The Planning Inspectorate

Appeal Decision

Site visit made on 11 June 2019

by Richard Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2019

Appeal Ref: APP/B3438/W/19/3219872
Highfield, Leek ST13 8SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr D Allen against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0635, dated 21 September 2017, was refused by notice dated 6 July 2018.
- The development proposed is described as *'Outline Planning Permission with all Matters Reserved (Except Access) for the erection of dwellings'*.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters, except for access, reserved for later determination. I have dealt with the appeal on this basis, treating the proposed Housing Layout Plan as being submitted for illustrative purposes only.

Main Issues

3. I consider the main issues to be:

    - the effect of the proposed development on the character and appearance of the area, including its effect on protected trees; and
    - whether, having regard to the planning balance and to the provisions of paragraph 11 of the National Planning Policy Framework, if there is not a 5-year supply of housing land, should the proposal trigger a presumption in favour of this development or do any of the listed exceptions to that presumption apply here?

Policy Context

4. Statute requires that the appeal be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan includes the saved Proposals Map and Settlement Boundaries of the Staffordshire Moorlands Local Plan (adopted in 1998) (the LP) and the Staffordshire Moorlands Core Strategy (adopted in 2014) (the CS). The development boundaries within the LP are still in force

until such time as they are reviewed and adopted through the emerging Staffordshire Moorlands Local Plan (eLP).

5. The National Planning Policy Framework (2019) (the Framework); national Planning Practice Guidance (PPG); and the eLP are also material considerations.

Reasons

Character and Appearance

6. The site is located outside the settlement boundary of Leek as defined within the LP, and it is therefore within the area defined as open countryside. Settlement boundaries will be reviewed through the production of the eLP, but until then the spatial extent of settlement boundaries are those defined in the LP. Whilst the settlement boundaries may be subject to further change to reflect the future needs of settlements within the Council area, they nonetheless remain the starting point for decision making.

7. Policy SS6c of the CS relates to sites outside settlement boundaries and 'Other Rural Areas', and states that within such areas development will only be supported where it meets an essential local need, supports the rural diversification and sustainability of the rural area, promotes sustainable tourism or enhances the countryside. As such, only development which is essential to local needs and the rural economy is permitted under this policy. The proposed development does not satisfy any of the criterion in Policy SS6c and, therefore, conflicts with this policy. These provisions are in accordance with the National Planning Policy Framework (the Framework) in terms of recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it. The appeal proposal does not meet any of the limited exceptions to these policy provisions.

8. The illustrative layout for the appeal proposal shows the provision of 8 No dwellings with access gained via the existing private road and out onto Macclesfield Road through the creation of a new access road. Whilst detailed design and layout considerations are reserved for consideration at a later stage, it is nevertheless appropriate to consider the principle of the development in terms of its visual impacts on the character and appearance of the area, including the effectiveness of any suggested mitigation measures, at this stage.

9. Paragraph 127 of the Framework provides, amongst other things, that planning decisions should ensure that developments are: *'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'*. Paragraph 170 of the Framework provides amongst other things that planning decisions should contribute to and enhance the natural and local environment by: *'a) protecting and enhancing valued landscapes, … (in a manner commensurate with their statutory status or identified quality in the development plan)' and 'b) recognising the intrinsic character and beauty of the countryside…including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'*.

10. The appeal site, which is located approximately 120 metres from the settlement boundary of Leek, is a relatively flat parcel of land which is occupied

by a detached dwelling house in the south western portion of the site with the remainder being used for grazing. The site is relatively enclosed by an avenue of large mature trees that lie along both sides of the access road that serves 'Highfield', Leek cricket ground and other dwellings. A private road which serves Home Farm and several residential properties to the north-east borders the site to the north, separating the site from the open agricultural fields beyond.

11. Views of the appeal site and cricket ground are limited when approaching the Highfield access from the town due to the substantial hedgerows and dense trees that form the western boundary of the cricket ground. However, there are views of the site when approaching in a southerly direction along Macclesfield Road towards the town, and these views would be more prominent during the winter months when the trees along the northern boundary would not be in leaf. In this regard the Appellant has submitted a 'Visual Impact Assessment' consisting of a plan[1] showing a Longitudinal Section of the proposed development from the north.

12. I noted on my site visit that upon leaving the town, the character and appearance of Macclesfield Road changed dramatically from being urban in nature to a verdant and rural landscape characterised by farmland and tree lined hedgerows. Although the site is only separated from the edge of the town by the adjoining cricket ground, the character of the area is distinctly rural and the open fields on the edge of the settlement make a significant contribution to the rural setting of the town and form a distinctive edge to this part of Leek.

13. The Appellant has highlighted that the eLP proposes a housing allocation (LE102) which would extend the level of built development from Bridge End to the Cricket Club perimeter, and there is an extant consent to build 11 units on the site of the former Reservoir, which would also extend built development towards the appeal site. However, I saw that the reservoir site is previously developed and is located within the settlement boundary of Leek and is not, therefore, comparable to the appeal site. And whilst I have acknowledged the intention of the Council to allocate land on the western edge of the town, this site would lie immediately adjacent to the built-up form of the settlement rather than being detached from it as is the case with the appeal site. In addition, whilst the eLP is a material consideration it has not yet been adopted and should, therefore, be afforded little weight in the determination of this appeal.

14. Although the appeal site does not appear to be currently in intensive use for the purposes of agriculture, it identifies closely with the agricultural land and natural landscape quality of the open countryside beyond its boundaries. I note the Appellant's contention that the site is only separated from the settlement boundary by the adjoining cricket ground. However, rather than separating the site from the countryside beyond, I consider that the gap maintained between the built form and the appeal site and open countryside beyond, represents an important visual transition from built-up to rural character and that the appeal site is a fundamental landscape feature in such a setting.

[1] Drawing No. 2016-2149-07 dated April 2018

15. The appeal site has a greater affinity with a field on the outer fringe of the settlement than the built form of the town. This is because it has a rural and verdant setting which is set apart from the built-up edge of the settlement, and the development of the site would be seen as an obvious encroachment in this context, and not viewed as a logical extension. Despite the site's relatively small size and its partial containment by mature trees, it contributes to the form and character of the surrounding landscape.

16. I acknowledge that the site sits within a small cluster of dwellings and that planning permission for new housing has been permitted within the immediate locality to the side of The Coach House and within the former walled garden of Highfield House. Nevertheless, this scheme would be visually divorced from the settlement edge and would represent a piecemeal intrusion into the rural landscape to the west of the town. Whilst the landscape of the appeal site is not of significance in its own right, the local landscape character would be irreversibly harmed by the urbanising effect of this development.

17. It therefore follows that the proposed development would represent an uncharacteristic and detached form of development which would be harmful to the character and appearance of the area, thus conflicting with Policies DC1, DC3 and R1 of the CS, and the provisions of the Framework.

Trees

18. Turning now to the impact on trees, access to the development from Macclesfield Road would necessitate a new opening with associated visibility splays to the south of the existing substandard private road. The newly formed access would lead to a short length of road to be located at the bottom of the cricket ground which would re-join the private access drive via a new opening. The access into the appeal site would then be formed by another new opening along the northern side of the private access drive. This would necessitate felling a number of trees in three locations which are protected as Groups and Woodlands under a Tree Preservation Order reflecting their significant contribution to the character and landscape structure of the historic former Highfield Hall estate.

19. I acknowledge that both the Appellant's Arboricultural Report[2] and the Council's own Trees and Woodlands Officer confirm that the location of the access points have been sensitively positioned to ensure the least amount of disturbance and impact on the most important trees, and that the majority of the trees to be lost would be of lower grade. I have also noted that the Appellant's Heritage Impact Assessment (HIA)[3] which states that whilst the trees along the Macclesfield Road frontage have been recently protected, they are not historic and were planted as part of highway improvement works.

20. Nevertheless, the trees to be felled along Macclesfield Road are part of a dominant feature in the street scene and clearly provide a great deal of pleasure for those travelling in and out of Leek in terms of their contribution towards the mature belt of trees along the roadside frontage. I agree with the Council that they also form a backdrop to the cricket field and provide an enhancement to visual amenity for the users of that facility.

[2] Arboricultural Report prepared by Tree Heritage Ltd, dated 2 May 2017
[3] Heritage Impact Assessment prepared by Mel Morris Conservation, dated 17 May 2018

21. The two new openings onto the private access drive would result in the removal of individual specimens that form part of an uninterrupted avenue of trees located either side of the road. Although the Appellant states that these would comprise of lower quality trees, I am of the opinion, that their loss would have a harmful impact on this attractive avenue. Indeed, the HIA acknowledges that the proposal '*would break up the formality of the drive, its planting and its current planting character'*; and that *'enhancement in the form of re-planted shrubberies and maintenance of a grass verge, carried out by professional landscape gardeners or landscape architects who understand the planting structure and design intent, will also off-set some of the harm'*.

22. Whilst there may be material public benefits in terms of providing a safer access to the existing houses and cricket club, I do not consider this carries sufficient weight to overcome the harm that I have identified. The trees to be felled make a significant contribution to the local tree population and to the character of the local landscape. Their removal would have an adverse impact on local amenity and on the character and appearance of the area contrary to CS Policy DC1 and Policy 2.2.6 of the Council's adopted Tree Strategy.

Housing Land Supply

23. National policy at paragraph 73 of the Framework provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement, or against their local housing need where the strategic policies are more than five years old.

24. The Council does not dispute the fact that it cannot demonstrate a 5-year supply of housing, but it does not provide any further evidence in this regard. However, the Appellant has referred me to the Staffordshire Moorlands Housing Land Supply Statement (March 2018) which sets out the Local Authority's performance in respect of housing land supply and housing delivery. The Appellant states that this document confirms that the Local Authority has a deliverable supply of housing land equivalent to 1.8 years.

Other Matters

25. I have taken into account all other matters raised in representations. In particular, the neighbouring settlement of Leek is a short walkable distance from the appeal site and has a wide range of shops and facilities that would be readily available for future occupants of the development to access by sustainable transport modes, including walking and cycling. The proposed development would therefore be in a suitable location for future occupiers to access everyday services and facilities by means other than the private car. This factor weighs in support of the proposal and will be considered in the planning balance.

26. The application site lies adjacent to the formal drive to the Highfield Estate which is a non-designated heritage asset. Although the Hall has been demolished, I saw that several characteristics of it remain, including the wrought iron, hooped roadside railings, the historic entrance lodge, gates and railings, and the tree-lined avenue. Paragraph 197 of the Framework states that *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage*

assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

27. The Councils Conservation officer reviewed the Appellant's HIA and concurred with its conclusions. The Council recognised that the estate has undergone a large number of changes and alterations and it is not regarded as a pristine historic landscape, primarily as a result of residential development on the site of the hall and ancillary access drives. The HIA acknowledges that there will be some harm to the historic parkland with the loss of some trees and impact on formality, but the effects will be limited and the scale of harm low, affecting a heritage asset of moderate to low significance. The HIA concluded that any harm to the non-designated heritage asset could be offset by appropriate mitigation to positively enhance the landscape and the setting of the asset through careful landscape design and a landscape management plan to address the long term treatment of the historic planting. The Council does not dispute these findings and considers the development to accord with Policy DC2 of the CS.

28. There would clearly be some harm caused by the development, and specifically to the historic driveway and the setting of the historic gates by the introduction of the new access road bypassing the historic gateway. Harm would also occur from the opening of access points on the driveway itself. Notwithstanding the overall conclusions of the Council, the slight residual harm to the non-designated asset would fall to be included in the planning balance.

Planning Balance and Conclusions

29. I conclude above that the proposal would contravene the development plan policy for the control of development in the countryside outside development boundaries. There would also be conflict with policies to protect the character and appearance of the area, including protected trees.

30. Due to the lack of a deliverable 5-year housing supply the application of paragraph 11 of the Framework is triggered, notwithstanding the progress towards delivering additional housing sites through the eLP. Paragraph 11 provides in these circumstances that planning permission should be granted unless:

    i) 'The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or

    ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

31. In relation to i) there would not be any significant effect on a statutorily designated asset, and I have concluded that there would be only slight harm caused to a non-designated heritage asset. This harm falls to be weighed against the public benefits of the development.

32. The proposal would deliver new dwellings in an accessible location that could be available for occupation within the next five years. It would therefore make an important contribution to addressing the Council's housing shortfall, which on any basis is substantial. Furthermore, as the detailed layout of the development is subject to future consideration it could also contribute a mix of

affordable housing that would meet the housing needs of the area. The proposal would also have a range of economic benefits. It would, for example, provide new jobs during the construction period and thereafter. There would be a contribution to economic growth and the generation of household expenditure would help support the local economy and provide local jobs.

33. The slight harm to the non-designated heritage asset of the Highfield Estate would not outweigh the public benefits. Thus, this effect would not on its own provide a clear reason for refusing the development or overcome the paragraph 11 presumption in favour of sustainable development. However, the harm to the character and appearance of the area also falls to be weighed with the benefits in the application of sub-paragraph ii) above.

34. The main identified harm is to the character and appearance of the area as the development would be visually divorced from the settlement edge and represent a piecemeal intrusion into the rural landscape. The development would also necessitate the felling of protected trees that make a significant contribution to the local tree population and to the character of the local landscape, and their removal would have an adverse impact on local amenity. This includes the associated conflict with relevant development plan policies in that regard which are important to the determination of the appeal and which are not materially inconsistent with national policy. Neither, having regard to Framework paragraph 127, would the development be sympathetic to its landscape setting.

35. Notwithstanding the benefits that would flow from the proposed development there would also be substantial harm. In this case the conflict with the development plan and the harm that would ensue to the character and appearance of the area, including protected trees, is of compelling importance and outweighs the advantages of the scheme. In the terms of paragraph 11(d)(ii) of the Framework the significant adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

36. I have considered all other matters raised but have found nothing to change my conclusion that this would not be a suitable form of development and that the appeal should be dismissed.

Richard Duggan

INSPECTOR