The Planning Inspectorate

Appeal Decision

Site visit made on 13 August 2018

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th August 2018

Appeal Ref: APP/P3420/W/18/3200823
Waggon and Horses, Nantwich Road, Newcastle-under-Lyme, ST7 8DY

- 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 G Harold against the decision of Newcastle-Under-Lyme Borough Council.
- The application Ref: 18/00121/OUT dated 14 February 2018, was refused by notice dated 10 April 2018.
- The development proposed is the erection of three dwellings (outline).

Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings (outline) at Waggon and Horses, Nantwich Road, Newcastle-under-Lyme, ST7 8DY in accordance with the terms of the application, Ref: 18/00121/OUT, dated 14 February 2018, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The application was made in outline with all matters reserved for subsequent approval. However, the application was accompanied by an indicative site layout plan which I shall treat as being for illustrative purposes only. The application was also supported by a Planning Statement and a Transport Statement.

3. The Revised *National Planning Policy Framework* (The Framework) was published in July 2018, after the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal, and I have taken into account the responses received in my decision.

Main Issues

4. I consider the main issues in this case are: Firstly, whether the proposal amounts to inappropriate development in the Green Belt, and secondly; whether the proposal would represent a suitable location for the proposed housing development, having regard to national and local policies which seek to achieve sustainable patterns of development.

Reasons

5. The appeal site, approximately 0.35 ha in extent, is occupied by the badly fire-damaged building of the former Waggon and Horse public house and the extensive former car parking and hard-surfaced areas which wrap around the

building. It is located in the Green Belt and also within an Area of Landscape Enhancement as defined by the Local Development Framework Proposals Map. It is situated in the countryside west of the village of Audley.

Whether inappropriate development in the Green Belt

6. National policy on Green Belt development is set out in paragraphs 133-147 of the Framework, and paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate (and only permissible under very special circumstances) unless it falls within the closed lists of exceptions set out in paragraphs 145 and 146.

7. Paragraph 145 is relevant here and explains that the construction of new buildings is inappropriate development in the Green Belt subject to a number of exceptions. One of these, set out in criterion g), is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development.

8. The definition of 'previously developed land' stated in Annex 2 of the Framework includes '*land which is or was occupied by a permanent structure, including the curtilage of the developed land…and any fixed surface infrastructure'*. In respect of curtilage, it indicates that it should not be assumed that the whole of the curtilage should be developed. There is no dispute between the main parties that the site may be considered previously developed land; and based on the evidence 'on the ground' at my site visit, I find no reason to disagree.

9. Turning to the other qualifying criteria of Framework paragraph 145, I am satisfied that the proposal would not conflict with the purposes of including land in the Green Belt, as set out in paragraph 134. With regard to the effect on openness, the derelict public house is a large building with extensive hard-surfaced car parking areas. Consequently, although the application is made in outline and the size of the proposed dwellings is not known at this stage, I am satisfied that residential development of the site, and at the scale suggested on the indicative plan and Planning Statement would not have a greater impact on the openness of the Green Belt than the existing building and parking areas. Indeed, the Council has stated that, based on the volume of a typical two-bedroom house, there could be a net reduction of 400 cubic metres.

10. I am therefore satisfied that the proposal is not inappropriate development in the Green Belt. As such the issue of very special circumstances does not arise.

Suitability of the site's location-sustainable patterns of development

11. Although no development plan policies have been included in the decision notice, they are referred to in the evidence, are material considerations, and I have taken the most relevant into account. Policy SP1 of the *Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026*, adopted in 2009 (CSS) says new housing will be primarily be directed towards the urban areas and other key locations. New development will be prioritised on previously developed land where it can support sustainable patterns of development and

provide access to services and centres by foot, public transport and cycling. CSS Policy ASP 6 and saved LP Policy have similar aims.

12. Paragraph 79 of the Framework says isolated new homes in the countryside should be avoided unless there are special circumstances, and paragraph 78 says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

13. The site is outside any defined village envelope, being about 2.7 km from the centre of the village of Audley. However, immediately to the east of the site is a group of five cottages (Waggon Cottages), with a further dwelling (Mill Cottage) beyond. Therefore, although the site is within the countryside for planning policy purposes, it is nonetheless part of a small rural community. As such, I consider the proposed re-development of the site for residential purposes would relate this existing ribbon of housing, and would not appear as isolated development in the countryside.

14. I accept that a scheme for new housing in this location would conflict to some extent with one of the Framework's core principles, which is to actively manage growth by making the fullest possible use of public transport, walking and cycling, and focussing significant development in locations which are or can be made sustainable. The Council's case rests to a large degree on this issue, saying that given the location away from most services and facilities, future occupiers would be largely reliant on the private car to access most day-to-day facilities and needs. Realistically, I agree with the Council that it is unlikely that future residents would walk or even cycle to services and facilities in Audley on a day-to day footing. However, whilst the Framework promotes the use of sustainable transport modes together with minimising the need to travel and reduce journeys by car, paragraph 84 recognises that rural sites may have to be found beyond existing settlements and in locations not well-served by public transport. In my opinion, the appeal site is one such rural site.

15. Furthermore, I consider the proposal can be considered as reasonably compliant with the Framework's advice that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. Overall on this issue I conclude that the appeal site is a suitable location for the proposed development.

Other considerations

16. I have also considered whether the proposal is sustainable in the in the context of the Framework's policies taken as a whole. Paragraph 8 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The delivery of 3 dwellings, albeit a modest number, is nonetheless a benefit of the scheme given the acknowledged under-supply of housing in the Borough, and this is a very important material consideration in favour of the proposal. There would also be limited economic benefits arising from the construction and subsequent occupation of the dwellings, together with additional support for local employment and services.

17. The Council accepts that although the application is in outline, the site could accommodate three dwellings in a manner that would have no adverse impact on the character and appearance of the local landscape; particularly taking into account the current semi-derelict appearance of the site and buildings. This is likely to represent an improvement in terms of the environmental factor.

Conditions

18. I have considered the conditions put forward by the Council in the light of the advice in paragraph 55 of the revised Framework and the Government's *Planning Practice Guidance* (PPG).

19. As the application was made in outline, I shall impose the standard conditions relating to the submission and approval of reserved matters. For the avoidance of doubt and in the interests of proper planning the reserved matters details shall provide for the layout of the site including the disposition of buildings, provision of parking, surfacing materials, and drainage details.

20. The condition requiring a site investigation for possible contamination to be undertaken and the implementation of remedial measures is justified to reduce the risk and impact of any ground pollution, although I favour a simplified form of wording. For the same reason a condition requiring details of any soils to be brought onto the site is necessary.

21. A condition has been suggested withdrawing normal permitted development rights relating to the enlargement or alteration of the dwelling, alterations to the roof, and garden buildings. Paragraph 017 of the PPG[1] says conditions restricting the future use of permitted development rights will rarely pass the test of necessity and shall only be used in exceptional circumstances. However, and notwithstanding the Green belt location, I am not persuaded that the condition meets the exceptional circumstances 'test' in paragraph 017 and I shall not impose it.

Conclusion

22. I have taken into account the Parish Council's comments that the proposal would be inappropriate development in the countryside with no special circumstances such as local needs housing to support it. The Parish Council is also concerned about the loss of a community asset (public house), the lack of public services nearby such as bus routes, and highway visibility issues.

23. Although additional traffic generation and highway concerns have been raised in representations, the Highway Authority has raised no objections subject to conditions, and I find no reason to disagree.

24. Nonetheless, whilst I note these and other concerns, none is sufficient to alter the considerations that have led to my conclusion.

25. Although a finely balanced decision, when viewed in the round I find that the proposal would represent a sustainable form of development that would satisfy the development plan to policies to which I have been referred and the Framework's policies taken as a whole. Furthermore, no adverse impacts have been identified that would significantly and demonstrably outweigh the benefits of the proposal. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Nigel Harrison

INSPECTOR

[1] ID: 21a-017-20140306

Schedule of Conditions

1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The landscaping details required in accordance with condition 1) above shall include the following(in accordance with the recommendations in BS 5837: 2012 *Trees in Relation to Construction)* shall include the following:
   - A tree retention and removals plan.
   - Proposals for the protection of retained trees.
   - An Arboricultural Method Statement covering works within the root protection areas of retained trees.

5) The details required in accordance with condition 1) above shall include full details of the following:
   - The layout of the site including disposition of buildings and provision of parking within the individual plots.
   - Surfacing materials for the access and parking areas.
   - Means of surface water drainage for the access and parking areas.

6) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: *Investigation of potentially contaminated sites - Code of Practice* and British Standard BS 8576: *Guidance on Investigation for Ground Gas* (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority.

7) The site shall be remediated in accordance with the approved measures prior to the occupation of any part of the development. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of the approved remediation scheme, a verification report that demonstrates its effectiveness shall be submitted to and approved in writing by the local planning authority.

8) No soils (or soil forming materials) shall be imported to the site until information of their source, the results of any soli analysis, and an assessment of their suitability for use has been submitted to and agreed in writing by the local planning authority. Prior to their import onto site, a suitable methodology for testing soils following their import and placement on the site shall be submitted to and agreed in writing by the local planning authority. That methodology shall include:

- The sampling frequency.
- Soil analysis schedules.
- The criteria against which the analytical results will be assessed.

The agreed methodology shall then be carried out, the results of which shall be submitted to and approved in writing by the local planning authority.