The Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2020

Appeal Ref: APP/B3438/W/20/3256189
Land at, Mollatts Wood Road, Leek ST13 7AL

- 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 N Chattaway against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0053, dated 24 January 2020, was refused by notice dated 26 March 2020.
- The development proposed is construction of a new two storey dwelling.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr N Chattaway against Staffordshire Moorlands District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The planning application was submitted in outline with all matters reserved. I have had regard to the Site Location Plan, Indicative Proposed Site Plan and Indicative Plans as Proposed (Drawing Refs PL 01A and PL 02) but have treated each element of the drawings as indicative.

4. The Council has confirmed that the policies from their Core Strategy Development Plan Document (2014) referred to in the Officer Report and Decision Notice have been superseded by policies from the Staffordshire Moorlands Local Plan (Adopted 9 September 2020) (LP). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, the Council has suggested that Policies DC1, DC3, H1, NE1, SS1, SS10 and T1 of the LP are relevant to the determination of the appeal. The appellants are aware of the policies in the LP and have had the opportunity to comment upon their relevance to the appeal.

5. In their Statement, the Council has also confirmed that the response to the appellant's case, in respect of their second reason for refusal, is provided in Staffordshire County Council's statement.

Main Issues

6. The main issues are: -

- whether the development would be inappropriate development in the Green Belt;
- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and quality of the countryside, including its biodiversity;
- the effect of the proposal on highway safety; and
- if the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

7. The National Planning Policy Framework 2019 (the Framework) sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

8. The LP reiterates this stance in Policies H1 and SS10. In particular, the latter states that strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy.

9. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions.

10. One of the exceptions at Framework paragraph 145(e) concerns 'limited infilling in villages.' The appeal site is situated a short distance from the town boundary of Leek and there are several houses situated outside of this boundary to either side of Mollatts Wood Road. It is separated from a continuous row of houses, primarily evenly spaced along the eastern side of the road, by a strip of land outside of the appeal site. The next and final dwelling to the south, 'The Stables', is separated from the appeal site by a large paddock. Houses to the western side of the road are arranged in a similar manner to those to the east and extend almost as far as The Stables.

11. The frontage to the eastern side of the road is undeveloped between the existing houses to the north and The Stables to the south. The land to the east falls away to open countryside within the Green Belt.

12. Although the road leads from the houses within the designated boundary of the town, the part of the road near to the appeal site has the character of a country lane, with housing primarily in a linear arrangement to the western side and enclosed by a mixture of boundary treatments. I acknowledge that the site is no further from the facilities that serve the houses within the town

boundary, but the above factors give the immediate area a semi-rural feel that has a clearer affinity with the countryside than the more built-up part of the road within the town, where housing is found to either side. The appeal site would not therefore be situated within a village.

13. Furthermore, given the extent of the spacing from the dwellings to either side, the appeal site would not represent a gap in the otherwise developed frontage of the road between other houses. Where larger spacings appear between houses in the road, these form part of larger gardens of houses, some of which have curtilage structures between. The proposal would therefore be for a distinctly different form of development, that would not equate to 'infilling'.

14. I have also been referred to the exception at Framework paragraph 145(g), in respect of 'limited infilling or the partial or complete redevelopment of previously developed land'. While the appeal site was formerly part of the wider curtilage of The Stables (see 'other considerations'), the whole of that land should not necessarily be considered to meet the definition of previously developed land, as set out in the Framework[1]. Moreover, the site incorporates trees and is partially overgrown, so it has a greater affinity with the agricultural land within the open countryside to the east. The proposal would not therefore satisfy this exception, as it would not form limited infilling on previously developed land.

15. As the appeal scheme would not meet any of the exceptions in paragraph 145 of the Framework, it would form inappropriate development in the Green Belt.

Openness

16. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.

17. The appeal site comprises a roughly rectangular parcel of land with some planting. The site lies lower than the A53, some distance to the north, so more distant views of the site are limited to those through trees to the east. However, it is not currently occupied by any built form and open views are available into the site from the road.

18. The proposal would be spaced from Wood Mount to the north to provide views between the houses, out into the Green Belt, and the scale of the proposal would be comparable with other houses found nearby. Nonetheless, together with the proposed access, parking, garden areas and the inevitable domestic paraphernalia therein, the proposal would be clearly discernible in the publicly available views of the site. Additional or replacement planting would also fail to negate the increase in built form and the bulk and physical presence of the proposal, notwithstanding other development in the area.

19. For these reasons, the erection of a detached residential property would have an adverse impact on the openness of the Green Belt in both visual and spatial terms. The appeal scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

[1] Annex 2 of the Framework

Countryside character and quality, including biodiversity

20. The land within the appeal site drops gently from its cleared frontage towards the rear, but mature trees within the site and to other land to the east provide a planted backdrop to the site. It is also covered by lower level vegetation towards the rear. The houses found to either side of Mollatts Wood Road are of a diverse appearance, primarily closely spaced and visible to a varying extent behind frontage enclosures. Together these features make a positive contribution to the character and quality of the area.

21. The perceptibility of the proposed development would not, of itself, lead to visual harm, particularly as its design is reserved for future consideration. The spacing of the proposal from neighbouring properties and trees within the site would also be likely to protect the living conditions of occupiers and root protection areas. Nonetheless, the large gap between the site and the house to the north would not reflect the existing grain of development described above.

22. I appreciate that trees and other planting in the site could be retained and supplemented by additional planting, as part of replacement habitat for wildlife. However, I have not been provided with any substantive evidence in relation to the existing baseline biodiversity value of the site and neighbouring land, the potential effect of the proposed development on this and any mitigation or enhancements that may be required. Although planting could be secured by planning condition, which would make a positive contribution to biodiversity, the exceptional circumstances do not exist to impose a planning condition to assess the impact of the proposal on biodiversity at a later date. Such an approach would be reserved for circumstances including where a survey has already been carried out and pre-development checks would be required to avoid harm to recent inhabitation of the site. Similarly, the risks to the site and neighbouring land from Japanese Knotweed could also be dealt with through other environmental legislation.

23. In light of the above, I conclude that the proposed development would have a significantly detrimental effect on the character and quality of the area, including its biodiversity. Hence, it would not accord with the design aims and the approach to the natural environment and biodiversity expressed in Policies DC1, DC3, H1, NE1, SS1 and SS10 of the LP.

Highway safety

24. The appeal site is situated some distance along Mollatts Wood Road, the access of which is situated on a bend in the A53 and includes a wider area of carriageway serving the driveway of a property adjacent to the access. While vehicles entering and exiting the access could meet at this point, there is space in either direction for vehicles to wait clear of the carriageway.

25. The road varies in its width, is hard surfaced from the access for the majority of its length, beyond the site, and does not include formal turning facilities. It appears to be at its widest close to the junction with Mollatts Close but is primarily only wide enough for vehicles to travel in one direction. Despite good forward visibility along the road, vehicles would therefore be required to wait or turn around in the driveway entrances of properties or where the carriageway is wider, in order to let opposing traffic pass or turn to return to the A53. There would undoubtedly be some inconvenience caused to drivers by such instances, but the evidence before me suggests that the road is likely to be lightly

trafficked, predominantly by existing residents, and at lower speeds. Similarly, the lack of a dedicated footway and only limited street lighting would not appear to inhibit pedestrian movement, as the road is said to be well-used and driveway openings provide regular refuge.

26. The precise extent of the traffic associated with the existing use of the site is not clear, but the appellant suggests that he frequently makes regular trips to the site. Nevertheless, the indicative layout and scale of the proposal suggests a 5-bedroom detached dwelling with an integral double garage and a parking and a turning area to the frontage. Having regard to the above and indicative proposal, it is likely that the road would be more widely trafficked, but the safety of the users of the road, including pedestrians, would be unlikely to be significantly affected by the extent of the additional traffic that would emanate from the proposed dwelling.

27. Even with planting on and adjacent to the grass verge adjoining the westbound carriageway of the A53, the evidence before me does not support the notion that visibility is obscured from the access to the extent that vehicles in the eastbound carriageway would not be evident to the drivers of vehicles in the access, or vice versa. In particular, although the Highway Authority has referred to two reported collisions close to the access and third parties have concerns about its use, there is no substantive evidence before me to suggest that there have been any reported collisions directly associated with the use of the access. Furthermore, given the presence of safety cameras to the east and west of the access and the position of the bend in the road, it is likely that vehicle speeds on the A53, in proximity of the access, will fall below the 40mph speed limit. Solid white lines and hatching in the centre of the road also prohibit vehicles from overtaking and vehicles would lawfully have to wait in the eastbound carriageway to turn into the access.

28. Given all of the above, the evidence before me suggests that the magnitude of the vehicle movements expected to be associated with the indicative scale of the proposed dwelling would be unlikely to have a significantly greater effect on the safety of the users of the highway in respect of each of the aforementioned matters, than existing users of Mollatts Wood Road.

29. I have also had regard to the position of the refuse bins close to the access but there is no substantive evidence before me to suggest that the implications of this would be any different to refuse bins presented outside other properties in residential streets. At the time of my visit, I also observed the bins to be sited beyond the access.

30. In light of all of the above, I conclude that the proposed development would not have a significant effect on highway safety. Hence, the proposal would accord with the requirements of Policies DC1, SS1, SS10 and T1 of the LP in respect of the safe functioning of the highway network in the district. The proposal would also accord with paragraph 109 of the Framework.

Other Considerations

31. At the time of the planning application the Council was not able to demonstrate a five-year supply of deliverable housing sites (5YHLS). In accordance with the requirements of paragraph 74 of the Framework, on the adoption of the LP, the Council can now demonstrate 5YHLS. However, I am mindful of the support offered in the Framework to the Government's objective to significantly boost

the supply of homes. In this instance, the contribution of one home to 5YHLS would only attract limited weight.

32. The proposed dwelling would not be isolated in the countryside and would be accessible to Leek by public transport; some economic benefits would also arise from, for example, employment and procurement of materials during the construction period and future maintenance. However, given the modest scale of the proposal, such benefits would be limited.

33. I have no reason to doubt that the proposed dwelling could be designed and constructed to a high standard with environmental credentials, but the detailed design of the proposal is reserved for future consideration. The site is partially overgrown and the appellant has suggested that it is harmful to the appearance of the area and will continue to deteriorate without the proposal. While I do not underestimate the benefits of site management, particularly for biodiversity reasons, this could be achieved without the development, including the perceived untidy appearance of the site. I am therefore only able to give limited weight to these arguments.

34. The proposed dwelling would be occupied by the appellant's local family members, which would provide a social benefit to the appellant and his family. I have not, however, been provided with any substantive evidence to demonstrate that there is a shortage of other accommodation in the area that would meet the appellant's needs. I therefore only give limited weight to the appellant's personal circumstances.

35. I acknowledge that there is some evidence to suggest that a previous iteration of the Council identified the site as a plot as part of the provision of extended sewers from Mollatts Close. However, the site is now designated in the LP as Green Belt and there is no evidence before me that suggests that there is an extant planning permission for a dwelling on the site. I am therefore only able to afford limited weight to this argument.

36. I have also had regard to several approved developments in the locality, to which I have been referred. Only two of the developments relate to sites in Mollatts Wood Road and the full circumstances are only before me for one of those cases (The Stables), which is in the Green Belt. Nevertheless, for the other developments found in the Green Belt, it is not clear whether they were for inappropriate development, harmful to the openness of the Green Belt or whether the Council also found harm in respect of countryside character and quality, including biodiversity. It is therefore unclear whether the majority of the approved developments would be for development comparable to the appeal scheme. Meanwhile, the planning permission for The Stables[2], which was granted following a dismissed appeal[3], was for the replacement of an existing building by a dwelling, which was adjudged to improve the openness of that landholding. The appeal scheme would not meet either of these criteria, so would not be comparable with the approved development.

Planning Balance and Conclusion

37. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness which gives rise to additional harm. These harms render the appeal scheme

[2] Planning Reference: SMD/2018/0525, granted in October 2018.
[3] Appeal Reference: APP/B3438/W/18/3195264.

contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.

38. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is 'clearly outweighed by other considerations.'

39. The other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

40. Despite the proposed development according with the relevant parts of the development plan policies corresponding to highway safety, the proposal would be contrary to those elements of the development plan that refer to development in the Green Belt and the character and quality of the countryside, including biodiversity. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR