The Planning Inspectorate

Appeal Decision

Site visit made on 22 January 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2019

Appeal Ref: APP/B3438/W/18/3210513
Brook Works, Brook Street, Brown Lees, Biddulph ST8 6PF

- 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 Christopher Howle against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0766, dated 17 November 2017, was refused by notice dated 2 March 2018.
- The development proposed is outline planning application for residential development comprising of the erection of 10no. new build 4-bedroom dwellings (resubmission of planning application SMD/2016/0649).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access, layout and scale. Indicative plans have been submitted. These have formed part of my consideration of this appeal.

3. A signed and dated Unilateral Undertaking has been submitted by the appellant which the Council has commented on. I shall turn to this later in my decision.

4. The Council refused planning permission on the basis of plan Refs: 3735 02 15B, 3735 02 13A, 420 01/GA 01A and 3735-02-14. As part of the appeal the appellant submitted plan Ref: 420 01/GA 01B. This shows changes to the visibility splay from the proposed access onto Tower Hill Road. The revised plan was submitted to the Council on the morning of the Planning Applications Committee, but it did not form part of the Council's decision as there was no opportunity to re-consult interested parties who have raised concerns about the proposal's effect on highway safety, and the Highway Authority. The appeal process should not be used to evolve a scheme. While the appellant considers the amended plan accords with guidance and case law[1], and the Highway Authority have now commented on the plan, in the interests of fairness and natural justice, given the views of interested parties, I have considered the appeal based on the plans which formed the basis of the Council's decision.

Main Issues

5. I consider the main issues to be: (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National

[1] Wheatcroft Principles, Annex M, Procedural Guide, Planning appeals – England, 5 August 2016

Planning Policy Framework (the Framework) and any relevant development plan policies; (ii) the effect on the openness and the purposes of the Green Belt; (iii) the effect of the proposal on the character and appearance of the area; (iv) the effect of the proposal on highway safety; and (v) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The appeal site lies in the Green Belt and just beyond the development boundary of Biddulph. The site comprises of an irregular shaped area of land made up of a mixture of commercial buildings known as Brook Works with the balance of the site used for equestrian purposes. A three berth stable is in the centre of the site next to fields which extend to the north, east and west up to mature hedgerows. A gate separates the stables from the commercial buildings, and fencing distinguishes the boundary between the stables and the fields. Access into the site is from Brook Street.

7. There is no doubt that the part of the site with the single storey buildings and hardstanding is previously developed land in accordance with the Framework's definition set out in Annex 2. However, this area of land only forms part of the appeal site. The land beyond the fencing around the buildings and hardstanding does not contain any permanent structure or any fixed surface infrastructure. This land is also visually and physically separate, and hence is not in my view part of the curtilage of the developed land. But, even if it was, the Framework says that it should not be assumed that the whole of the curtilage should be developed. Also, the proposal does not accord with any of the other forms of development listed in Framework paragraph 146.

8. The proposal is, on the whole, inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Even with the Council accepting that the policies most important for determining the application are out-of-date due to their inability to demonstrate a five year supply of deliverable housing sites, the proposal would be contrary to Policy SS6c of the Core Strategy Development Plan Document (CS), to which I attach full weight due to its consistency with Framework paragraph 145 g) which the proposal is also contrary to. Substantial weight should be given to any harm to the Green Belt.

Openness and purposes

9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

10. The proposed dwellings would be a permanent addition to the land. Although six of the dwellings would be to the rear of properties on Brook Street, the scale of the proposed dwellings would far exceed that of any of the existing buildings. The proposed dwellings would also be spaced out across the site unlike the tight-knit layout of the existing buildings next to the entrance to the site from Brook Street. I note the appellant's quantitative assessment, but

even if I was minded to impose a planning condition limiting the combined gross floor space of the dwellings to 1,000m^2, the overall footprint of development on site would still considerably exceed the existing collective footprint of buildings and hardstanding on the site. Detailed evidence is before me around the scheme's effect on the landscape, but it is possible that a development may harm openness yet be acceptable visually. In this case the provision of landscaping would not change the appeal scheme's resultant loss of openness.

11. Turning to the Green Belt purposes. The proposed development would be within the mature hedgerows around the site's periphery, but the introduction of built form beyond the current limits of previously developed land would result in encroachment on land in the countryside, notwithstanding, the appellant's Landscape Visual Impact Assessment (LVIA) which says that the development's visual effect would be likely to be 'minor' or 'imperceptible'. I agree with the appellant about the proposal's effect the remaining purposes.

12. I conclude that there would be a loss of openness in the Green Belt and conflict would arise with one of the purposes of including land within the Green Belt. Thus, the proposal would not accord with Framework paragraphs 133 and 134.

Character and appearance

13. In landscape character terms, the site is on the outskirts of Brown Lees village and within the Local Landscape Character Type area of 'Ancient Slopes and Valley Farmlands'. Residential dwellings are to the south and east of the site. Open, undulating agricultural land is to the north and west. The site reflects the undulating ground levels in the area, and there is an irregular field pattern with hedgerow trees. Views from the site are mainly to the north and west. Views into the site are mainly from the road and the public footpath to the north.

14. I agree with the main parties that the proposed development would provide an opportunity to enhance the landscape in terms of enhanced planting and boundary treatments which may improve what would become the new edge of the settlement. The proposed dwellings would be set back from Tower Hill Road and largely occupy greenfield land. The proposed access would extend through the centre of land not included as part of the site. To facilitate the proposed access, a section of hedgerow would be removed. Hedgerows are part of the landscape's character. Although new planting would form part of any reserved matters application, the proposal would, in this regard, create a break in the visual transition between the urban and semi-rural environments. Thus, views from Tower Hill Road would stretch into the land behind, highlighting the new dwellings and the new access arrangement.

15. Views of the proposed development would mainly be of the rear gardens and the upper rear elevations of the dwellings due to the proposed layout which, on balance, has been designed to form a respect the site's surroundings. Further landscaping could be planted between the dwellings and on the boundaries. Despite this, I agree with the LVIA that the appeal scheme would result in a 'moderate' change of view from nearby residential properties, surrounding footpaths and the immediate surrounding roads especially in the early stages of the development. The development, with extra landscaping, would assimilate into the Landscape Character Type from long-range views. However, even accounting for the maturation of planting, the final details of which would be for a reserved matters application, the LVIA accepts that the visual effects of

the proposal would likely to be 'minor' / 'moderate'.

16. As such, the proposal would not protect and, where possible, enhance local landscape and the setting of settlements in the Staffordshire Moorlands. The proposal would cause harm as it would be detrimental to the character of the local landscape. I conclude, on this issue, that the proposal would not accord with CS Policies DC1 and DC3. While the Council accept that their policies are out-of-date[2], Policy DC1 carries full weight due to its consistency with the Framework, while Policy DC3 carries limited weight as it is not entirely consistent with the Framework.

17. The Council cite CS Policy H1 in the Planning Applications Committee report, but I do not have enough substantive evidence before me on this matter.

Highway safety

18. The proposed development included a visibility splay to the north of the proposed junction of 2.4 metres by 46 metres. As these were not within the site edged red, an amended location plan (plan Ref: 3735-02-15B) was submitted to the Council and notice served on the Highway Authority. Despite the appellant's efforts, part of the proposed visibility splay remains outside of the site edged red, and on third-party land. I acknowledge that this may be as a result of data used to form the plans, but the proposal would not provide for safe and satisfactory access as sought by CS Policy DC1. Sensible concerns are also expressed by the Council about the future maintenance of the hedgerow along the road, especially on land beyond the appellant's control.

19. I note the suggested visibility splay requirements based on the recorded 85th percentile approach speeds, but even if these are correct, there is no plan before me showing how these would be implemented so a safe and satisfactory access to the site could be achieved. Nor have I taken into account the amended plan for the reasons set out earlier in this decision. However, the appellant could submit a fresh planning application to the Council in the first instance with a view to demonstrating a safe and satisfactory access.

20. I conclude, on this issue, that the proposal would have a significant effect of on highway safety which would be contrary to CS Policy DC1, to which I attach full weight, which seeks development to provide for safe and satisfactory access.

Other considerations

21. Several considerations are advanced by the appellant. Removing unrestricted commercial buildings within Use Class B2 may provide betterment to residents living conditions, in terms of noise reduction and outlook. However, as there is no substantive evidence to say that the existing relationship has caused issue in the past or that it currently does, this matter carries limited weight.

22. The Council accept that they cannot currently demonstrate a five year supply of deliverable housing sites as required by Framework paragraph 73. Outline planning permission has previously been granted for four houses on the site, based on the very special circumstances presented in that case. This planning permission[3] has lapsed and as a renewal application was never determined[4] little weight can be attributed to this scheme. The proposal before me must be

[2] Framework paragraph 11 d), footnote 7
[3] Council Ref: SMD/2008/0108
[4] Council Ref: SMD/2011/0565

considered on its own merits, especially as the quantum of dwellings proposed is different. Ten new houses would contribute towards the supply of houses in the area, and result in benefits to the local economy through additional retail and leisure spending. The proposed development also has the potential to be built out relatively quickly and to make an important contribution towards housing provision in the area. These factors carry moderate weight.

23. Due to the harm that I have found in respect of highway safety, I do not attach positive weight to the proposed access arrangements. The removal of existing buildings on the site would result in a visual improvement to the surrounding area. However, this is tempered by the proposal's harmful effect on the landscape, which would offset any benefit to be gained.

Other matter

24. A financial contribution towards a single high school place has been identified by Education Authority, even though the Council did not refuse planning permission based on the lack of such a contribution. Although a Unilateral Undertaking has been provided to this effect, as the appeal is to be dismissed on other substantive issues, it is not necessary to look at it in detail, given that the proposal is unacceptable for other reasons.

Conclusion

25. The appeal scheme would be inappropriate development in the Green Belt, result in a loss of openness and conflict with one of the purposes of including land within the Green Belt. By definition these are harmful and I attach them substantial weight as required by Framework paragraph 144. As a result, there is a clear conflict with the environmental role of sustainable development.

26. Harm would also be caused to the character and appearance of the area, and highway safety. I have considered matters put before me in favour of the scheme by the appellant, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Hence, the very special circumstances necessary to justify the development do not exist, and the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed[5].

27. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

[5] Framework paragraph 11 d), footnote 6