



Appeal Decision

Hearing held on 5 March 2024

Site visit made on 4 March 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/G2435/W/23/3332607

Land adjacent to - Grange Road, Hugglescote, Coalville, Leicestershire LE67 2BT

- 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 Cadeby Homes Ltd against the decision of North West Leicestershire District Council.
 - The application Ref 23/00012/REMM, dated 23 December 2022, was refused by notice dated 25 September 2023.
 - The development proposed is the erection of 80 dwellings including temporary construction access, parking, pedestrian links and open space to parcel E (reserved matters of access, appearance, landscaping, layout and scale to outline planning permission ref. 13/00956/OUTM).
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 80 dwellings including temporary construction access, parking, pedestrian links and open space to parcel E (reserved matters of access, appearance, landscaping, layout and scale to outline planning permission ref. 13/00956/OUTM) at land adjacent to Grange Road, Coalville, Leicestershire LE67 2BT in accordance with the terms of the application, Ref 23/00012/REMM, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Cadeby Homes Ltd against North West Leicestershire District Council. This is the matter of a separate decision.

Preliminary Matters

3. Outline planning permission was given in 2016 for a Sustainable Urban Expansion (SUE) to the South East of Coalville, for up to 2,700 dwellings. The **proposal the subject of this appeal seeks to develop 'phase E1' of the outline site**. The proposal relates to all Reserved Matters, being access, appearance, landscaping, layout and scale. The outline approval was subject to a range of conditions, these included the requirement for details of a site masterplan¹, masterplan statement [July 2022] and vehicular access strategy². These details have been subsequently approved by the Council and are consistent with the Reserved Matters scheme.

¹ Site Masterplan Ref: LP2208-FIR-MP-0002 rev 11

² Vehicle Access Strategy, by ADC Infrastructure, 17/8/22

4. A statement of Common Ground, dated 3 January, has agreed that there is no policy conflict or harm with a broad range of subjects, including design, effect on living conditions, flooding and biodiversity. In review of the **Council's** Committee Reports and the associated submitted evidence I see no reason to disagree with these comments.
5. During the application consideration process the Highway Authority sought confirmation that some internal roads had adequate motorist visibility through junctions. This led to layout plan (P20-0512-DE-005-01) revision R, showing the junctions achieved suitable visibility and satisfied the concerns of the Highway Authority. However, this was not formally submitted to the Local Planning Authority and was not therefore the version that was refused, which **was instead version 'Q'**. As the revised drawing provides only technical details and has not altered the proposal, I have not accepted version R and used the revision that was refused in my consideration of the appeal.

Main Issue

6. The main issue is the effect of the proposed development on pedestrian safety and the resultant ability for future occupiers to gain access to goods and services safely by means other than the private car.

Reasons

7. Grange Road is a semi-rural road recently upgraded in support of the SUE with an improved footpath link into Coalville and a reduced speed restriction of 40mph. The road runs through the SUE on an east/west axis, with a range of community services located to the north of the highway. This includes a medical centre and Baptist church to the northwest and Hugglescote Community Centre and Hugglescote Community Primary School to the northeast. Furthermore, an emerging local centre and primary school will be delivered as part of the Lower Bardon development to the north of Grange Road. As such, occupiers of dwellings within the appeal site would require a safe cycling and pedestrian route over Grange Road, to access local goods and services.
8. There is an uncontrolled pedestrian crossing point located adjacent to the junction of Grange Road and Hemsley Road. This includes a dropped kerb with tactile paving both sides of the highway. The Appellant's speed survey demonstrates that vehicles travel at an average of 42.9mph (85th percentile), travelling just over the speed limit. The traffic survey illustrates that gaps between passing vehicles range from 5.5 seconds, at peak evening periods, to an average of 7.8 seconds through a 12-hour day-time period. My site visit took place at around 5pm on a working day. Although only offering a snap-shot in time, I was able to observe a similar frequency of traffic flow. The time taken for a pedestrian to cross the road would be around 4.8 seconds, based on the width of the road and average walking speeds. This figure, and the Appellant's survey methodology, was uncontested by the Council at the hearing. Consequently, the existing crossing point provides pedestrians with frequent opportunities to cross the road.
9. During consideration of the planning application the Appellant explored whether a signalised pedestrian crossing would be required. National guidance on the assessment of such a need has been covered by a number of documents from DMRB TA68/96, to CD143 and then 1/95. DMRB TA68/96 introduced an

assessment that multiplied the volume of traffic and pedestrians crossing a given road to determine whether demand existed for a signalised or zebra crossing (known as the PV² assessment). Although Transport Note 1/95, was withdrawn in 2019, this identified that a simple calculation alone does not provide a sufficiently robust assessment. This is as it does not account for local circumstances including road crossing times, recorded accidents and the character and context of the road.

10. The Highway Authority employs an enhanced PV² calculation that requires additional factors to be taken into account. At the hearing, the Appellant provided a spreadsheet (Doc B) that populated the template found at appendix **C of the Appellant's ADC evidence**. This shows that enhanced factors, including accident data, waiting times, speed limit and locational factors (such as whether the road divided a substantial community), can be considered. This appears to provide a broad and robust method to such assessment. The Appellant has shown that this calculation resulted in a final score of 0.42. At the hearing this figure was adjusted to account for the GP surgery in the vicinity, creating an agreed and slightly higher score of 0.49.
11. The enhanced PV² calculation can be applied to a table produced by the Highway Authority. This table shows scores that range from 'no action', to the need for uncontrolled measures (0.4-0.6), a zebra crossing (0.6-0.9) or a signalised crossing (0.9 or higher). In this case, the enhanced PV² score demonstrates that the threshold for a signalised crossing has not been met, a conclusion shared by the Highway Authority.
12. During my visit I noted that pedestrians crossing from north to south had slightly impeded visibility when looking right, due to the curvature of the road and as the road recedes into a dip as it passes under the bridge. At the hearing, the Appellant provided a drawing, showing the visibility splays and photographic views to the right. The hedge line, just beyond the highway boundary, obstructs the distant views of approaching cars after about 86 metres. Although the hedge should be maintained and kept cut back, such maintenance cannot be relied upon, and this could obstruct distant views of approaching vehicles. As such, the existing visibility splay could become reduce to around 71.5 metres. This compares to published stopping distances³ of 36 metres for vehicles travelling at 40mph and 53 metres for vehicles travelling at 50mph. This illustrates that motorists would have ample time to slow down even if a pedestrian had started to cross the road.
13. The reduced pedestrian sightline to the right would result in some, albeit limited, harm to pedestrian safety. The Appellant proposes the addition of a vehicle activated speed control sign on Grange Road, to warn motorists of excessive speed. It was agreed by main parties at the hearing that such a measure would have a positive effect on highway safety. Consequently, the identified harm to pedestrian safety would be reduced through the installation of a speed control sign. As such, with this measure in place and in taking account the context of the crossing point and the character of local traffic, I am satisfied that pedestrians would be able to undertake a safe crossing.
14. Furthermore, the Way Finding Strategy (approved as part of the outline application) shows that the primary pedestrian and cycle route over Grange Road makes use of the materials railway bridge. This is adjacent to the site and

³ The Highway Code

access is gained by a set of steps, the route towards the bridge is currently loose gravel. The access onto the former minerals railway and the route towards the bridge, is required to be improved by condition 27 of the outline approval. A further condition could be imposed to secure full details of this route and to ensure the delivery of a ramp to aid wheelchair and pushchair access. As this route is identified as the primary pedestrian/cycleway across Grange Road, and is proposed to be further enhanced, this provides a good quality alternative route avoiding the need to directly cross Grange Road.

15. As a result, taking the above points together, the Appellant has demonstrated that a zebra or signalised crossing would not be required. Furthermore, alternative appropriate means exist to cross Grange Road by using the former railway bridge. As a result, there is no justifiable need for the development to deliver an enhanced crossing over Grange Road. I am further cognisant that the Highway Authority identified⁴ that it would have highway safety concerns if a signalised crossing were installed here as due to insufficient demand, motorists would not readily anticipate a need to stop.
16. Accordingly, future occupiers would gain access to goods and services safely by means other than the private car from the site and the proposal would have no demonstrable effect on pedestrian safety. As such, the proposal would comply with policy IF4 of the North West Leicestershire Local Plan [2021] and policy T1 of the Hugglescote and Donington le Heath Neighbourhood Plan [2021]. These seek, among other matters, for development to make safe and accessible connections to the transport network, including by non-car modes and make improvement to pedestrian and cycle routes where appropriate.

Other Matters

17. Interested parties have raised concern that the proposal is in conflict with the outline approval as it does not show a vehicular access onto Grange Road. The original Way Finding Strategy, submitted in support of the outline application, showed that the appeal site (parcel E1) would be directly accessed onto Grange Road. Nonetheless, the approved Masterplan, its associated Statement and the Vehicle Access Strategy, approved in compliance with conditions of the outline approval, exclude the originally planned access onto Grange Road via Western Avenue. This followed the evolution of the access strategy taking into account site conditions which reduced the quantity of development proposed alongside the railway embankment and removed Western Avenue. The access to the site, via Lovett Close and Hemsley Road, has been found to be suitable to accommodate the additional traffic of the appeal site. This arrangement is supported by the Highway Authority, and I see no reason, within the submitted evidence, to disagree with these findings.
18. During the hearing the discussion included the quality of the route along the former railway line and especially the need to use steps to gain access. The Appellant stated that it is intended to adapt the steps to include a ramp to enable easier access for wheelchair users, pushchairs and cyclists. Improvements to this route has been secured in general terms by conditions of the outline approval and in conditions suggested by the Council for the current proposal. Although the suggested text excludes reference to ramps these could be included in the text to secure an improve access.

⁴ Comments of Highway Authority, 20th May 2023

19. The route, over Grange Road using the railway bridge, is identified in the Way Finding Strategy as the primary route over the road. By being upgraded, by new surfacing and ramps, this would provide a safe and accessible route over Grange Road, for the **benefit the site's accessibility**.
20. Concerns have been raised by interested parties with respect to construction vehicles gaining access to the site and construction noise disturbance. Access into the site during construction is proposed to take place via a direct access onto Grange Road. The Appellants have stated that drivers will be instructed to only turn right when leaving the site and that a banks man will be in place to direct all delivery vehicles. This would create a safe delivery arrangement, a conclusion shared by the Highway Authority.
21. In terms of noise effects, some residents have raised concerns that noise levels during construction would be high. The closest residential properties are within phase 1, adjacent to the appeal site along Lovett Close and Peace Close, but these are separated from the site edge by a road and footpath. Noise disturbance could be largely mitigated by the imposition of a condition requiring compliance with the Construction Traffic Management Plan and noise levels would largely be confined to daytimes only. These factors, combined with the temporary nature of the construction works would result in limited disturbance being caused to adjacent residential occupiers.
22. It has been reported by interested parties that the southern part of the appeal site floods, this has been illustrated by submitted photographs. The southern part of the site is close to the River Sense and its floodplain includes land close to the appeal site. The Council has stated that the originally submitted Flood Risk Assessment for the SUE demonstrated that the appeal site was within flood zone 1 (least likely to flood). Furthermore, matters of drainage and flood risk are subject to conditions associated with the outline approval. The Council has confirmed that the drainage solution for the proposed estate is capable of meeting the its design Guidance SPD. I also note that the Environment Agency and Lead Local Flood Authority have raised no objection to the scheme.

Conditions

23. I have considered the use of conditions in line with the guidance set out in the **Government's Planning Practice Guidance (PPG)**. **I shall take the Council's** suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity as discussed during the hearing.
24. I have imposed the standard condition with respect to approved plans as advised by the PPG for clarity and certainty [condition 1]. Conditions are necessary with respect to landscaping, hard surfaces, transition strips, external materials, boundary treatment, protection of boundary trees and hedges, levels, lighting, details of eaves, verges, windows and doors, utility box colours, street name plates and feature entrance walls in the interests of the character and appearance of the area and to ensure the development complies with the approved design code [2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, 21 and 27]. It is also required for the window and chimney details and bin/recycling store details, to be implemented as agreed in the interests of the character and appearance of the area and to comply with the approved design code [18 and 19].
25. It is also necessary to require details of cycle/pedestrian links, the provision of a pedestrian crossing over Lovett Close and a scheme for the treatment and

maintenance of the former mineral railway to ensure the scheme provides suitable provision of pedestrian and cycle access to and within the site [10, 11 and 13]. It is also necessary for the scheme to include signing and waymarking in the interests of the safety and security of users of the public right of way [12]. A condition would also be required to ensure that the on-plot car parking is provided to prevent overspill parking in the interests of highway safety [14].

26. Conditions would also be required for details of bin/recycling points to be shown and signage for routes into shared driveway roads to ensure the scheme would function well [20 and 22]. Conditions for the installation of the access arrangements around entering and leaving the site, construction works to comply with the approved Traffic Management Plan, the scheme to comply with the Travel Plan and a speed control sign to be installed, are required in the interests of highway safety [23, 24, 25 and 26].

Conclusion

27. For the above reasons, the appeal is allowed subject to the imposition of conditions.

Ben Plenty

INSPECTOR

APPEARANCES

For the Appellant:

Ms Eleanor Overton	- Director Pegasus Group
Mr David Cummins	- Director ADC Infrastructure Ltd
Mr Louis Massarella	- Cadeby Homes Ltd

For the Council:

Mr James Knightley	- Principal Planning Officer, North West Leicestershire District Council
Mr Nicholas Jones-Hill	- Technical Director Waterman

Interested parties:

Councillor David Wood	- Hugglescote & D.L.H Parish Council
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Additional documents

Doc A:	South East Coalville - Way Finding Strategy (original version for outline application)
Doc B:	Pedestrian Crossing facility, Method of Assessment – Summary Sheet submitted to Highway Authority
Doc C:	Existing uncontrolled crossing pedestrian visibility splays, drawing: 3103-ADC-ZZ-XX-DR-Z-001 S1 P01
Doc D:	Masterplan Rev 11
Doc E:	Masterplan Statement V19
Doc F:	Vehicular Access Strategy Rev 12

Schedule of Conditions

- 1) The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this approval: - Site location plan (P20-0512_DE_001_A) - Planning Layout (P20-0512_DE_005_01_Q) - Presentation Layout (P20-0512_DE_005_03_Q) - Materials Plan (P20-0512_DE_006_01_F) - Boundary Treatments Plan (P20-0512_DE_007_01_H) - Indicative Site Sections (P20-0512_DE_010_D) - Parking Plan (P20-0512_DE_012_01_C) - House Type Pack (P20-0512_DE_G200_D) - Site Access Junction (ADC3103-DR-004 Rev P3) - Temporary Construction Access Visibility Splay Long section Layout (ADC3103-DR-005 Rev P1) - Proposed landscaping (P22-0512_EN_0001_C_0001, P22-0512_EN_0002_E_0001, P22-0512_EN_0002_E_0002, P22-0512_EN_0003_C_0003, P22-0512_EN_0003_E_0001 and P22-0512_EN_0003_E_0002)
- 2) None of the dwellings hereby approved shall be occupied until such time as a timetable for the implementation of the landscaping scheme shown on drawing nos. P22-0512_EN_0001_C_0001, P22-0512_EN_0002_E_0001, P22-0512_EN_0002_E_0002, P22-0512_EN_0003_C_0003, P22-0512_EN_0003_E_0001 and P22-0512_EN_0003_E_0002, together with a strategy for its long-term management, has been submitted to and agreed in writing by the Local Planning Authority. The landscaping scheme shall be implemented in accordance with the agreed timetable (or in accordance with any alternative scheme or timetable first submitted to and agreed in writing by the Local Planning Authority) and shall thereafter be maintained in accordance with the management strategy.
- 3) Any tree or shrub planted pursuant to Condition 2 above or Conditions 11, 13, 20 or 27 below which may die, be removed or become seriously damaged shall be replaced in accordance with the agreed landscaping scheme (or any alternative scheme first agreed in writing by the Local Planning Authority) in the first available planting season thereafter.
- 4) Notwithstanding the submitted details, nor Condition 1 above, no development in respect of the erection of any dwellings shall take place above damp proof course until such time as a scheme of materials to be used in the construction of all hard surfaces (including all access roads, threshold and transition strips, footways, pedestrian routes, dwelling mounted rainwater goods, bin stores, any retaining walls/structures, drives and parking / manoeuvring areas (including parking space demarcation, where applicable)), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable.
- 5) Notwithstanding the submitted plans, nor Conditions 1 and 4 above, no development in respect of the construction of any of the roads hereby permitted shall take place until such time as a scheme for the provision **of transition strips (including details of the strips' surfacing materials and a timetable for its implementation)** has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme and timetable.

- 6) Notwithstanding the submitted details, nor Condition 1 above, unless the dwellings hereby approved are erected in accordance with the scheme of external materials shown on drawing no. P20-0512_DE_006_01_F, no development in respect of the erection of any dwellings shall take place above damp proof course unless in accordance with a scheme of external materials to be used in the construction of the dwellings first submitted to and agreed in writing by the Local Planning Authority.
- 7) Notwithstanding the submitted details, nor Condition 1 above, none of the dwellings hereby permitted shall be occupied until such time as a scheme of boundary treatment for the development (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme and timetable.
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 with or without modification) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, of the same type, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.
- 8) No site works of any description shall take place on the site at any time unless all existing or proposed trees and hedgerows within or within 10 metres of the application site as shown on drawing nos. P20-0512_DE_005_01_Q, P22-0512_EN_0001_C_0001, P22-0512_EN_0002_E_0001, P22-0512_EN_0002_E_0002, P22-0512_EN_0003_C_0003, P22-0512_EN_0003_E_0001 or P22-0512_EN_0003_E_0002 are securely fenced off in accordance with a detailed scheme for their protection first submitted to and agreed in writing by the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.
- 9) No work shall commence on the site, apart from the creation of the construction access and site compound, until such time as full details of the proposed ground and floor levels within the proposed development in relation to neighbouring land /buildings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 10) Notwithstanding the submitted plans, nor Conditions 1, 4 and 7 above, none of the dwellings hereby approved shall be occupied until such time as a detailed scheme for the provision of the pedestrian / cycle links shown on drawing no. P20-0512_DE_005_01_Q (and including details of surfacing, precise means of connection to adjacent land, highways and other pedestrian / cycle links shown on that drawing (including treatment of any changes in levels and details of any associated gates, barriers or bollards), and a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable

and thereafter be so maintained such that unfettered pedestrian and (where applicable) cycle access along all relevant routes is thereafter available at all times for all pedestrians and (where applicable) cyclists.

- 11) Notwithstanding the submitted plans, nor Conditions 1, 4, 7 and 10 above, none of the dwellings hereby approved shall be occupied until such time as a detailed scheme for the provision of a pedestrian crossing at the junction of the proposed vehicular access from Lovett Close with the realigned route of public right of way N55 (and including details of surfacing and any associated landscaping, measures for promoting pedestrian priority, gates, barriers or bollards together with a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable.
- 12) Notwithstanding the submitted plans, nor Conditions 1 and 10 above, no more than 40 dwellings shall be occupied until such time as a scheme for the signing and waymarking of all non-vehicular routes passing through and connecting to the site (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed strategies and timetables.
- 13) Notwithstanding the submitted plans, nor Conditions 1, 10 and 11 above, nor Condition 5 of planning permission ref. 13/00956/OUTM, none of the dwellings shall be occupied until such time as a detailed scheme for the treatment and future maintenance of the former mineral railway to the west of the site (as identified as falling within Phase E1 as defined in the Masterplan Statement (Pegasus group document ref. EMS.2423_206 V17) and including full details of hard and soft landscaping, ecological works, accessibility for pedestrians, cyclists and other users to adjacent land and routes including a ramped access onto the former railway line and including connectivity to dwellings within Phase E1 and those parts of the proposed route falling within Phases C4 and F1) and a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out and thereafter be so maintained in accordance with the agreed strategy and timetable such that unfettered pedestrian and (where applicable) cycle access along all relevant routes/ connections is thereafter available at all times for all pedestrians and (where applicable) cyclists.
- 14) Notwithstanding the submitted plans, nor Condition 4 above, no individual dwelling shall be occupied until such time as its associated car parking and turning provision (including garage space(s), where applicable) has been provided in full in accordance with the details shown on drawing no. P20-0512_DE_005_01_Q and, once provided, shall not be obstructed and shall thereafter be so maintained.
- 15) Notwithstanding the submitted plans, nor Condition 1 above, none of the dwellings hereby permitted shall be occupied until such time as a detailed external lighting scheme for the development (including for all private drives and pedestrian routes and including details of future management together with and a timetable for its provision) has been submitted to and agreed in writing by the Local Planning Authority. The approved

scheme shall be implemented in accordance with the approved details and timetable.

- 16) Notwithstanding the submitted plans, nor Condition 1 above, no development shall take place above damp proof course in respect of the erection of any individual dwelling until such time as precise details of all eaves, verges, windows and doors to that dwelling (including window styles, headers, cills, porches and door surrounds, as well as doors to any garage serving that dwelling) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 17) All utility boxes shall be finished in black or dark brown.
- 18) The development shall be carried out in accordance with the details of the windows and chimneys shown to the relevant dwelling as indicated on the house type drawing for that dwelling as identified in the House Type Pack (P20-0512_DE_G200_D) referenced under Condition 1 above.
- 19) None of the individual dwellings hereby approved shall be occupied until the bin / recycling storage provision, as indicated by plan P20-0512_DE_005_01_Q, serving that dwelling has been provided, hard surfaced and is available for use in accordance with details first submitted to and agreed in writing by the Local Planning Authority.
- 20) Notwithstanding the submitted plans, nor Conditions 1, 2, 4 and 7 above, none of the dwellings hereby approved shall be occupied until such time as a detailed scheme for the provision of bin / recycling collection points (including details of any proposed hard surfacing, landscaping and means of enclosure, together with a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The bin / recycling collection points (and any associated landscaping and / or means of enclosure) shall be implemented in accordance with the agreed scheme and timetable and shall thereafter be maintained.
- 21) No street name plates shall be erected / displayed on the site other than in accordance with details (including positioning) first submitted to and agreed in writing by the Local Planning Authority.
- 22) Notwithstanding the submitted plans, nor Conditions 1 and 17 above, none of the dwellings to Plot numbers 25 to 29 or 37 to 39 (inclusive) shall be occupied until such time as a scheme for the provision of signage **to the route serving those plots, identifying the route's status and** availability for public use by pedestrians, has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Once provided, the signage shall thereafter be so maintained.
- 23) None of the dwellings hereby approved shall be occupied until such time as the access arrangements shown on drawing no. ADC3103-DR-004 Rev P3 have been implemented in full.
- 24) No construction works shall take place at any time other than in accordance with the measures set out within the submitted Construction Traffic Management Plan (March 2023, Rev F).
- 25) Notwithstanding the provisions of Condition 31 of planning permission ref. 13/00956/OUTM, the development hereby approved shall relate to

the measures specified in the amended Travel Plan deposited with the Local Planning Authority on 27 April 2023 (ADC Infrastructure ref. ADC3103-RP-B (Version 3), dated 30 March 2023).

- 26) Notwithstanding the submitted details, nor Condition 1 above, none of the dwellings hereby permitted shall be occupied until such time as a scheme of vehicle activated speed control signage has been installed to Grange Road in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Once implemented, the scheme shall thereafter be so maintained.
- 27) Notwithstanding the submitted details, nor Conditions 1 and 23 above, no works in respect of the proposed alterations to the existing junction of Grange Road with Hemsley Road shall take place until such time as a detailed scheme of all works to the existing feature entrance walls (including a timetable for their implementation, together with any amended landscaping proposals) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable.

End of conditions

Richborough



Costs Decision

Hearing held on 5 March 2024

Site visit made on 4 March 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Costs application in relation to Appeal Ref: APP/G2435/W/23/3332607
Land Adjacent to - Grange Road, Hugglescote, Coalville, Leicestershire
LE67 2BT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Cadeby Homes Ltd for a full award of costs against North West Leicestershire District Council.
- The appeal was against the refusal of planning permission for the erection of 80 dwellings including temporary construction access, parking, pedestrian links and open space to parcel E (reserved matters of access, appearance, landscaping, layout and scale to outline planning permission ref. 13/00956/OUTM).

Decision

1. The application for an award of costs is refused.

The submissions for Cadeby Homes Ltd

2. The costs application by the Appellant was submitted in writing at the hearing. In summary, the Appellant asserts that the Council has behaved unreasonably both procedurally and substantively as:
 - The proposal follows the outline approval of the site as part of a Sustainable Urban Extension (SUE) to Coalville. The outline application was supported by a range of technical documents including details of the means of access through the site for pedestrians and cyclists. The Vehicle Access Strategy, approved by virtue of condition 27 of the outline approval, reflected the site wide access strategy which demonstrated that safe, convenient, and attractive routes to goods and services would be provided. In accepting the strategic documents and approving relevant conditions the Council accepted that the site would be sustainable and to refuse the proposal on these terms is contrary to the agreed principles.
 - The Council have failed to provide objective or technical evidence to substantiate the reason for refusal.
 - The proposal gained no objection from the Highway Authority or planning officers on the grounds of highway or pedestrian safety or the **site's** inaccessibility for goods and services.
 - The planning application was reported to Planning Committee on 16 August 2023 with a recommendation to approve but was deferred for a Road Safety Audit (RSA) and for the Highway Authority to revisit whether a Puffin crossing was needed. When the item was reported back to Planning

Committee (12 September), despite the Highway Authority reporting that a RSA was not required **and the Appellant's offered a vehicle activated** speed sign, the committee refused the scheme. This decision was taken without substantive evidence and the Council has therefore acted unreasonably and has caused unnecessary delay and cost to a local housebuilder.

The response by North West Leicestershire District Council

3. The response by the Council was made orally at the hearing. The Council replied with the following comments:
 - The Council accepts that the wider highway impacts of the development have already been considered through the outline approval process. However, matters that affect movement within the site are open for further discussion. There is a direct relationship between the proposals need to use the junction (via phase 1) onto the junction of Grange Road and the ability for people to safely cross the road.
 - Detailed technical evidence has been submitted in support of the **Council's case.**
 - Planning Committee is entitled to disagree with officers and are under no obligation to follow advice. The decision to refuse has been supported by the evidence from Waterman. The deferral of the proposal by the Committee in August and its reconsideration and refusal in September does not amount to unreasonable behaviour. This instead demonstrates a clear effort to find a sound solution to the concerns raised by Members as it is good practice to seek to explore positive outcomes.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG explains that the aim of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.

The effect of the outline approval

5. The outline approval established a broad range of strategic matters. This included an approach to road hierarchy, bus routes, cycle and pedestrian linkages through the SUE and interconnections with the wider area. This strategic approach was supported by more detailed studies, including a detailed Masterplan and Vehicle Access Strategy. This established the final configuration of all highway routes, linkages and connections to create a holistic accessible design, that would encourage sustainable travel.
6. Although the agreed strategic movement principles has established much, it would have been unable to foresee all potential effects of the development of individual parcels of the SUE and therefore the Council has behaved reasonably in considering the highway safety effects of the scheme on the surrounding area, pedestrian safety and the relationship of the site with Grange Road.

Accordingly, the Council did not refuse the scheme for a matter that should have been and was exclusively considered at the outline stage.

Absence of technical evidence

7. The Council's appeal evidence includes a submission from Waterman. This provides an assessment of the proposal and its highway impact by a professionally qualified expert in traffic and transportation. This provides a reasonable contrary view to the Appellant's **evidence**. This includes, at appendix A, a drawing demonstrating how the visibility splay (for pedestrians crossing south and looking right) would be compromised by the curvature of the highway and topography. The restricted visibility splay, and its effect on pedestrian safety, was explained within this evidence. The Appellants responded to this with their own drawing and photographs, which I agreed to accept at the hearing and that demonstrated a need to engage with the **Council's technical evidence**.
8. Concerns were also raised by the Council with respect to the deficiencies of the enhanced PV² assessment and the presence of steps to access the former railway line. This led to a discussion with respect to the PV² calculation and a minor adjustment that took into account the proximity of a GP Surgery. Accordingly, the **Council's evidence** provided a useful context to demonstrate its concerns with respect to highway and pedestrian safety. These matters were material considerations that led to extensive discussion in the hearing.
9. Therefore, the Council provided useful technical evidence on this matter including objective analysis. As such, I am satisfied that the Council provided adequate evidence to substantiate its reason for refusal.

Absence of objection and the general behaviour of Planning Committee

10. The Planning Committee must represent the interests of the whole community and maintain an open mind when considering planning applications. Where members take decisions on planning applications, they must do so in accordance with the development plan unless material considerations indicate otherwise. Members must only take into account material planning considerations, where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.
11. As asserted by the Council, the Planning Committee is not obliged to accept the recommendation of its officers. Nonetheless, councillors should be ready to explain why they have not accepted an **officer's recommendation**.
12. The **officer's report, when presented** to Committee in August, identified that a PV² Assessment concluded that a pelican crossing over Grange Road would not be necessary. The proposal was supported by the Highway Authority and the report recommended approval. Nonetheless, it was deferred by Members for a Road Safety Audit (RSA) and to consider the suitability of a puffin crossing being installed on Grange Road.
13. The item was reported back to Committee in September, where the Highway Authority explained that a RSA, in association with the proposed geometry changes to the Hemsley Road junction, would be required for the Section 278 application, but not prior to the determination of the planning application. The

Highway Authority also confirmed that a pelican crossing would not be required following its review of the PV² assessment.

14. From the evidence, it is clear that the Committee considered the proposal in detail, with extensive discussion when it was presented both in August and September 2023. Upon refusing the application, the Council provided a reason for refusal that accorded with some of the concerns raised in discussion and I have found this reason to be reasonable, to an extent. In allowing the appeal, I have clearly come to a different view to the Committee, but this alone does not **mean that the Committee's decision was unreasonable or** perverse.
15. The discussion at the hearing demonstrated that the process of assessing the requirement of an enhanced pedestrian crossing is largely based on a technical assessment of the character of the road, starting with an understanding of the volumes of traffic and pedestrians involved. However, the evidence, and the associated discussion at the hearing, also demonstrated that sensitivity testing and the context of the site, including visibility for pedestrians and topography of the land are important further considerations that require planning judgement to be applied. In this context, it cannot be readily concluded that Committee behaved unreasonably in applying such judgement to the character and context of the proposed crossing point beyond technical assessment.
16. The decision to defer the application seems to have been based on minor issues, partly based on a misunderstanding as to the operation and purpose of a RSA in connection with a Section 278 for highway works. These matters should have been fully addressed at committee in August, irrespective of the outcome of the decision. Nevertheless, the decision to refuse the application when taken only a month later in September was decisive, meaning that the delay caused to the Appellant was relatively minor.
17. Consequently, in deferring the proposal from the first committee and in not following officer advice on both occasions does not demonstrate unreasonable behaviour. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ben Plenty

INSPECTOR