The Planning Inspectorate

Appeal Decision

Site visit made on 21 March 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal Ref: APP/B3438/W/21/3272194
Land adj Marsh Villa, Macclesfield Road, Rushton Spencer SK11 0SA

- 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 Amos Group Ltd against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0201, dated 16 April 2020, was refused by notice dated 11 February 2021.
- The development proposed is an application for outline planning permission for a residential development of up to 9 dwellings with all matters reserved.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal is made in outline form with all matters reserved. The site plan shows that the proposal would consist of two separate parcels of land with the dwelling of Marsh Villa in between them. Purely for convenience I shall refer to the parcel to the north as 'parcel one' and the smaller site to the south as 'parcel two'. The indicative layout plan[1] shows Parcel one as accommodating five dwellings arranged around a cul-de-sac configuration. Parcel two shows two pairs of semi-detached dwellings. The indictive layout plan provides a useful illustration of one way the site might be developed. However, as all matters are reserved, I have afforded only limited weight to these details and shall consider this appeal in those terms.

3. The Council's fourth reason for refusal relates to the absence of ecological information and a failure to demonstrate that bio-diversity interests would not be harmed. The appellant's Ecological Assessment[2], submitted in support of the appeal, provides further survey details. These indicate that no habitats, subject to a Biodiverse Action Plan or other notable species, were present. It also identifies that the limited loss of low value habitats could be mitigated by biodiversity enhancements within the retained areas on site. I see no reason, based on the evidence before me, to question the conclusion of this assessment which is also undisputed by the Council. As its recommendations could be suitably addressed by the imposition of conditions, this issue is no longer in dispute.

[1] Indicative Plan ref 2016-22-SK04 rev F
[2] Ecological Impact Assessment, by peakecology July 2021

Main Issues

4. The main issues are:

   - whether the proposed development would preserve the setting of Marsh Side, a grade II listed building, and the effect of the proposal on the character and appearance of the surrounding area; and
   - whether the site is a suitable location for housing with regard to local and national policies.

Reasons

Character and appearance

5. Ruston Spencer is a small village. Its pattern of development follows the A523 (Macclesfield Road), Sugar Street and Station Lane. These include some substantial gaps between buildings, resulting in a dispersed and loose-knit pattern of linear development. This also forms a strong sense of spaciousness where views of the open countryside, through these gaps, make a strong contribution to the setting of the village. The appeal site includes two parcels of undeveloped land. These make a positive contribution to the character and appearance of the area.

6. I am required to pay special attention and have regard to the desirability of preserving the setting of listed buildings[3]. Marsh Side Farmhouse originates from the early C19. This large dwelling has stone walls and a slate roof that includes brick stacks. It has sash windows and an entrance door that include voussoir detailing. The building stands within spacious wooded grounds. Its significance seems to derive from its age and architectural detail and its traditional rural character in a countryside setting.

7. The rear boundary of Parcel One would adjoin the access drive to Marsh Side. Views of the listed building from this parcel are glimpsed through a dense tree and hedge groups that are both within the grounds of the listed building and along the canal feeder. There is therefore limited intervisibility between these components. Parcel two would be a similar distance from the listed building. Due to distance and screening views are also negligible between the listed building and this parcel. As a result, the proposal would have no material impact on the significance of Marsh side and would therefore preserve its setting.

8. The Council has identified the Rudyard feeder canal as a non-designated heritage asset (NDHA). The canal feeder was originally designed to transfer water from the River Dane to Rudyard Reservoir, providing water to the Caldon Canal. The feeder canal was built around 1809. Its embankment appears to be a later addition, added in the early C20 possibly to deepen the channel. The significance of both the canal feeder and its embankment is found, by the appellant, to have limited historic value. This is not refuted by the Council.

9. The Planning Practice Guidance (PPG) identifies that NDHA's may be identified by local and neighbourhood plan making bodies and conservation area appraisals and reviews. It also states that "irrespective of how they are identified, it is important that the decisions to identify them are based on

[3] Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

sound evidence". Although such designation could manifest from the decision-making process on a planning application it should emerge from formal investigation.

10. The Council has not indicated that a heritage assessment was undertaken, or advice sought from a heritage specialist, to support its assertion that the canal feeder has historic significance. Moreover, the appellant's evidence cannot be retrospectively applied as justification for this assertion. Consequently, whilst recognising the local importance of the canal feeder, the evidence fails to justify its significance in sufficient clarity for it to be deemed a NDHA. Furthermore, even if I were to ascribe significance, in taking a balanced judgement the effect of the proposal on the setting of the canal feeder would be negligible.

11. Parcel one occupies part of a field. The field's front, side and rear boundaries consist of hedging and occasional clusters of trees. The boundary hedging is low-lying in sections and other sections include gaps. This enables views through the site from Macclesfield Road to open countryside beyond. Due to this parcel being close to roadways on three sides it is in an exposed and prominent position. As a result, the parcel makes a significant contribution to the surrounding dispersed settlement as an open space. Although the proposal is in outline form buildings within this setting would obscure many views through the site. The effect of this would be to fundamentally erode its sense of spaciousness and open character. Therefore, development of this parcel would result in a substantial adverse impact on the character and appearance of the settlement and on the intrinsic beauty of the surrounding countryside.

12. In contrast, whilst development of parcel two would also result in the removal of a gap in built form, it is closely contained by existing buildings. It also provides only limited views through to open space beyond. This is therefore an insignificant gap, making a limited contribution to the dispersed character of the village. Therefore, this would not result in a prominent intrusion into the countryside and development of parcel two would complement the character and appearance of the area.

13. Accordingly, the proposal as a whole would harm the character and appearance of the area. It would conflict with policies DC1 and DC3 of the Staffordshire Moorlands Local Plan (2020) (LP). These seek, among other matters, for development to reinforce local distinctiveness by positively contributing to the special character of the area and to resist development that would have a significant adverse impact on the character of a settlement. However, in finding no harm to Marsh Side, the proposal would comply with policy DC2(1) that seeks development to maintain and enhance the significance of heritage assets. Also, in not recognising the Rudyard feeder canal as a NDHA the proposal would weigh neither for nor against policy DC2(2), which requires protection to be given to the setting of a NDHA. Furthermore, the Council has not explained or illustrated how the proposal would fail to comply with its Design Guide which therefore also weighs neither for nor against the scheme.

Suitability of location

14. The LP establish the Council's approach to the distribution of housing across the district. Policy SS9 identifies Rushton Spencer as a 'smaller village' and states that it, among other settlements, shall only provide for development

which would enhance community vitality or meet its social or economic needs and would reflect and enhance its special character.

15. Policy H1 relates to housing development and establishes requirements with respect to mix, specialist house types, quality, housing on unallocated sites and housing exceptions in the open countryside. Policy H1(4)(b) allows for limited infill residential development on sites outside development boundaries, subject to certain criteria. These require such development to be well related to the existing pattern of development of a smaller village and to not create or extend ribbon development or lead to a sporadic pattern of development. Policy H1(4)(c) requires housing development to not be prominent in the countryside or have a significant adverse impact on its character and appearance.

16. Policy SS10 relates to development in other rural areas. This defines other rural areas as the countryside and Green Belt outside of the development boundaries of towns and larger villages and the open countryside surrounding smaller villages. This policy only allows development which has an essential need to be located in the countryside. It lists criteria for limited acceptable development, none of which would be relevant to this proposal. The appeal site is opposite and close to existing dwellings. It therefore has a relatively strong visual and functional link to the built-up elements of the village. Moreover, its frontage onto the highway includes footways and is subject to a 30mph speed restriction. Consequently, whilst the pattern of development is more dispersed on its northwest side, the street in this location has a village character. As such, the site would not be within the open countryside. Accordingly, Policy SS10 weighs neither for nor against the proposal.

17. The Local Plan and the National Planning Policy Framework (The Framework) do not define infill development. However, the planning portal indicates that infill development is "the development of a relatively small gap between existing buildings". Accordingly, the question of whether a development would be considered as an infill site is a matter of planning judgement.

18. Parcel one is comparatively deep and includes plot boundaries that follow a watercourse, the rear site boundary and retained fields to both its sides. Other than being located adjacent to Marsh Villa, this plot is separate from existing built form. As such, this plot is not seen to be between existing buildings. It is also prominent when viewed from the street and the public footpath behind as a substantial gap between buildings. Accordingly, development within the site would not relate well to the existing pattern of buildings within the village. Taking the above points together, and in finding that the proposal would harm the character of the area, parcel one has not been demonstrated to be an infill plot.

19. Parcel two is adjacent to the semi-detached dwelling of Marsh Mews and 'The Old Police House'. The parcel follows the boundaries of neighbouring dwellings to both sides and the canal feeder to its rear. The plot is adjacent to existing dwellings and would therefore relate well to neighbouring development. Whilst it would contribute towards ribbon development, it would not extend a ribbon, being within a gap. Also, although this would remove a gap in built form within the street this gap does not provide open views through to further open space and makes a negligible contribution to the dispersed character of the area. It would not therefore represent sporadic development. The plot width would be capable of accommodating around four dwellings which would be

commensurate with the scale of the settlement. Having also found its development would complement the local character, this parcel would be a suitable limited infill residential plot.

20. Nevertheless, whilst finding parcel two to be a suitable infill plot it is presented as a combined scheme with parcel one. As a result, the proposal overall would not be a suitable location for housing development. Therefore, the proposal would conflict with policies SS1, SS9 and H1 of the LP. These policies seek, among other matters, for development to secure high quality sustainable environments.

Other Matters

21. The proposed housing would deliver social and economic benefits both during and post construction. The settlement has access to some local services including a primary school, church, two public houses and a bus service. This enables some, but limited, access to local goods and services. However, the identified benefits would be limited even taking account of the objective of significantly boosting the supply of housing in the Framework and the Council's housing land supply position. Moreover, whilst providing housing that might benefit residents within the parish, the identified local needs is for only around four dwellings which would be substantially exceeded by the scheme.

22. I am cognisant that a nearby development within Sugar Street was allowed at appeal[4]. This site is adjacent to existing development on most of its sides. As such, the site is substantially different to the proposed scheme. Furthermore, it seems that this may be affected by a legal dispute, extending its delivery time. Nonetheless, I observed that the development seemed to be nearing completion and any dispute would be unlikely to substantially delay delivery. As such, the proposal in offering an alternative delivery for new housing in the village, gains only limited merit in this circumstance.

23. Although the Council has previously considered the site for a housing allocation, this was not pursued following a full review. The sites consideration and exclusion from that process has had only a limited bearing on the proposal the subject of this appeal, which must be considered on its own merits.

Planning Balance and Conclusion

24. The District Plan defines the village as a 'Small Settlement', this provides limited access to services and public transport. The scheme would be within the settlement and make efficient use of the land. Moreover, the Council is unable to demonstrate a 5-year supply of deliverable housing sites, with a substantial shortfall of 4.21 years[5] (as measured in April 2021). As such, footnote 7 of the Framework establishes that the policies which are most important for determining the application are out-of-date.

25. However, Paragraph 219 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Chapter 12, of the Framework, requires development to function well, add to the overall quality of an area and be sympathetic to local character. Furthermore, paragraph 78 requires rural housing to respond to local circumstances and support housing that would

[4] Appeal Decision Reference: APP/B3438/A/2180250
[5] Staffordshire Moorlands – Statement of Five Year Land Supply February 2022

reflect local needs. Also, paragraph 174 requires development to recognise the intrinsic character and beauty of the countryside. Therefore, although the Council's housing and design policies can be considered to be out-of-date, they display a high degree of consistency with the Framework. Therefore, the conflict between the proposal and policies SS1, SS9, H1, DC1 and DC3 should be given significant weight in this appeal.

26. Although infill development might be acceptable in many circumstances, this proposal with respect to parcel one, would relate poorly to the settlement. Consequently, the adverse impact of the proposal on the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

27. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

B Plenty

INSPECTOR