The Planning Inspectorate

Appeal Decision

Site visit made on 3 August 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/B3438/W/20/3248857
Brambley Dell, Cotton Dell, Oakamoor ST10 3DJ

- 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 and Mrs D Hewins against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2017/0633, dated 14 August 2017, was refused by notice dated 31 December 2019.
- The development proposed is a residential dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council advises that the emerging Staffordshire Moorlands Local Plan (eLP) has been examined, with main modifications being required, details of which have been provided with the appeal submission. The decision notice refers to Policies SS1, H1, DC1, DC2, DC3 and T1 and, given the advanced stage of preparation of the eLP, I afford these policies substantial weight.

3. The decision notice refers to Policy SS6c of the Staffordshire Moorlands Core Strategy 2014 (CS), however this relates to new development in the countryside and therefore does not appear to be relevant to the proposal. I have therefore not had regard to this policy in my assessment of the appeal.

4. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Oakamoor Conservation Area.

Main Issues

5. The main issues are:

   (i) the impact of the proposed development on the character and appearance of the area and the Oakamoor Conservation Area

   (ii) the impact of the proposed development on the living conditions of the occupiers of adjacent dwellings and those of the future occupiers of the proposed dwelling

(iii) whether the proposed development would provide an access which would allow for the safe and efficient operation of the highway network in the vicinity of the appeal site

(iv) whether the proposed development would comply with the relevant local and national policies relating to flood risk

Reasons

Character and appearance

6. The appeal site is located within the Oakamoor Conservation Area (CA), close to the centre of the settlement. The significance of the CA in this location is formed by the presence of a number of former mill workers cottages and the village hall, which are arranged around a central square. The appeal site is visible in views taken from the square, between the village hall and the dwellings which form Starwood Terrace, and also from views along Cotton Dell and from higher land further up the valley. From all of these views, it sits primarily in the context of the traditional development form positioned around the square. Accordingly, the appeal site is located in a position which means any development which takes place upon it would itself substantially contribute to the character and appearance of both the surrounding area and the CA.

7. The proposed dwelling would take a modern form with an extensive use of timber framing and glazing. It would contrast sharply with the traditional form of the buildings around the square in its design and it would sit at a ground level above that of the square and the adjacent cottages and village hall, thus exacerbating its visual impact. The contrasts in its form and design would jar with the established development in the vicinity of the appeal site, in particular with respect to the village hall and the dwellings around the square, and this would result in harm to the character and appearance both of the area and that of the CA.

8. Reference is made to the Oakamoor Conservation Appraisal 2016, which describes existing development in the area surrounding the appeal site as 'haphazard' and 'quirky'. Whilst this may be the case, and in itself is a contributor to the character and appearance of the area, the proposed development would nonetheless not integrate well into its surroundings. My attention has also been drawn to the dwellings located on Cotton Dell, which are more modern in their form. However, these do not represent the prevailing form and design of development found in the CA, and they do not define its character and appearance. These factors do not therefore outweigh the harm I have found.

9. As I have found harm to character and appearance, it follows that the proposed development would neither preserve nor enhance the CA and this is a matter to which I afford considerable importance and weight. Given the nature of the proposed development and that the harm would be localised, I consider that less than substantial harm to the CA would arise. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 196 of the National Planning Policy Framework (The Framework).

10. In this regard, public benefits have been outlined with respect to the provision of new housing in a built up area, making efficient use of land, through the

provision of a sustainably built dwelling, through the contribution the proposal would make to the local economy including in providing homes for workers, through providing work during the construction phase and in terms of generating council tax and Community Infrastructure Levy revenue. However, the benefits arising in these respects from the provision of one new dwelling would be limited, and they would not outweigh the harm that would arise to the CA. The possible landscaping of the site in conjunction with the proposed development would also not outweigh the harm that would result to the CA.

11. The proposal would meet the needs of the appellant in terms of the use of the site and in terms of selling it, however this is not a public benefit. It has also been suggested that the dwelling would be a starter home or a self-build property, but I have not been presented with any mechanism, such as a planning obligation, which would be necessary to ensure that it would come forward on that basis. Therefore, these matters do not offer any weight in support of the proposed development.

12. For these reasons, I conclude that the proposal would cause harm to the character and appearance of the area and the CA. Consequently, the proposed development fails to accord with Policies SS1, SS1a, SS6b, DC1, DC2 and DC3 of the CS, which collectively seek to protect character and appearance and designated heritage assets. There would also be conflict with Policies SS1, H1, DC1, DC2 and DC3 of the eLP which serve the same objectives and with The Framework, where it seeks to achieve well-designed places and because the harm to the CA is not outweighed by public benefits.

Living conditions

13. Due to the orientation of the proposed dwelling and the positioning of its windows, it would not, for the most part, cause harm to the living conditions of the occupiers of adjacent dwellings through overlooking. It would also not cause harm through a loss of outlook or light, notwithstanding that it would sit at a higher ground level than the dwellings on Starwood Terrace. However, the nearest dwelling at 6 Starwood Terrace has outdoor amenity space alongside its side elevation, over which the extensive windows of a first floor bedroom of the proposed dwelling would allow vision from a close distance. This would have an intrusive impact and would cause harm to the living conditions of No 6 as a result of overlooking.

14. The access to the appeal site would be taken through the existing dwelling at Brambley Dell. It would appear that it is intended for this to provide only pedestrian access. Nonetheless, it would involve passing through the curtilage of the dwelling, close to its side and rear elevations, and in its current form such movements would be intrusive to the occupiers of the dwelling. Although Brambley Dell is currently owned by the appellant, this may not always be the case and it does not provide justification for accepting an access that would cause harm to the living conditions of the occupiers of that property.

15. The positioning of the proposed parking area on Cotton Dell, and the need to access it via such an indirect route through Brambley Dell, would be of some considerable inconvenience to the future occupiers of the proposed dwelling, particularly when loading and unloading from vehicles. Therefore, in this respect also, the proposal would fail to provide an appropriate access arrangement.

16. Reference has been made to the possible use of a planning condition that would prevent development from commencing until an alternative pedestrian access has been provided. However, for the reasons I have outlined this is a fundamental matter relating to the acceptability of the proposal as a whole. It could therefore not reasonably be the subject of a planning condition.

17. Accordingly, I conclude that the proposed development would cause harm to the living conditions of the occupiers of No 6 as a result of overlooking and to the occupiers of Brambley Dell and the future occupiers of the proposed dwelling as a result of the proposed access arrangement. The proposed development would therefore fail to accord with Policy SS1, SS1a, SS6b and DC1 of the CS, where they seek to safeguard living conditions. There would also be conflict with Policies SS1, H1 and DC1 of the eLP, where they also seek to protect living conditions, and with the aims of The Framework which relate to achieving well-designed places.

Highway safety

18. The proposed dwelling would be accessed via the existing private road, Cotton Dell, which joins to the adopted highway at Star Bank. Due to the presence of a stone wall at its junction, visibility to the left when exiting the private road is impaired. This requires vehicles to pull out into the carriageway to obtain vision of vehicles travelling down the hill towards Oakamoor. In the event that vehicles were travelling in that direction, the exiting vehicle would be stranded in the carriageway in the path of any oncoming traffic travelling up the hill.

19. Furthermore, there is insufficient width for two vehicles to pass along the length of the private road closest to its junction with Star Bank. This means that there is significant potential for conflict between vehicles attempting to enter the private road and those attempting to leave it at the same time, which again would potentially leave vehicles stranded in the carriageway of Star Bank or having to reverse back out into it.

20. Although this access is used by a number of existing dwellings, the proposed development would result in the addition of the vehicle movements associated with the new dwelling. Whilst these would not be likely to be substantial in number, they would nonetheless increase the use of an access with poor visibility and without the possibility for vehicles to pass one another. This would increase the potential for conflict to arise in the manner I have outlined, to the detriment of the safe and efficient operation of the public highway.

21. Therefore, I conclude that the proposed development would not provide an access which would allow for the safe and efficient operation of the highway network in the vicinity of the appeal site. The proposal would therefore fail to accord with policies SS1, SS1a, SS6b, DC1 and T1 of the CS which collectively seek to ensure that new development provides an appropriate access. There would also be conflict with Policies SS1, H1, DC1 and T1 of the eLP, which seek to serve the same objectives, and with The Framework which requires that safe and suitable access is achieved for all users and because the proposal would result in an unacceptable impact on highway safety.

Flood risk

22. The Flood Risk Assessment (FRA) that has been submitted applies the sequential test, which seeks to steer new development to areas with the lowest

probability of flooding. It concludes that no alternative sites are available, and there is nothing before me to suggest that the Council have taken a different view on this matter.

23. The Environment Agency (EA) object to the proposal and they consider that an adequate FRA has not been provided. They point in particular to an absence of modelling of the Cotton Brook which runs adjacent to the site, an absence of consideration relating to the potential blockage of culverts along the brook, inadequate provision of flood compensation measures and that a safe means of access in an emergency has not been demonstrated.

24. Without a more comprehensive FRA, the EA advises that it cannot establish whether the site is in Flood Zone 3a or 3b. This is a fundamental point, as the National Planning Practice Guidance advises that more vulnerable development such as residential development should not be permitted in Flood Zone 3b. Even if it were to be established that the site was in Flood Zone 3a, the proposal would be required to pass the exception test.

25. Paragraph 160 of The Framework states that in order for the exception test to be passed, it must be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, that it will reduce flood risk overall.

26. No apparent information has been provided with respect to the wider sustainability benefits that would arise to outweigh the flood risk. In the absence of information regarding the Cotton Brook, it is not possible to establish that the site is safe from flooding. The information provided with respect to flood compensation measures also does not adequately demonstrate that flood risk would not be increased elsewhere. The proposed emergency escape route would require passing over land which is not shown to be under the ownership or control of the appellant. Therefore, on the basis of the information that has been provided, it has not been demonstrated that the exception test would be passed.

27. I conclude therefore that it has not been demonstrated that the proposed development would comply with the relevant local and national planning policies relating to flood risk. Accordingly, the proposed development would fail to accord with Policies SS1, SS1a, SS6b, SD1, SD4 and DC1 of the CS, which collectively seek to ensure that new development addresses flood risk matters. Policy C3 of the CS however refers to green infrastructure and therefore does not appear to be relevant to the appeal proposal. There would also be conflict with the objectives of The Framework, which also set out the approach that must be taken to proposed developments that are at risk of flooding.

Other Considerations

28. The Council advise that a 5 year housing land supply cannot be demonstrated, although no figure relating to the under supply is provided. The provision of a new dwelling would be a benefit arising from the proposed development however, even if the housing land supply deficit were to be significant, the overall benefits resulting from one dwelling, including in boosting the supply of housing in the district, would be small and can carry only limited weight in support of the proposal. Therefore, this consideration does not outweigh the

conflict with the relevant policies of the development plan which are outlined in this decision, and whose objectives are consistent with The Framework.

29. The appellant suggests that the proposed development would prevent the use of the site for fly tipping, however no substantive evidence has been provided to support the assertion that there is a problem in this respect. However, even if there were concern in this regard, this could be addressed by means other than permitting the proposed development. This consideration does not therefore offer any weight in support of the proposal.

The paragraph 11d) balance

30. As the Council cannot demonstrate a 5 year housing land supply, paragraph 11d) of The Framework is triggered. However, as per part i) of this paragraph, permission should not be granted if the application of policies in The Framework that protect areas or assets of particular importance, including designated heritage assets and areas at risk of flooding, provides a clear reason for refusing the development proposed. Therefore, as there would be harm to the character and appearance of the CA and this harm is not outweighed by public benefits, and as matters relating to flood risk have not been adequately addressed, the proposal does not benefit from the presumption in favour of sustainable development that is set out in Paragraph 11 of The Framework.

Planning Balance and Conclusion

31. The proposal would not accord with the relevant development plan policies which seek to protect character and appearance and designated heritage assets, to safeguard living conditions, to ensure the safe use of the public highway and to address flood risk. There would also be a conflict with the policies of the eLP and The Framework where they seek to serve the same objectives. The provision of one new dwelling is a benefit of only limited weight, and it does not outweigh the conflict with the development plan that I have identified. Furthermore, for the reason I have outlined, the proposal does not benefit from the presumption in favour of sustainable development set out by The Framework.

32. Therefore, there are no material considerations which indicate that the determination of this appeal should be made otherwise than in accordance with the development plan, and I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR