schedule and is unlikely to deliver within the next two to three years, the remaining two SUEs are progressing well. Non-delivery could be around 1-2% in Charnwood; however, this could be compensated for by over delivery on some sites. There is no evidence to demonstrate that a 10% discount would be appropriate and I am not convinced that any discount should be applied in this respect. Not including the discount and taking the start date from April

2015 there is some flexibility in the Council's figures which are slightly in excess of five years and this would compensate for the slippage of the SUE. On this basis, it would appear that the Council can demonstrate a five year housing land supply.

22. While the Inspector took a different view in the aforementioned Barrow upon Soar appeal, it is clear that this appeal differs in that two of the SUEs are now more advanced and there is a reasonable prospect of delivery of related works to the motorway. The more up-to-date information before me enables a different view to be taken on the five year housing land supply. This also applies to the more recent decision APP/X2410/W/15/3028131 which, in contrast to the appeal before me, was based on written representations where the Council put forward no evidence to counter the conclusions in the Barrow upon Soar decision letter.
23. Although the scheme would be contrary to LP policy ST/2 as it is outside the settlement boundary, the Council accepted that the weight to be applied to ST/2 is reduced as the settlement boundaries referred to in the policy relate to growth expected from a plan expiring in 2006 and do not reflect the strategic aspirations of the CS. The scheme would comply with CS policy CS1 which identifies Shepshed as one of the main towns in the Borough where growth will be met.
24. Although there are significant commitments in Shepshed, the housing requirement for the area is not a cap and is expressed as a minimum, and the scheme would boost the supply of housing in the area in line with the NPPF. Moreover, the scheme would be a windfall site. The CS Inspector specifically excluded windfalls from the five year supply indicating that they could provide additional housing which would add to the flexibility of the plan, compensating in part for any slippage of the strategic sites. In this respect the suggested condition seeking earlier commencement of the scheme would assist with delivery within the five years and adds some weight in favour of the proposal.
25. The appeal scheme proposes 30% affordable housing. This is an important consideration as affordable housing is a much needed type of housing in the area. There is no dispute that the provision of 30% affordable housing would be beneficial and the appellant and Council agree that this would attract significant weight in favour of the proposal. The percentage is over and above the 20% suggested in CS policy CS3 relating to strategic housing needs. Although the increase is small it adds to the weight to be attached in this regard, which is already significant.
26. There would be economic benefits in terms of jobs relating to construction and future residents would contribute to the local economy, helping to maintain and support local businesses, and assisting with the regeneration of the town. There would be some social benefits from adding new residents who would support community infrastructure and services, and there would be a new play area. Some modest weight is attached to the social and economic benefits in this respect.

Conclusion

27. Significant weight should be attached to the provision of housing in boosting the supply and meeting the need for affordable housing. There would be some additional weight applied from the economic and social benefits. Although the

scheme would conflict with development plan policies, I have found that only a moderate level of harm to the landscape and no other harm would arise from the appeal scheme. The low level of harm when considered together with the benefits would be a material consideration warranting the grant of permission. It would be sustainable development as sought by the CS and the NPPF, and the appeal is allowed.

Inspector

C Thorby

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Smythe of Counsel

He called

Mr J Foot

Principal Planning Officer, Charnwood Borough Council.

Mr R Forrester

Principal Planning Officer, Charnwood Borough Council.

FOR THE APPELLANT:

Mr C Young of Counsel

He called

Mr Bateman

Mr J Stacey

Mr P Rech

Mr Frampton

The Pegasus Group

Tetlow King planning

Director – fpcr

Framptons Planning Consultants

INTERESTED PERSONS:

Councillor C Poole

Councillor Bebbington

Ms B Cook

Ms B Quilter

Mr K Quilter

Ms P Fletcher

Mr M Lambert

Shepshed Town Council

Ward Councillor

Local resident

Local Resident

Local Resident

Local Resident

On behalf of the Police and Crime Commissioner for Leicestershire

Documents submitted at the Inquiry

Doc 1 Attendance sheets

Doc 2 Statement of Common Ground

Doc 3 Housing Statement of Common Ground

Doc 4 Planning obligation

Doc 5 Lists of agreed conditions

Doc 6 Committee Minutes – West of Loughborough SUE

Doc 7 Letter from Department of Communities and Local Government regarding SUE

Doc 8 ADC and WYG additional traffic submissions

- Doc 9 Pre-submission draft CS - Charnwood Housing Trajectory
- Doc 10 Home Truths 2015/16 extract
- Doc 11 Letters from Strata and Bird, Wilford and Sale, Bloor Homes marketing material and Appeal decision relating to Bloor Homes Site, Iveshead Road
- Doc 12 Appeal decisions
- Doc 13 Mrs Quilter's traffic count
- Doc 14 No 16 Bus timetable
- Doc 15 Appellant's update note on Mr Frampton's Appendix 18
- Doc 16 Council's review of Mr Frampton's Appendix 18
- Doc 17 Additional information submitted by Mrs Quilter on traffic counts

ANNEX A

SCHEDULE OF CONDITIONS

1. Application for approval of reserved matters shall be made within 12 months of the date of this permission and the development shall be begun not later than 12 months from the final approval of the last of the reserved matters.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority: - a. layout, b. scale, c. appearance and d. landscaping.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. No development shall take place on site, until such time as the applicant has commissioned a traffic speed survey carried out to the written approval of the LPA, to determine the speed of traffic passing the site on Iveshead Road and the results of that speed survey have been submitted to the local planning authority. If the results of the speed survey show vehicle speeds are in excess of 30mph, the applicant shall then submit a scheme of traffic calming measures aimed at bringing the speed of passing traffic down to 30mph or below for the written approval of the local planning authority. The approved traffic calming scheme shall then be implemented before first occupation of any dwelling on the site.

REASON: In the interests of highway safety.

4. Notwithstanding the details submitted, the proposed access road serving the site shall be designed and constructed fully in accordance with Highway Authority standards, to include if required as a result of the condition above, suitable traffic calming measures. The access road shall then be provided fully in accordance with the approved details before any dwelling is first occupied and shall thereafter be permanently so maintained.

REASON: In the interests of highway safety.

5. No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

REASON: In the interests of highway safety.

6. Before the development commences, details of the routing of construction traffic shall be submitted to and approved by the local planning authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

REASON: To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site.

7. There shall be no direct access, vehicular or pedestrian from the site on to Iveshead Lane, any existing access shall be permanently closed before development commences.

REASON: In the interests of highway safety

8. No part of the development as approved shall be brought into use until details of a Residential Travel Plan has been submitted to and agreed in writing by the local planning authority. The Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied. The Plan shall specify facilities and measures with measurable output and outcome targets designed to:

- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site,
- Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel,
- Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.

The Plan shall also specify:

- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

REASON: To achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices.

9. No development approved by this planning permission 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 be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

REASON: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

10. Finished floor levels should be set at least 150mm above existing ground levels.

REASON: To protect the development from overland flow.

11. The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by the local planning authority. The scheme shall be implemented as approved.

REASON: To protect the water environment.

12. The development hereby permitted shall not be commenced until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by the local planning authority. The scheme shall be implemented as approved.

REASON: To minimise the risk of pollution of the water environment.

13. The Hedgerows located around and within the site will be retained, protected (except for access requirements) and maintained in accordance with a Hedgerow Management Plan to be submitted to and agreed in writing by the local planning authority prior to commencement of the development.

REASON: In the interests of the appearance of the area and local biodiversity.

14. The existing trees along the boundaries of the site as indicated on the Framework plan shall be retained and shall not be felled, lopped, topped or uprooted. Any trees removed, dying, being severely damaged or becoming seriously diseased shall be replaced with trees of such size and species as previously agreed in writing by the local planning authority within one year of the date of any such loss, for a period of 5 years from the date development begins.

REASON: In the interests of the appearance of the area and local biodiversity.

15. No development, including site works, shall begin until each tree shown to be retained on the approved plan has been protected, in a manner which shall have first been submitted to and agreed in writing by the local planning authority. Each tree shall be protected in the agreed manner for the duration of building operations on the application site. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed.

REASON: In the interests of the appearance of the area and local biodiversity.

16. Prior to commencement of development work, a Reptile and Toad Strategy shall be submitted to and agreed in writing by the local planning authority. This should set out how the ongoing conservation of toads will be achieved and should include measures such as road features and permeable boundaries to gardens on the northern edge of the development and provision of migration corridors. This strategy should be implemented as agreed.

REASON: In order to secure the habitat of protected species and enhance biodiversity.

- 17 Prior to commencement of development work, a Construction Environmental Management Plan (CEMP) shall be agreed in writing with the local planning authority. The plan will among other things address the potential adverse impacts of construction on common toads and reptiles and ensure the protection of the adjacent nature reserve.

REASON: In order to secure the habitat of protected species and enhance biodiversity.

- 18 Prior to commencement of development a Habitat Management Plan for the buffer strip between the development and the local nature reserve shall be submitted to and agreed in writing by the local planning authority. The Plan should include a strategy to minimise indirect effects of visitor pressure. It should also set out how lighting will be designed to minimise the detrimental impacts on biodiversity and bat species and the provision of bird and bat boxes throughout the site.

- 19 An Interpretation Board will be installed at an appropriate location within the buffer strip explaining the purpose of the buffer strip and the value of Morley Quarry Local Nature Reserve. In addition, each New Home Pack will include The Wildlife Trusts' Guide to Wildlife Gardening, together with information about Leicestershire Wildlife Trust and Morley Quarry Local Nature Reserve.

REASON: In order to secure the habitat of protected species and enhance biodiversity.

- 20 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: ADC 1072/01A.

REASON: For the avoidance of doubt and in the interests of proper planning.

Richborough Estates