The Planning Inspectorate

Appeal Decision

Site visit made on 4 February 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2020

Appeal Ref: APP/B3438/W/19/3240834
Old Whiston Copperworks Site, Whiston, Stoke-on-Trent ST10 2HZ

- 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 HLW Developments against the decision of Staffordshire Moorlands District Council.
- The application Ref: SMD/2019/0257, dated 18 April 2019, was refused by notice dated 19 September 2019.
- The development proposed is described as "Phase 2 Residential Development for 9No. Dwellings on the former Copperworks, Whiston".

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's reasons for refusal refer to Policies TR1 and S7. Both main parties' appeal statements refer to these, respectively, as Policies T1 and SS7 of the Staffordshire Moorlands District Council, Core Strategy Development Plan Document (2014) (CS). Accordingly, I have considered the appeal on this basis.

Main Issues

3. The main issues are whether the proposal would (i) be in a suitable location for housing with regard to the accessibility to services; (ii) the effect on highway safety by way of the proposed access arrangements; (iii) the effect on the character and appearance of the area; (iv) whether it would preserve the setting of listed buildings, Moorland Cottages and Locker Farm; and (v) biodiversity considerations.

Reasons

Accessibility to Services

4. The appeal site comprises an area of unused land which lies adjacent to the A52. It contains mainly unmanaged vegetation and at the rear of the site is a steep embankment, beyond which is housing. The site is undefined from a similar area of land to the west, up to a short row of terraced properties. There is an area of woodland to the east which contains a Public Right of Way (PROW), and then a single residential property. Pastoral land lies on the opposite side of the road to the site.

5. Whiston is a modest sized settlement that lies in countryside surroundings. It contains few local services and, based on the evidence before me, does not have what can be said to be a regular bus service. Nor is there a continual footway along the A52 to connect the site to what limited services there are, and road conditions are unfavourable to permit walking alongside the carriageways. The same applies as regards the use of the PROW with the gradient and as it results in a somewhat circuitous route into much of the village.

6. The occupants of the proposed dwellings would have to travel to places with a greater range of facilities, in order to carry out even their basic day to day needs. A number of the services in the village provide a particular function and would not fulfil such needs. With the somewhat isolated location of the settlement, there would be a reliance on the private car as the primary means of transport.

7. With the location of the site in relation to the settlements where there are a broader range of services such as Froghall, Ipstones and Cheadle, there would be a likely limited use of walking and cycling with the distances involved. As regards the Manual for Streets (MfS) threshold for cycling distance that I have been referred to, this does not account for the suitability of road conditions, inclement weather and daylight levels, and so it has a limited bearing on my decision. The proposed services and employment in the area at an approved leisure development that I have been referred to would not provide an equivalent level of services compared to what would be expected in a larger settlement.

8. For similar reasons, and whilst I would accept that the proposal would not result in isolated homes in the countryside, this is not a case under the National Planning Policy Framework (Framework) where there are groups of smaller settlements and that development in one village may support services in a village nearby. It would not enhance or maintain the vitality of rural communities, with the limited amount of local services. Nor am I persuaded that the lack of accessibility could be overcome through home working or the use of electric vehicles, as this would be reliant on the activities of the future occupants rather than what can be assumed through the grant of a planning permission.

9. In relation to the various appeal decisions that I have been referred to on this issue, these concern what are more modest numbers of residential units. In any event, whether or not a proposal is in an accessible location is dependent on the particular site circumstances. Hence, they do not alter my conclusion.

10. I conclude that the proposal would not be in a suitable location for housing with regard to the accessibility to services. As such, it would not comply with Policy T1 of the CS where it concerns reducing reliance on the private car for travel journeys and the need to travel generally. It would strictly not be in conflict with the policy criterion which concerns major development, but this does not address the broader conflict with what the policy is seeking to achieve. On similar lines, it would also not accord with the Framework where it promotes sustainable transport.

Highway Safety

11. The proposal would be directly accessed off the A52 from a new access point on the site frontage. Traffic levels using this stretch of road, notwithstanding it forms part of the A road network, are fairly moderate. It operates at a speed limit of 40 miles per hour, but this changes to the national speed limit just past the site to the east. This part of the A52 is undulating in its form. The road rises west from the crest of a sharper incline and continues to do so past the site to the east to a more distant bend in the road.

12. There is a dispute between the appellant and the Highway Authority, both in terms of what highway visibility standards should be used, whether this be MfS or the Design Manual for Roads and Bridges, and even if MfS is utilised what the visibility requirement should be. Deciding what standards are appropriate depends on the particular site circumstances. In this case, traffic from the east would be travelling up to the national speed limit until just before the site and, from the west, the access would not become visible until the incline is crested. As a consequence, I consider that great caution should be applied in deviating from the stricter requirements that the Highway Authority has set out.

13. As a result, the visibility splays that the appellant has applied would have the potential to raise significant safety concerns as it would result in insufficient visibility with approaching traffic on the road. The proposed means of access would not be considered to be safe for the vehicles that would use it and would cause the potential for conflict with vehicles using the A52. My concerns would not be satisfactorily allayed by the traffic generation from the proposal or the traffic levels on the road because this would not address that the visibility would be insufficient, when the access is in use.

14. In relation to applying Highway Code braking distances, regardless of the modern state of vehicles, this does not account for the particular road conditions or the proposed access arrangements. As I have set out above, a judgment is required based on the particular circumstances and, in this case, this does not favour the proposal. Accordingly, the same applies concerning the appeal decision[1] that I have been referred to in this regard.

15. Improvements to the road markings and street lighting would not satisfactorily overcome the potential for such risk due to the nature of the safety issues that I have described, and whilst solutions could likely be found to moving signage out of the visibility splay and with regard to drainage onto the highway, nor would these matters adequately address my concerns. Whether or not the particular access point is best or otherwise in terms of visibility has a limited bearing, as the proposed access arrangements are to be considered on their own merits. In coming to my views, I have had regard to the totality of the highway evidence before me.

16. I conclude that the proposal would have an unacceptable effect on highway safety by way of the proposed access arrangements. Therefore, it would not comply with Policy T1 of the CS where it seeks to ensure that all new development is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development. It would also not comply with the Framework where it states that development should only be prevented or refused on highways

[1] Appeal ref: APP/P4225/A/07/2040756/NWF

grounds if there would be an unacceptable impact on highway safety, amongst other considerations.

Character and Appearance

17. The appeal site is located on the edge of the village where there is a transition into its countryside surroundings. Despite its historic use, the site has a near entirely undeveloped appearance and over time it has effectively blended into the landscape as the vegetation has taken over. The embankment to the rear of the site provides a clear separation from the more built up part of the village and the site is also distinct from what is the fairly loose pattern of the nearest residential properties along the A52. Agricultural land is in abundance opposite the site.

18. The site is located in the Dissected Sandstone Highland Fringe Landscape Character Type under the Churnet Valley Landscape Character Assessment (2011). The broader area around the site ably demonstrates a number of the key characteristics including a pronounced rounded landform, upland pasture farming, small wooded valleys and a field pattern of both stone walls and hedges. Whilst the site displays little of these particular characteristics, with its largely now green and open appearance, it sits comfortably in this countryside landscape and is considerably less influenced by the built form of the village.

19. The proposal would markedly alter the character of the site with the introduction of the 9 proposed dwellings and the associated infrastructure. It would largely loose its undeveloped and verdant qualities, and how this pleasingly contributes to the character of the area. In this context, it would be a not insignificant level of built development and would appear out of place with regard to the rural surroundings.

20. The proposed dwellings would be laid out in a linear pattern facing the road. This would be at odds with the more sporadic arrangement of dwellings there are along this part of the A52. It would represent a considerable increase in the number of dwellings and the resultant 'ribbon-like' development would not conform to the prevailing character. This is not a location that would benefit from a more active frontage because of its countryside influences. As a consequence, it would appear as a distinct group of dwellings that would not relate well to the settlement.

21. With the length of the site frontage, it would also be prominent when viewed from the road. Whilst the existing and proposed landscaping would filter and soften views, even if the associated screening was to prove effective, this would not address the harm caused to the character by the incursion of the proposal onto the site and on what is a main approach into the village. Nor would it be read with the property to the east with the woodland in between and the properties to the rear are too elevated to effectively integrate the proposal into the village.

22. The similarities in the proposed design of the dwellings would further draw attention to that it would be out of keeping. I have reflected on what both main parties consider to be the local vernacular and with regard to supplementary guidance that I have been referred to, but it seems to me that the individuality and irregular juxtaposition of dwellings in the area is a strong positive characteristic. The uniformity of the proposal would be at odds with this attribute.

23. I conclude that the proposal would have an unacceptable effect on the character and appearance of the area. Thus, it would not comply with Policies DC3, SS1, SS6c, SS7, H1 and DC1 of the CS where they collectively seek to ensure that development would not be unduly harmful to local character and distinctiveness, the wider landscape and the setting of the settlement and the area, and promote good design. It would also not comply with the Framework where it concerns achieving well-designed places.

Listed Buildings

24. Moorland Cottages is the short row of terraced properties that lies to the west of the site. Locker Farm contains a stone barn within the complex of buildings that lies on the opposite side of the road to the site and is set well back, roughly in a north easterly direction. Both are grade II listed.

25. Moorland Cottages was a former workhouse that has been converted to a more typical modern residential use. The building dates from the 19th century, is of a 2 storey height and is constructed of coursed dressed stone and brick, with a tiled roof. Whilst there have been some more modern alterations, the building retains its character. The somewhat visually isolated location along the road also contributes to the significance because it reflects that the workhouse was located on the fringes of the community that it served.

26. As a consequence, open land in the vicinity of Moorland Cottages plays an important role in the significance of its setting. This includes the site, which has appreciable qualities in this regard, in particular with the relative proximity to this designated heritage asset. Whilst I appreciate that compared to an earlier scheme, the proposal would now maintain a gap to the cottages, it would still represent the loss of land within its setting that contributes to this aspect of the significance.

27. The proposed dwellings are also shown at a higher land level than the cottages and the nearest dwelling would be forward of it. The design and materials of the proposed dwellings would also not be reflective of the cottages. These factors would further detract from the significance.

28. Locker Farm is less of a concern. By virtue of the road and the intervening land, it is considerably more distinct from the site. It also relates considerably more to the cluster of buildings where it is found, due to its historical and agricultural context. The proposal would not unduly disrupt its rural setting in this regard. This does not, though, address the concerns as regards Moorland Cottages.

29. The statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses is of considerable weight and importance. Having regard to the above considerations, I conclude that the proposal would fail to preserve the setting of the listed building, Moorland Cottages.

30. For similar reasons, the proposal would not comply with Policy DC2 of the CS which seeks to safeguard and, where possible, enhance the historic environment, including listed buildings, and resisting development which would harm or be detrimental to the special character and historic heritage of the District's towns and villages and those interests of acknowledged importance.

It would also not comply with Policies SS1, SS6c, SS7, H1 and DC1 as far as they are relevant to the protection of the historic environment.

31. The proposal would also not comply with the Framework where it states that heritage assets should be conserved in a manner appropriate to their significance, and the desirability of sustaining and enhancing their significance. For the reasons set out above, 'less than substantial harm' would arise under the Framework.

Biodiversity

32. The dominant habitat on the site is of scrub and grassland, with occasional trees. Based on survey work that was carried out, the Appellant's Preliminary Ecological Assessment (PEA) finds that the site would not meet the criteria for a local wildlife site designation (LWS), in particular due to the sporadic nature of the indicator species across the wider grassland on the site, the continued degradation of the site due to the scrub encroachment and the low quality of the grassland.

33. The Council's biodiversity consultee, the Staffordshire Wildlife Trust, disagree with the findings and consider that at least part of the site would meet the criteria for an LWS and that its value in this regard needs to be assessed more robustly. From the information before me, though, it is not clear what evidence has been drawn on to assert that it is worthy of designation other than what is set out in the PEA. There is not substantive evidence before me to the contrary.

34. The appellant has also now offered to make land available in the vicinity of the site for biodiversity and with an associated mitigation strategy. Details of the land in question has been provided with the appeal. When the findings of the PEA are also considered as regards the site, this does not seem unreasonable. In the event that I was minded to allow the appeal, this would be a matter that could be dealt with by way of a planning condition, including details of mitigation measures.

35. I conclude that the effect on biodiversity interests would not be unacceptable. Hence, it would comply with Policy NE1 of the CS where it concerns conserving and enhancing the biodiversity resource, and not permitting any development proposal which would directly or indirectly result in significant harm. It would also comply with the Framework in this regard, where it concerns minimising impacts on and providing net gains for biodiversity, and avoiding significant harm to biodiversity resulting from a development.

Planning Balance

36. Where a proposal would lead to less than substantial harm to a designated heritage asset, paragraph 196 of the Framework states that this harm should be weighed against the public benefits of the proposal.

37. The Council cannot demonstrate a 5 year supply of deliverable housing sites. The supply stands at 1.8 years and so the shortfall is significant. The 9 additional units that would result from the proposal would make a contribution to addressing this deficit, albeit this would be limited. More broadly, the proposal would also make a contribution towards the Government's objective of significantly boosting the supply of homes.

38. There would also be economic benefits during construction, with the spend of the future occupiers and through receipts that the Council would receive.

39. The appellant considers the site constitutes previously developed land (PDL), pointing out that it contains contaminated spoil. The definition of PDL in the Framework, though, excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. This resonates with the appearance of the site. Nevertheless, land decontamination and remediation would be of benefit, as would be that the appellant is also proposing electric charging points and biodiversity measures.

40. I am mindful that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Overall, I find these public benefits would be on a limited scale and would not outweigh the less than substantial harm to the designated heritage asset, under the Framework.

41. The proposal would also not accord with the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework, because the application of policies in the Framework that protect areas or assets of particular importance, related to designated heritage assets, namely the listed building, provides a clear reason for refusing the development proposed.

42. Both main parties have referred to policies contained within the emerging Local Plan. Draft Policy H1 allows new housing on the edge of small villages, although this is caveated as regards character and appearance considerations. As I have set out above, this counts against the proposal. The other draft policies that I have been referred to do not significantly change the approach from the adopted development plan in relation to the issues before me, and so they do not have a significant bearing on my decision.

43. In the broader planning balance, I reach a similar overall conclusion. There would also be additional harm by way of the accessibility to services, highway safety, and character and appearance. Comments have been made concerning viability, but I have no substantive evidence in this regard. That the proposal would not be unacceptable in other respects attracts neutral weight. The harm that would arise would not be outweighed by the benefits.

Conclusion

44. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

Darren Hendley

INSPECTOR