The Planning Inspectorate

Appeal Decision

Site visit made on 8 November 2011

by David Vickery DipT&CP MRTPI

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

Decision date: 15 November 2011

Appeal Ref: APP/K2420/A/11/2158112
Land between 3 and 15 Shenton Lane, Market Bosworth, Leicestershire CV13 0LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs J Hitchcock against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 11/00228/FUL, dated 21 March 2011, was refused by notice dated 25 May 2011.
- The development proposed is the erection of a single detached dwelling and detached garage, including the formation of a vehicular access.

Decision

1. The appeal is dismissed.

Main Issues

2. The two main issues are, firstly, the impact on the living conditions of the future occupiers of the proposed dwelling arising from the provision of public open space; and, secondly, the effect of the proposal on highway safety and the free flow of traffic along Shenton Lane due to the proposed vehicular access and car parking.

Reasons

3. The Council described the address of the proposal in its decision notice as being to "the rear of 8 Sutton Lane". Both this and the appellant's address are correct, but I have used the appellants' location description in preference as it is their proposal and it more accurately reflects where the vehicular access will be located – that is, on Shenton Lane.

Living conditions – open space

4. Saved policies REC3 and IMP1 in the Local Plan respectively set out standards for public open space and the provision of financial contributions towards it. The Council's adopted Supplementary Planning Document (SPD) on Play and Open Space deals with the detailed implementation of these two policies, including the level of financial contribution required. As the site lies within 300 metres of the Northumberland Avenue and the Parish Field Amenity Green Spaces and because the open space there has a low quality score in the Council's Green Space Strategy 2005-2010, the proposal triggers a requirement for an open space contribution in accordance with the contribution details in the SPD (£1,250.80).

5. The Council said that provided the appellant completed an Obligation contributing the specified amount for the provision and maintenance of off-site public play and open space facilities then its refusal reason on this point would be satisfied. The appellant has submitted a completed Obligation under S106 of the Act. I consider that it fulfils the tests set out in the Community Infrastructure Levy Regulation 122 and the similar advice in Circular 05/2005. The contribution is necessary, directly related and reasonably related in scale and kind to the proposed development.

6. I conclude that the Obligation ensures that there would be no adverse impact on the future living conditions of the occupiers of the proposed dwelling.

Highway safety

7. The proposed access would be onto Shenton Lane, a narrow road within a 30 mph limit which has parked cars along its eastern side, and these would obscure the proposed visibility splays in both directions. It was common ground that this parking was present at most times during the day, and I saw it when I visited the site around mid-day. The access would be close to the town centre to the north-east, which lies just beyond the junction of Shenton Lane with Market Place. This junction has double yellow lines, but there are no parking restrictions further along the road, including by the appeal site. There is a footway running past the appeal site, with several accesses nearly opposite including one to the police station.

8. The Manual for Streets (MfS) indicates in Table 7.1 that within areas with a 30mph limit the visibility (the Stopping Sight Distance) in each direction should be 43 metres, measured from 2.4 metres back from carriageway. The Highway Authority estimated the visibility from the access as being less than 10 metres in each direction, and this was not contested by the appellant. It might be possible to increase that visibility to the south-west, but it cannot be increased in the critical north-east direction towards the junction due to the closeness of the proposed access to the site's boundary with No. 3.

9. The appellants said that this recommended visibility distance could be reduced due to the slower speed of vehicles along the road because of its narrow width and the parked cars which reduces the road to one lane. This reduced vehicle speed was estimated by the Highway Authority as being around 20 to 25 mph, and, although the appellants thought that speeds were significantly lower still, I have been provided with no actual measured data. The MfS visibility distances for those estimated speeds would be 25 and 33 metres respectively.

10. As I have said, the critical visibility dimension is to the north-east and it cannot be improved. The 10 metres available would only deal with cars going below 10 mph, which is not proven to occur along the road here. The available visibility in this direction is so little that I consider vehicles emerging from the site would cause a danger to highway safety.

11. The Council said that its car parking standards, and those applied across the county, required 3 spaces for a four bedroomed dwelling such as this proposal. Even if the garage could accommodate two cars as the appellants claimed it would, the third car space would potentially block the internal turning area, with the likely result that cars would reverse out of this dangerous access. I am not convinced that the proposal as designed could properly provide three parking spaces and a workable and effective turning area.

12. The Highway Authority was also concerned about the parked vehicles obscuring the visibility splays. MfS paragraph 7.8.5 says that *"parking within visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice"*. It goes on to say that ideally parking should be outside the visibility splay but that *"in some circumstances, where speeds are low, some encroachment may be acceptable."*

13. Vehicle speeds here are relatively low, and the nearby access to No. 3 together with this proposed access (suitably protected by 'H' warning lines on the road) would assist visibility towards the critical town centre junction. If the achievable visibility splays in both directions for the measured vehicle speeds past the site matched, or were very close to, those recommended in the MfS Table 7.1, then the local circumstances in this case would be similar to that shown in the diagram underneath paragraph 10.7.1 in MfS 2, and so parked vehicles within the visibility splays might be acceptable. But this possible solution to the concern does not apply to this proposal due to its deficient and unsafe visibility distances, particularly that to the north-east.

14. The Highway Authority mentioned two other appeals (Refs: 2139117 and 2120269). The first appeal does not give a clear view about parking within visibility splays, but the second at paragraph 7 says that parking reduces visibility and is a hazard to highway safety. Even so, the Inspector allowed the appeal due to the proposal's low level of use as a local boxing club (despite the fact that vehicles reversed out of the access) and there was no mention of the above MfS advice. I do not think, therefore, that either of these decisions sets a precedent for this or any other case. Other accesses and parking issues mentioned by the appellants are not directly comparable to this case.

15. There was no substantial or convincing evidence that the minor loss of any car parking spaces on the road as a result of this proposal would lead to an unacceptable parking situation in the town centre which would in turn lead to a danger to highway safety.

16. I conclude that the proposal would seriously harm highway safety and interfere with the free flow of traffic along Shenton Lane due to the inadequate visibility splay distances and the likelihood that some vehicles would reverse out of the driveway. It would be contrary to saved Local Plan policy T5.

Other considerations

17. I agree with the Council that the proposed design would be acceptable and would not harm the character or appearance of the Conservation Area. I saw the closeness of the surrounding dwellings and their gardens as well as their window locations at my site visit. But I agree with the Council that the proposed house and garage would not be over-dominant in its mass, scale or siting on those neighbour's living conditions or their outlook (subject to the conditions the Council suggested), and that the proposal would not seriously harm their privacy or light.

18. For the reasons given above I conclude that the appeal should be dismissed.

David Vickery

INSPECTOR