The Planning Inspectorate

Appeal Decision

Site visit made on 12 November 2019

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/B3438/W/19/3222819
Land to the south of Thorncliffe Road, Leek ST13 6NH

- 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 Land Designation Ltd against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0434, dated 26 June 2017, was refused by notice dated 22 November 2018.
- The development proposal is for residential development, including access.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access was the only detailed matter fixed for determination as part of the appeal. I have dealt with the appeal on this basis. An indicative proposed site layout was submitted with the application and appeal[1]. I have taken this plan into account in so far as it identifies the broad extent of residential development and open space proposed on the site and informs the assessment of the visual and landscape impacts of the proposal.

3. A unilateral undertaking under S106 of the Town and Country Planning Act 1990 was submitted by the appellant. The undertaking comprises planning obligations to secure 33% affordable housing and contributions towards education and open space facilities. The undertaking was signed as a deed by the landowners and constitutes a material consideration, which I have taken into account in reaching my decision. I set out below the extent to which its provisions meet the tests in paragraph 56 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and the weight I have attached to them in reaching my decision.

Main Issues

4. It is common ground that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites in the district against the housing requirement for Staffordshire Moorlands, as expected by paragraph 73 of the Framework. In such circumstances, footnote 7 of the Framework establishes that the policies of

[1] Plan reference CAL030517 02PA Rev A

the development plan which are most important for determining the application are out-of-date. As such paragraph 11d) of the Framework applies in this case.

5. In view of this, and having regard to the Council's reasons for refusal and everything I have read and seen, the main issues in this appeal are whether the policies of the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, with particular regard to:

   - The effects of the proposed development on the character and appearance of the appeal site and the surrounding landscape, including the setting of the Peak District National Park (PDNP);
   - The benefits the proposed development may bring, including the provision of market and affordable housing and other economic, social and environmental contributions.

Reasons

Landscape, Character and Appearance

6. The appeal site comprises three fields of open pasture land, located to the east of Leek. It fronts Thorncliffe Road to the north and Stile House Lane to the east, with public footpath 21 running along part of its south-eastern boundary. The access to Roche View livery and equestrian centre abuts the western boundary of the site. The fields are subdivided by hedgerows and bounded on three sides by mature hedges. However, the site is visible from the footpath and surrounding roads through numerous gaps in the boundary hedgerows.

7. Although the site is close to the eastern edge of Leek, it is clearly separate from the urban area. It sits outside of the development boundary for Leek as defined in the saved Proposals Map for the Staffordshire Moorlands Core Strategy (2014) (the CS) and in the submission version of the emerging Staffordshire Moorlands Local Plan (2018) (the LP). There is a well-defined ridge line to the west of the site marked by a line of trees and woodland, which provides a strong visual and physical separation between Leek and the rural landscape to the east of the town. The site is located in the open countryside beyond this ridge line, which forms part of the Churnet Valley landscape surrounding the town. More specifically it lies within the Ancient Slopes and Valley Farmlands (ASVF) landscape character type. The Churnet Valley Landscape Character Assessment (LCA) defines the key characteristics of the ASVF as its undulating and sloping landscape, small scale fields bounded by trees and hedgerows, intimate wooded valleys, extensive views from higher ground, isolated properties and scattered settlements. It also identifies the expansion of Leek into this landscape as a threat to its character.

8. The character and appearance of the appeal site as described above contributes to the ASVF landscape character. The gradient of the site falls gently from west to east forming part of the western side of a valley created by a tributary of the River Churnet. To the east and south-east of the site, the land rises steeply to meet the boundary of the Peak District National Park (PDNP) at Morridge, a prominent ridge line and feature of the PDNP which lies around 2.2 kilometres (km) from the appeal site. From here and viewpoints along the roads leading down from Morridge, the appeal site is clearly seen at the foot of the hillside on the upper slope of the valley that it sits within, against the backdrop of trees along the ridge line above Leek. The photographic evidence in the landscape and

visual impact assessments (LVIAs) submitted by the main parties and my own observations on site confirm this.

9. The appeal site and the surrounding open landscape that it sits within are strongly rural in character rather than semi-rural or settlement edge. Nearby buildings including Leek Edge caravan park, Roche View equestrian centre, Dee Bank Farm and the dwellings along Stile House Lane are isolated and scattered, typical of the ASVF landscape character type. In contrast, the appeal proposal would introduce a residential development, comprising 154 dwellings with access roads and parking areas. It would urbanise the site, fundamentally changing its character and appearance from pastoral fields to a suburban housing estate, and would be totally at odds with the dispersed settlement pattern of the surrounding ASVF landscape. It would breach the ridge line and lead to the expansion of urban Leek into the open countryside. It would have little or no relationship with housing to the west along Buxton Road and Mount Road, which remains below the ridge and tree line and is largely unseen from the east.

10. I have considered the appellant's LVIA evidence. I concur with the conclusions that the proposal would have a moderate or major effect on the landscape character along Thorncliffe Road and moderate or major visual impacts from a number of surrounding viewpoints. However, the finding in the LVIA that a development of 154 dwellings would have a negligible magnitude of effect and significance of effect on the overall ASVF landscape character area, significantly downplays the impact the proposal would have on an open valley landscape which has a high sensitivity to change and where contemporary urban development is currently absent. According to the LVIA criteria a negligible magnitude of effect approximates to a 'no change' situation, where the proposal is not uncharacteristic within the landscape; and a negligible significance of effect occurs where the proposed scheme is appropriate to its context and may be difficult to differentiate from the surrounding landscape character. However, based on the extent of the proposed development, the viewpoints analysis and my observations on site, I do not consider this would be the case.

11. The proposed development would be highly visible from a range of viewpoints on the rising hillside and along the road at Morridge to the east of the appeal site[2], from where it would be seen in the context of the wider valley landscape. Rather than dissipating within the landscape, the introduction of such an uncharacteristic form of urban development projecting into the open sweep of the ASVF landscape from the ridge line above Leek, would have at least a medium, if not a high, magnitude of effect based on the LVIA assessment criteria. Namely it would result in an alteration to the features of the baseline landscape character type and be totally uncharacteristic within the receiving landscape. Within a landscape of high sensitivity to change this would result in a moderate to major significance of effect on the landscape. It would certainly cause a noticeable difference to the landscape and would be likely to completely change the character of the wider landscape for a long period of time, defined in the LVIA as more than 5 years. Landscaping within and on the boundaries of the site would do little to mitigate these effects. The submitted photo montage illustrations suggest that even 15 years after the completion of the proposed development, the dwellings would remain visible and appear as a dense urban intrusion into the surrounding open rural landscape.

[2] For example Viewpoint 4 in the appellant's LVIA by AAH, viewpoints 5 and 6 in the appellant's Hughes Visual Effect Viewpoint Photographs, and Panoramas 6b, 7 and 8 in the Council's Landscape Statement by Stuart Ryder

12. Policy DC3 of the Staffordshire Moorlands Core Strategy (2014) (the CS) resists development which would harm the character of the local and wider landscape or the setting of a settlement as defined in the LCA. Whilst Policy SS5a of the CS supports housing allocations on land adjacent to the urban area of Leek, this is only where they relate well to the urban area and can be assimilated into the landscape. The proposed allocations in the emerging LP off Mount Road to the west of the appeal site would be contained by the tree line and surrounding buildings west of Roche View. But the appeal proposal would relate poorly to Leek, protruding unnaturally beyond the tree line into the valley landscape. It would fail to assimilate into the open landscape to the east of Leek and would cause significant harm to the character and appearance of the site and the wider landscape. It would therefore be contrary to Policies DC3 and SS5a of the CS in these respects. Paragraph 170 of the Framework expects development to recognise the intrinsic character and beauty of the countryside. Given the harm the proposal would cause to the landscape of the ASVF area, it would fail to do this and thereby conflict with national policy to conserve and enhance the natural environment.

13. With regard to the impact of the proposed development on the landscape of the PDNP, it is common ground that the ASVF character type area also forms part of the landscape setting of the PDNP. The open, sweeping, rural landscape of the valley and hillside east and north of Leek and the absence of urban development within it help to conserve the scenic beauty of the PDNP in views from the edge of Leek north and east and panoramic views from the western boundary of the PDNP. This is clearly illustrated in the viewpoint analysis of the main parties.

14. Paragraph 172 of the Framework establishes that great weight should be given to conserving and enhancing landscape and scenic beauty in the National Parks (NPs). The Planning Practice Guidance[3] (PPG) confirms that land within the setting of NPs often makes an important contribution to maintaining their natural beauty. Policy DC3 in the CS supports this principle, ensuring that development does not adversely affect the wider setting of the PDNP.

15. The PDNP Authority has objected to the proposal on the grounds that the development would appear prominent in the landscape and harm the flow of the landscape into and out of the PDNP. It argues that the proposal would erode the settlement edge to Leek and the important contribution the existing landscape makes to the setting of the NP, thereby causing harm to the special landscape qualities of the PDNP. The Courts[4] have held that decision makers should give great or considerable weight to the views of statutory consultees. In this case the views of the PDNP Authority are consistent with my own analysis of the landscape impacts of the appeal proposal.

16. Although located over 2 km from the edge of the PDNP, it is clear from the evidence that the appeal site contributes to its setting. The photograph at viewpoint 3 in the appellant's LVIA, taken from public footpath 21 as it leaves Mount Road and enters the ASVF landscape area, illustrates the relationship of the appeal site to the PDNP in views northwards with the iconic topographical features of Ramshaw Rocks, Hen Cloud and The Roaches in the background. A similar view and relationship is shown in the photograph at viewpoint 8 taken from footpath 41 south east of the site. Likewise viewpoint 1 across the appeal site from its western boundary contains the PDNP at Morridge in its background.

[3] PPG Paragraph: 042 Reference ID: 8-042-20190721
[4] Shadwell Estates Ltd v Breckland District Council v Pigeon (Thetford) Ltd [2013] EWHC 12 (Admin)

17. The PPG advises that poorly located development within the setting of a NP can do significant harm, especially where long views to or from the designated landscape are identified as important or where the landscape character of land within and adjoining the designated area is complementary. The proposed development would create an unsympathetic, strongly urbanising presence within the views and setting identified above. As a result it would cause harm to the setting of the PDNP and fail to conserve its landscape and scenic beauty, contrary to Policy DC3 of the CS and paragraph 172 of the Framework.

Benefits

18. The Council's latest published Annual Monitoring Report[5] confirms that it can only demonstrate 1.7 years supply of deliverable housing sites, leaving a shortfall of around 2,500 dwellings against the 5 year housing requirement for the district. Progress is being made in bringing forward the new LP with a range of housing land allocations which, once the plan is adopted, would be likely to provide for a 5 year supply. However, further hearings are proposed as part of the examination of the emerging LP, to discuss, amongst other matters, the updated housing trajectory. At this stage therefore, the date for adoption of the new LP and how quickly the shortfall in housing supply can be addressed remain uncertain based on the evidence before me in this case.

19. Although the application is in outline, it is estimated the proposed development would provide 154 dwellings, of which 51 or 33% would be affordable housing. This would meet around 6% of the shortfall and thereby make an important contribution to the current housing land supply. Notwithstanding the Council's concerns about the drafting of the affordable housing clauses in the S106 undertaking, I am satisfied it would ensure the timely delivery of affordable housing in line with the policy expectations of the CS and the provisions of the Framework. Accordingly, the proposal would help to boost the supply of both market and affordable homes in Staffordshire Moorlands in line with paragraph 59 of the Framework. This constitutes an important social benefit to be weighed in the planning balance.

20. The appellant estimates the proposal would also generate 477 jobs, £4 million of expenditure from new residents of the development into the local economy, £174,000 a year of additional Council Tax revenue and £71,400 of New Homes Bonus. The relative impact of these figures in relation to the scale of the economic and employment need in Leek is unclear. But on face value they would offer at least a modest boost to the local economy, particularly in the construction phase of the development.

21. The proposal would provide financial contributions towards education and open space infrastructure delivered through the S106 undertaking. I am satisfied these would meet the expectations of Policies C1 and C2 of the CS and accord with Regulation 122 of the CIL Regulations 2010. However, their purpose is to mitigate the impact of the development on education and open space infrastructure and therefore their overall effect would be neutral.

22. With regard to environmental benefits, the proposed development may offer some opportunities to enhance the ecological value of the site for wildlife through additional planting and natural drainage. However, any benefits to biodiversity would be relatively small scale within a managed residential

[5] Annual Monitoring Report 2017-2018

environment. Given my finding of harm to the surrounding landscape, there would be no net landscape gains. The suggested benefits in respect of the site's flood zone location and drainage measures, it's accessibility to local services and by public transport and its contribution towards carbon savings would in this case avoid, mitigate or reduce the environmental impacts of the proposed development. At best, therefore, the proposal would have a neutral effect on these aspects of the environment, rather than a beneficial one.

Other Matters

23. The effects of the proposed development on the operation and safety of the highway network and on air quality and noise pollution could be mitigated through the use of appropriately worded conditions. Therefore, they do not add weight against the proposal.

Planning Balance

24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, because the Council is unable to demonstrate a 5 year supply of deliverable housing sites at present, paragraph 11(d) of the Framework applies as an important material consideration. This means granting permission for the proposal unless:

    i. the application of policies in the Framework that protect areas or assets of particular importance provide 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 of the Framework taken as a whole.

25. Policies in the Framework which protect National Parks are relevant under paragraph 11(d)(i)[6]. The PPG confirms that land within the setting of a NP can contribute to maintaining its natural beauty and I have concluded above that the appeal proposal would cause harm by failing to conserve the landscape and scenic beauty of the PDNP. However, whereas paragraph 172 of the Framework provides a clear basis for the circumstances in which major development within NPs should be refused, the same limitations do not apply to development outside of NPs. In this case, therefore, the harm to the landscape and scenic beauty of the PDNP should be weighed in the planning balance under paragraph 11(d)ii of the Framework, taking account of the expectation in paragraph 172 that great weight is to be given to conserving its landscape and scenic beauty.

26. I have found that the proposed development would cause significant harm to the character and appearance of the site and the wider landscape and as such that it would fail to recognise the intrinsic character and beauty of the countryside contrary to Paragraph 170 of the Framework. Given the extent of harm I have identified, I attach significant weight to this as an adverse impact of the proposal. I have also concluded that it would cause harm to the setting of the PDNP and thereby fail to conserve its landscape and scenic beauty, to which paragraph 172 of the Framework attaches great weight.

[6] By virtue of footnote 6 to the NPPF

27. In terms of its landscape impact, I have concluded that the proposed development would be contrary to Policies DC3 and SS5a of the CS. Although these policies are deemed to be out of date due to the lack of a 5 year housing land supply, the Courts are clear that they should not be disregarded as a result. Policy DC3 is consistent with paragraphs 170 and 172 of the Framework in recognising the intrinsic character and beauty of the countryside and seeking to conserve the landscape of the PDNP. In these respects, I attach significant weight to the proposal's conflict with Policy DC3.

28. The weight to be given to Policy SS5a in constraining the location of the appeal proposal on the edge of Leek must be reduced in circumstances where there is a significant shortfall in housing land supply in the district. Nevertheless, the policy is consistent with paragraph 170 of the Framework in recognising the character of the countryside. Therefore, at least moderate weight should be afforded to the conflict with Policy SS5a given that the proposed development would fail to be assimilated into the landscape and its poor relationship with Leek.

29. I attach significant weight to the benefit of the proposed development in delivering market and affordable housing, given the scale of the shortfall in the current 5 year supply of deliverable housing sites and the need for affordable housing in the district. The modest effect of the scheme's economic benefits would attract moderate weight. Likewise, I give a small amount of weight the benefit of the scheme's biodiversity enhancements.

30. I acknowledge that the proposed development would comply with the Framework and development plan policies in a number of respects. These include increasing the supply of market and affordable housing, enhancing biodiversity, providing for infrastructure, managing highway safety, flood risk, air quality and noise. However, other than in respect of the identified benefits of the scheme, to which I have attached due weight, the proposal's compliance with other aspects of national and local policy would serve only to mitigate harm, which attracts neutral weight in the planning balance.

31. On balance, although the site is located close to the edge of Leek, I conclude that the adverse impacts the proposed development would have on the intrinsic character and beauty of the surrounding countryside and on the landscape and scenic beauty of the PDNP would significantly and demonstrably outweigh its housing, economic and biodiversity benefits when assessed against the policies of the Framework taken as a whole. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development under paragraph 11(d) of the Framework. It also conflicts with the development plan when considered as a whole. There are no other material considerations that suggest the decision should be taken otherwise than in accordance with the development plan.

Conclusion

32. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR