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Formation of new vehicular access (retrospective)

Report Item No  
A2

Willow House Rempstone Road Griffydam Coalville LE67 8AP

Application Reference  
20/00689/FUL

Grid Reference (E) 440501  
Grid Reference (N) 318424

Date Registered:  
11 May 2020  
Consultation Expiry:  
23 February 2021  
8 Week Date:  
6 July 2020  
Extension of Time:  
9 February 2021

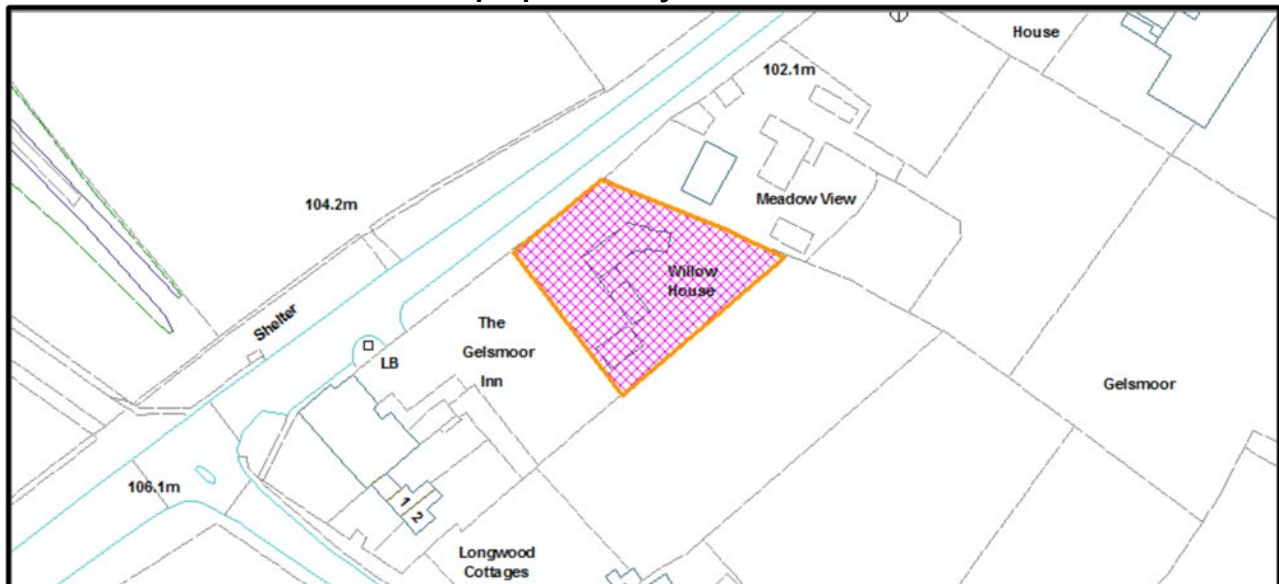
Applicant:  
Mr S Cleaver

Case Officer:  
Anna Edwards

Recommendation:  
REFUSE

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Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application has been called in by Councillor Boam for the highway safety aspects of the proposal to be considered further.

### **Proposal**

Full permission is sought for formation of new vehicular access (retrospective) at Willow House, Rempstone Road, Griffydam.

### **Consultations**

No objections have been received from members of the public. Leicestershire County Council Highways Authority advised refusal of the application. Worthington Parish Council did not respond during the course of the application.

### **Planning Policy**

The site lies outside the Limits to Development as defined in the adopted Local Plan.

### **Conclusion**

The formation of a new vehicular access is considered to have an unacceptable impact upon highway safety and conflicts with the NPPF, Policies IF4 and IF7 of the North West Leicestershire Local Plan and the advice contained within the Leicestershire Highways Design Guide. It is therefore recommended that the application be refused.

### **RECOMMENDATION - REFUSE**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the formation of a new vehicular access at Willow House, Rempstone Road, Griffydam. The access has already been formed and completed and is therefore retrospective. Submission of this application is a result of a planning enforcement investigation. The site is located outside Limits to Development, as defined by the Local Plan. Rempstone Road is a classified B road.

The subject dwelling was granted planning permission under references 13/00825/OUT and 14/00085/REM. The dwelling is for the sole use of employees (and their dependents) of the adjacent public house, The Gelsmoor Inn, Rempstone Road. The existing access to the Gelsmoor Inn and access to the dwelling was/is via the public house carpark.

It is noted that pre application advice was sought from the Local Highway Authority (LHA) by the applicant in 2015. The response from the LHA sent on 11th May 2015 detailed the LHA objection to the creation of a new access onto Rempstone Road, stating, *"the highway authority seeks to resist new accesses onto high speed A and B roads, as evidence shows us that turning traffic on high speed roads leads to accidents. Indeed, our records indicate there have been 2 injury accidents close to the site"*.

The proposal seeks retrospective approval for direct access onto the B5324 Rempstone Road, which is subject to a 50mph speed limit. Amended plans were received during the course of the application and re-consultation with the LHA was undertaken. Precise details and measurements of the proposal are available to view on the submitted amended plans received on 5th February 2021.

The need for independent access to the dwelling has been provided by Highways Access Solutions (HAS) in their letter dated 5th February 2021. The statement provided that the access was created for the sole use of the client's family / dependents (including their own private vehicle). The statement goes on to highlight that *"their motivation for creating the access is that they have a young family and have, during the past few years, found that their family relying on access via the Gelsmoor Inn car park is not only periodically inconvenient, but detracts from their family rights to privacy and to their residential amenity"*.

This application was due to be considered at the (6th) October 2020 planning committee meeting but a decision to defer was made to allow the applicant to engage with a highway consultant. Members of the planning committee agreed with this approach. Following the deferral, a highways consultant (Highways Access Solutions (HAS)), has been acting on behalf of the applicant. A letter dated 16th October 2020 from HAS was submitted to the LPA, alongside several drawings, and reconsultation was undertaken with the LHA. The LHA responded on the 10th November 2020 and concluded that *"whilst the submission discusses the access geometry and potential amendments that could be made, it remains that the application is contrary to Policy IN5 as it would permit an additional access onto a B classified road subject to a 50mph speed limit."* Subsequently, HAS submitted an email in response, dated 25th November 2020, alongside drawings demonstrating vehicular visibility to the west and east of the site access. The LHA was re-consulted on the additional information and in their response dated 14th December 2020 it was deemed that the application is still contrary to Policy IN5, despite demonstration of visibility splays, with the LHA continuing to advise that the application be refused. A final letter from HAS was submitted (dated 5th February 2021) along

with the revised 'Rev A' drawings, numbered HAS/20-054/01A through to /16A (drawing 09 is withdrawn). Again, reconsultation was undertaken with the LHA and in their response of the 22nd February 2021 it was concluded that a safe and suitable access had not been demonstrated and as such the development remained contrary to Policy IN5 of Part 1 of the LHDG.

### **Relevant Planning History**

13/00825/OUT- Erection of manager's dwelling together with offices and ancillary staff accommodation in association with adjoining Gelsmoor Inn (Outline Application - All Matters Reserved). Permitted

14/00085/REM- Erection of managers dwelling together with offices and ancillary staff accommodation (Reserved Matters to Outline Planning Permission 13/00825/OUT). Permitted

14/000647/VCU- Variation of condition 2 of planning permission 14/00085/REM to provide a detached garage and store. Permitted

17/00619/FUL - Single storey rear extension and balcony. Permitted

E/20/00034/UDDOM -Enforcement Enquiry

## **2. Publicity**

1 Neighbours have been notified.  
Site Notice displayed 22 May 2020.

## **3. Summary of Consultations and Representations Received**

The following summary of responses is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

No representations have been received from members of the public.

**Worthington Parish Council** No response has been received from the Parish Council at the time of writing this report.

**Leicestershire County Council Highway Authority** have advised refusal of the application based on highway safety grounds.

## **4. Relevant Planning Policy**

### **National Policies**

*National Planning Policy Framework (2019)*

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

### **Adopted North West Leicestershire Local Plan (2017)**

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

S3 - Countryside  
D1 - Design of new development  
D2 - Amenity  
IF4 - Transport Infrastructure and new development  
IF7 - Parking provision and new development

### **Other Policies and Guidance**

National Planning Practice Guidance - March 2014  
Leicestershire Highways Design Guide (Leicestershire County Council)  
Good Design for North West Leicestershire SPD - April 2017

## **5. Assessment**

### **Principle of Development**

The application site is located outside the limits to development in the adopted Local Plan. Policy S3 of the adopted Local Plan states that extensions and alterations to dwellings are considered to be acceptable in principle within the countryside, subject to all other planning matters being addressed.

### **Design and Impact upon Character**

The application details the formation of a vehicular access constructed from tarmac and block pavers. A 1.9 metre high, curved top, timber boarded gate has also been erected to the access (set back from the highway). The access and gate arrangement are considered to be acceptable and appropriate in relation to the visual amenity of the existing dwellinghouse and the surrounding area.

Overall, the proposal is considered to have an acceptable design that would be in keeping with the character and appearance of the existing property and the surrounding area. Therefore, the proposal is considered to be in accordance with Policy D1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF.

### **Impact on Residential Amenities**

Consideration has been given to the impact of the development on surrounding residential properties. The surrounding residential properties are considered to be a sufficient distance away from the development and are therefore unlikely to be significantly affected in terms of impact upon residential amenity.

Overall, the proposals are not considered to result in significant impacts upon surrounding residential amenity. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

### **Highway Considerations**

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The County Highway Authority has recommended that the application is refused on the following grounds:

1. The proposal, if permitted, could lead to the creation of an access onto a busy, high-

speed, Class B road, contrary to policy IN5 of the Leicestershire Highway Design Guide, where turning manoeuvres could lead to dangers for highway users.

2. The applicant has failed to demonstrate that a safe and suitable vehicular access would be provided and the proposal, if permitted, could consequently result in a substandard access onto a Class B road, leading to dangers for highway users.

Highways Access Solutions (HAS) on behalf of the applicant, in their letter dated 5th February 2021, has challenged the LHA as they consider that *“Policy IN5 does not impose any absolute obligation for an objection. Its clear intent is to allow LCC to prevent the creation of isolated accesses on sections of high-speed road where motorists would not expect to encounter emerging vehicles.”* HAS goes on to state that, *“Simply stating that any new access is an unacceptable hazard is not, in my opinion, reasonable. This is especially the case where the access is located amongst a grouping of numerous other business, residential land agricultural accesses). If accesses designed in accordance with the relevant LCC geometric standards are deemed unacceptably hazardous simply by their presence, the only logical conclusion any Officer can reach is that Policy IN5 prohibits in perpetuity the creation of any new access on a high-speed road. Any such suggestion would clearly prevent numerous justifiable and necessary developments across the entire county. Noting the above, I ask that you disregard Policy IN5 as a reason for objection”.*

The proposal seeks direct access onto B5324 Rempstone Road, which is subject to a 50mph speed limit. The following is taken from Section IN5 of the Leicestershire Highway Design Guide (LHDG (available at <https://resources.leicestershire.gov.uk/lhdg>)):

*Figure 1: Extract from Section IN5 of the Leicestershire Highway Design Guide*

**Access to A- and B-class roads**

1.30 We will normally apply restrictions on new accesses for vehicles and the increased use of existing accesses on:

- roads with a speed limit above 40 mph (that is 50mph, 60mph or 70mph) or where measured vehicle speeds are in excess of 40mph;
- roads with a speed limit of 40mph or less which are essentially rural in nature;
- routes where the access would affect bus-corridor or bus-priority measures being put in place;
- roads that are at or near capacity (cannot carry more traffic); and
- roads where there is an existing problem with road safety.

This development proposal is therefore contrary to Section IN5 of the LHDG, which seeks to resist new accesses onto a high-speed class B road, or any site which raises concerns regarding highway safety. The LHA withhold that the proposal should be refused on the grounds that the application is contrary to policy IN5 of Part 1 of the LHDG.

In addition to the proposal being contrary to Policy IN5, it is considered by the LHA that a safe and suitable access has not been demonstrated. Whilst the LHA are satisfied that appropriate visibility splays of 2.4m x 215m visibility splays are achievable, subject to the relocation of an existing advance directional sign which could be secured by way of planning condition, they maintain that the access width should be 5.5 metres to allow for two way movements, as the access is located on a high speed Class B Road. The submitted drawing HAS/20-054/04 Rev A demonstrates that the access width is 4.4 metres. It is therefore considered by the LHA that a safe and suitable access has not been demonstrated.

Whilst it is noted that planning conditions could be used to provide for acceptable visibility splays and to ensure that the gates open inwards only, given the fundamental objection to the access in relation to Policy IN5 and the highway safety concerns associated with right hand turning manoeuvres on a high speed Class B road, it is considered that any suggested amendment to the access width would not overcome the objection.

Paragraph 108 of the National Planning Policy Framework 2019, states that it should be ensured that a safe and suitable access to the site can be achieved for all users. In this case, the proposal is contrary to Section IN5 of the LHDG and the applicant has not demonstrated that the access is safe and suitable. The LHA advise that the residual cumulative impacts of the development are severe in accordance with the NPPF and advises refusal of this planning application.

On balance, the proposal is therefore considered to be unacceptable in relation to Policies IF4 and IF7 of the adopted Local Plan as well as the Leicestershire Highways Design Guide and paragraph 108 and 109 of the NPPF.

### **Conclusion**

The formation of a new vehicular access is considered to have an unacceptable impact upon highway safety and conflicts with the NPPF, Policies IF4 and IF7 of the North West Leicestershire Local Plan and the advice contained within the Leicestershire Highways Design Guide. It is therefore recommended that the application be refused.

### **RECOMMENDATION - REFUSE, due to the following reasons;**

- 1 The proposal could lead to an unacceptable increase in turning traffic using an access onto a busy, high-speed, Class B road where the turning manoeuvres could lead to dangers for highway users, which would not be in the interests of highway safety. The proposal therefore conflicts with the NPPF, Policies IF4 and IF7 of the North West Leicestershire Local Plan and the advice contained within the Leicestershire Highways Design Guide.
- 2 The proposal fails to achieve highway safety standards relating to access width. The applicant has failed to demonstrate that a safe and suitable vehicular access would be provided and the proposal, if permitted, could consequently result in a substandard access onto a Class B road, leading to dangers for highway users. The proposal therefore conflicts with Policies IF4 and IF7 of the North West Leicestershire Local Plan and the advice contained within the Leicestershire Highways Design Guide.