The Planning Inspectorate

Appeal Decision

Site visit made on 8th March 2013

by Alison Roland BSc DipTP MRTPI

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

Decision date: 24 April 2013

Appeal Ref: APP/K2420/A/12/2176710
Wharf Yard, Coventry Road, Hinckley, Leicestershire, LE10 0NQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Benchmark against the decision of Hinckley and Bosworth Borough Council.
- The application Ref: 11/00808/FUL, dated 13 March 2012, was approved on 2 May 2012 and planning permission was granted subject to conditions.
- The development permitted is dental laboratory and clinic with 2 No office units and 9 No apartments with vehicular access and parking.
- The condition in dispute is No 14 which states that: *"Before first use and occupation of the buildings hereby approved, the driveway and areas to be used by vehicles as shown as "rough tarmac" on drawing No 001B shall be surfaced with tarmacadam, concrete or similar hard bound material (as agreed by condition 06) and shall be maintained that way thereafter".*
- The reason given for the condition is *"To reduce the possibility of deleterious material being deposited on the highway (loose stones etc) to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan".*

Decision

1. The appeal is allowed and the planning permission Ref: 11/00808/FUL for dental laboratory and clinic with 2 No office units and 9 No apartments with vehicular access and parking, at Wharf Yard, Coventry Road, Hinckley, Leicestershire, LE10 0NQ, granted on 2 May 2012 by Hinckley and Bosworth Borough Council, is varied by deleting condition No 14 and substituting for it the following condition:

    1. Before first use and occupation of the buildings hereby approved, the driveway and areas to be used by vehicles as shown as "rough tarmac" on drawing No 001B shall be surfaced with a permeable material, details of which shall be first submitted to and approved in writing by the local planning authority. The surface shall be maintained that way thereafter.

Main Issue

2. The main issue in this appeal is the implications of the condition for the safety of road users, bearing in mind the tests for conditions in Circular 11/95

Reasons

3. The appeal site lies a considerable distance from Coventry Road and the access road thereto is poorly surfaced and contains many potholes. The condition in question only relates to land in the vicinity of the appeal site and would have no bearing on the state of the access road, although the Highway Authority suggest it could be improved in the future.

4. Given the distance of the appeal site from Coventry Road (the appellant puts it at around 35 metres) and bearing in mind the slight incline thereto, I consider it extremely unlikely that loose material would be carried onto that carriageway. It follows that there would be no or negligible implications for the users of that highway in the event the condition was varied to allow for a permeable surface as the appellant suggests.

5. The Council suggest that an unconsolidated surface would be a hazard to wheelchair users and pedestrians alike, but that would to some extent, depend on the quality of the finished surface. In addition and bearing in mind that to leave the site would necessitate negotiating the existing unfinished access track, I consider that the requirement to finish the surface in the vicinity of the appeal site in a solid bound material is unreasonable.

6. Overall on the main issue, I conclude that the retention of the condition in its current form is unreasonable and unnecessary and fails to meet the requisite tests in Circular 11/95. Accordingly, I shall vary it to allow for a permeable surface as suggested by the appellant. It is necessary for the precise finish to be agreed with the Council for the avoidance of doubt and to secure a satisfactory finish. Subject thereto, the condition would not conflict with the objective of Policy T5 of the Hinckley and Bosworth Local Plan nor the 6Cs Design Guide to secure satisfactory road layouts in new developments. The Council refer specifically to DG18 and DG19 of the latter document which encourages developers to provide road layouts to adoptable standards. It is by no means clear whether the condition would in its original form achieve this alone. Either way, given my conclusions above, I consider this requirement is excessive. Although the Policy and guidance pre-dates the publication of the National Planning Policy Framework, I see no conflict with the advice therein and I have accorded them due weight in my decision.

Other Matters

7. The site falls within the Ashby de la Zouch Canal Conservation Area. I am satisfied that the variation of the terms of the condition would continue to preserve or enhance the character or appearance of that area.

ALISON ROLAND

INSPECTOR