

DELEGATED DECISION REPORT

SMD/2021/0190
Valid 04/05/2021

GRAVEL BANK FARM
CAVERSWALL COMMON
LANE
CAVERSWALL

REDEVELOPMENT OF
PREVIOUSLY DEVELOPED
SITE FOR ERECTION OF UP
TO 3NO. BUNGALOWS
(OUTLINE WITH ALL
MATTERS RESERVED)

(OUTLINE - MINOR APPS)

MAIN ISSUES

Whether or the proposal amounts to inappropriate development in the Green Belt
Principle of development
The impact on the character and appearance of a rural area.
The impact on residential amenity.
The impact on highway safety.
The impact on the ecological value of the site.

DESCRIPTION OF SITE

The site is located in the open countryside to the east of Weston Coyney and to the north of Caverswall and Cookshill and is also in the open Green Belt. It is accessed via county roads which connect to the nearest A road (A520) which is about half a mile to the north-west of the site. It lies on the north side of Caverswall Common Lane which provides access to the site. The site comprises a vacant garden centre/plant nursery with two large glasshouse structures and two derelict polytunnels. Outside of the site is a dwellinghouse (to the east of the glasshouses), agricultural metal-sheeted storage building (to the north-east of the glasshouses) and a field (to the north) which are also within the same ownership and are accessed via the same entrance as the garden centre site. The property is surrounded by open land/fields including the land to the other side of the road to the south. The application site is 0.45 hectares.

PROPOSAL

This is an outline application, with all matters reserved (i.e. scale, siting, appearance/design, landscaping and access), for the redevelopment of the garden centre/nursery site to provide a residential development. All the nursery/garden centre buildings would be demolished. Although this is an outline application, the forms originally submitted state that up to six units are applied for. However, following negotiations, this has been reduced to up to three units. Also included is a indicative site plan showing three detached bungalows placed in the north-west corner of the site. Elevation and layout drawings are also included in the same plan which show conventional 2-bed bungalow units with gable-sided pitched roofs and a max height of 5.3 metres. These would be accessed via a narrow private access cul-de-sac connected to the access onto Caverswall Common Road, which appears to have

moved slightly to the right of the existing access (the access is also a “Reserved Matter”). The drawings also indicate a driveway down the side of each bungalow which can accommodate at least two parked cars and also front and rear gardens. Outside of the proposed residential curtilages, the rest of the site would be grassed and landscaped over, including the remaining footprints of the existing nursery buildings and also some new and supplementary hedge planting on the boundaries of the application site. The existing dwelling and metal sheeted farm storage building would both be retained.

An amended location plan was received excluding a field to the north of the buildings from the blue line which marks adjoining land within the ownership of the applicant.

The application also includes a Preliminary Ecological Assessment Report (dated Feb 2021) and a Planning Statement.

This is a resubmitted outline application (with all matters reserved) which was refused in March 2018 and dismissed on appeal. The only difference with the previous application was that the application forms stated it was for six 3-bed bungalows (and included indicative layout plans showing this). It was refused for the following reasons:

1. The site is in the Green Belt and under Section 9 of the National Planning Policy Framework (NPPF), new dwellings are considered to be inappropriate development unless they involve, inter alia, redevelopment of previously- developed land. The site comprises a former horticultural nursery and is not considered to be a previously developed site and therefore the proposal amounts to inappropriate development in the Green Belt which is by definition in the NPPF, harmful to its openness and should not be allowed unless very special circumstances, considered to outweigh the harm, have been demonstrated. The Council considers that no very special circumstances exist. The proposal is therefore contrary to Chapter 9 'Protecting the Green Belt' of the NPPF and in this respect is also contrary to Policy SS6c of the Core Strategy which requires strict control over inappropriate development in the Green Belt.

2. The application site is not considered to be in a sustainable location as it is in a remote rural area with no nearby public services and a residential development in this location is therefore likely to lead to reliance on the private car for the majority of journeys contrary to paragraphs 39 and 35 of the NPPF.

Both of the reasons for refusal were upheld by the Planning Inspector in dismissing the planning appeal, on 11th March 2019.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (Adopted Sep 2020)

SS10 Other Rural Areas Strategy

H1 New Housing

DC3 Landscape and settlement setting

T1 Development and sustainable transport

National Planning Policy Framework

Section 5 (Housing) and 13 (Green Belts).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

00/01041: Agricultural/horticultural building. Approved.

SMD/2017/0579: Redevelopment of site to provide dwellings. Withdrawn.

SMD/2018/0003: Outline application with all matters reserved for the redevelopment of the site to provide dwellings. Refused in March 2018. Appeal dismissed in March 2019.

SMD/2020/0160: Certificate of lawfulness for existing use of the site as a retail garden centre in A1 use. Refused.

CONSULTATIONS

Publicity

Site Notice expiry date: 16.6.21

Neighbour consultation period ends: 16.6.21

Press Advert: N/A

Public Comments

Letters of objection have been received from two nearby properties on the following grounds:

- Increase in traffic on a dangerous bend
- The dwellings will be higher than the current buildings, harming the landscape
- The height of the dwellings would lead to overlooking of a nearby residential property and therefore a loss of privacy
- Harm to residential amenity from loss of light provision and noise
- Harm to trees
- Harm to wildlife
- Unsustainable location in relation to access to local shops and services
- Increase in crime

Another letter was received stating the writer has no issues with the application.

Another letter was received stating the location plan was inaccurate as it included land that the writer owned within the blue boundary line.

Town / Parish Comments

None.

Local Highways Authority

No objection.

Environmental Health

No objection subject to conditions.

Staffs Wildlife Trust

No objection subject to conditions. SWT commented as follows:

“No direct impacts to important sites are anticipated by the works due to their limited scale. There appears to be semi-natural habitat linked to the site, meaning it sits within the wider ecological network. Negative impacts can be avoided with suitable drainage and lighting plans in place. The development could enhance the network via the proposed woodland planting and further site enhancements. The site was adequately surveyed. The PEA found that most of the current habitats on site have limited value and botanical interest in their current form, with the exception of the western hedgerow which scored as a priority habitat.”

With regard to achieving a Net Biodiversity Gain (NBG): *“The proposed woodland planting within the landholding and hedgerow planting will ensure a net gain is achieved. Furthermore, the important hedgerow along the western boundary is to be retained. Due to this no Biodiversity Impact Assessment is needed in this case”.*

Severn Trent Water

No objection subject to a standard details of drainage condition.

SMDC Waste Collection Service

No issues regarding waste collections.

SCC Education/Schools

No contribution required from the development.

OFFICER COMMENTS

Since the previous application was refused and dismissed at appeal, the Development Plan at the time, the “Core Strategy”, was replaced by the new Local Plan (in September 2020) but there are no significant differences in the strategy for the countryside (Policy SS10 replacing Policy SS6c) in relation to this scheme and the stance on the Green Belt remains the same i.e. that strict control over inappropriate development in the Green Belt should be maintained. The Green Belt chapter of the NPPF has not significantly changed since the previous refusal and dismissal at appeal, in terms of the list of the forms of development which are deemed to not be inappropriate development in the Green Belt (in paras 149 and 150).

The previous residential development application was refused because it was deemed to be inappropriate development in the Green Belt. New dwellings are not listed. The

redevelopment of “previously developed land” (i.e. brownfield land) is listed as not being inappropriate but the Council and the Planning Inspector did not consider the site to be a brownfield site as despite the presence of buildings, these were part of what was deemed at the time to be a horticultural use of the land (i.e. the growth and provision of plants as a plant nursery) and such uses of land, like with agricultural uses, are excluded from the NPPF definition of previously developed/brownfield land. This is referred to in the first reason for refusal of the previous application.

However, since the refusal and dismissal, the applicants applied for a certificate of lawfulness for “the existing use of land” as a garden centre with sales. A garden centre with sales and visiting customers who purchase from the site, is deemed to be brownfield site as it is deemed to be primarily a retail use, as opposed to a plant-growing nursery use which is deemed to be a “greenfield use”.

The Council’s Legal Section who were consulted on the application and presented with information and evidence of retail sales at the nursery/garden centre, did consider that sufficient evidence had been put forward by the applicant to demonstrate that a garden centre use with retail sales direct to visiting customers was occurring at the site.

However, the application for the certificate of lawfulness for a retail garden centre use of the land was refused but this was because the site had been vacant for a considerable period of time and with no evidence of being re-started as a retail garden centre and therefore the retail garden centre use was deemed to have been “abandoned”. As such the site no longer has an established use class (and is deemed to have a “nil” use) and a new full planning application would be needed to re-introduce a retail garden centre use of the site.

Whether or not the site is deemed to be “brownfield” has not been properly tested as although new evidence was put forward with the Certificate of Lawfulness application, this was refused as it was deemed to be abandoned and not because it was deemed to not constitute a retail garden centre in A1 use which would normally be deemed to be brownfield.

It could be assumed that if the use had been abandoned (as is confirmed in the certificate of lawfulness decision), then it could not be deemed to be a lawfully established retail garden (no planning permission was ever obtained to use it as such) and would revert to its original established use i.e. a horticultural nursery, which under the NPPF definition of “Previously Developed Land” (PDL), is excluded and is therefore a greenfield use. A new legal opinion was sought from the Council’s Legal Services Section and the legal opinion is as follows:

“The use as a garden centre was established after 10 yrs but a CLEUD could not be issued because we considered that the use had been abandoned by the time they made their application. They would as a matter of fact been entitled to a CLEUD had they applied for one before the garden centre closed (or even after it closed but before we would have considered the use to have been abandoned). Enforcement action couldn’t have been taken in that period because the time for doing so had expired and the use was lawful

However, that use was abandoned, if it's not horticultural, which is what it was before then it has a nil use. I think that probably makes more sense because the horticultural use was clearly superseded and abandoned in favour of the garden centre use. Since that has also now been abandoned the site appears to have no use because the site hasn't been used for anything material since the garden centre closed.

However, in my view remains that it's not the use that counts but whether it has been previously developed. This site has. The buildings are there, they were established lawfully, some in relation to the initial horticultural use but then later converted to garden centre use and some directly in relation to the garden centre but no one has ever said that the use in relation to which buildings or other structures on land relate still has to be ongoing in order to show the land is previously developed.

I return to the definition of PDL (my underlining):

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; etc.

It seems to me that this land was last occupied by buildings in association with the garden centre use (which was lawful until such time as it was abandoned)."

On the basis of the above, the Council therefore deems the site to be brownfield i.e. previously developed land and therefore can be redeveloped into other uses including residential in line with Section 13 of the NPPF and would not be inappropriate development in the Green Belt and would therefore not amount to harm to its openness and this now establishes the principle of new houses via redevelopment as being acceptable.

The NPPF allows the redevelopment of previously developed sites where this would "not have a greater impact on the openness of the Green Belt than the existing development." Therefore, it must be established if the amount of development proposed would have a greater impact on the openness of the Green Belt than what is already there.

The Planning Inspector in dismissing the appeal for six 3-bed bungalows in the previous scheme commented as follows:

"As indicated on the Site Plan and Existing/Proposed Site Section and Massing drawings, even bungalows are likely to substantially exceed the height and solidity of the current greenhouses and polytunnels, and therefore harm the openness of the site. Moreover, other typical elements associated with residential development, such as boundary treatments and domestic paraphernalia including cars, would impact adversely on the openness of the site. A future reserved matters application may provide a different layout and design. Moreover, it is accepted that, as indicated, residential development could result in a notable reduction in building footprint and volume, compared to the existing greenhouses and polytunnels. However, it is anticipated that such considerations would not outweigh the harmful effect of the factors identified above. As such, it is considered that the proposal would result in

harm to openness of the Green Belt.”

Although the scale of development is a “Reserved Matter”, the applicant has reduced the scope of development from six 3-bed bungalows to three 2-bed bungalows and an amended indicative site plan has been provided to show where these could be placed in order to minimise the impact on the openness of the Green Belt. In comparing the current development on site with what is proposed, the total size of the footprint of the glasshouses is 1341 sq.m. Based on the indicative drawings, the total footprint of the proposed development of three bungalows together with policy-compliant rear gardens (note the Inspector’s comment that outbuildings and other residential curtilage development and domestic paraphernalia also found in rear gardens still amounts to an impact on “openness”, would not exceed half of the footprint of the glasshouses. I accept the fact that bungalows would still be taller structures than the current buildings. The glasshouses have heights of 3.25 metres whereas the bungalows would have minimum heights of 5.3 metres (as shown on the indicative elevation drawings). I also accept that bungalows would also appear more “solid” than glasshouses due to the likely materials e.g. brick or render whereas glasshouses are largely transparent other than the metal frames. However, overall, I consider that as the total proposed footprint does not exceed 50% of the current footprint of development and that this includes rear gardens where outbuildings would be as limited in height as a glasshouse, a siting within the current footprint for the proposed development (which has been demonstrated to be possible) together with the use of existing hard-standing areas for the access road and drives (also possible), would not lead to any greater degree of harm to the openness of the Green Belt than what is already there. Overall, I consider the proposal would not amount to inappropriate development in the Green Belt and would therefore by definition would not harm its openness and therefore complies with Section 13 of the NPPF.

With regard to sustainability, the previous application was refused due to the development leading to a reliance on private car travel to reach the nearest shops and services due to the rural location and the lack of public transport and safe footways on roads to the nearest villages where shops and services exist. However, this was based on a scheme providing six 3-bed dwellings. As discussed above, the redevelopment of the brownfield site to other uses, including housing, is considered acceptable in principle and therefore it must be accepted that new development would lead to increased vehicle movements by private car to some extent. The policies do not prevent redevelopment just because a site has been disused for a considerable length of time. However, I consider three small 2-bed bungalows would generate substantially less vehicle movements than a scheme of 6 3-bed dwellings. Whilst some increased vehicle movements could occur, I consider this disadvantage would be outweighed by the benefits of the scheme in providing three small 2-bed bungalows which is a form of housing particularly in demand in the District and as well as addressing some housing need, the untidy and derelict appearance of the site, prominent from the road, can be significantly improved upon by removing more than 50% of the footprint of buildings and through careful design and siting at the Reserved Matters stage and therefore a significant benefit to the character and appearance of the area. The development, with limited height due to the bungalows, can make good use of the trees screening around the site and there is opportunity for further planting and landscaping at the Reserved Matters stage.

With regard to all other planning matters, it was accepted that the previous scheme of six bungalows would not lead to any harms to residential amenity or the ecological value of the site and Staffs Wildlife Trust consider there is sufficient potential to achieve a Net Biodiversity Gain through the reduction in built footprint and additional planting, via planning conditions attached to this new scheme. The highways authority also consider that a safe access can be achieved and that the proposal would not lead to any detriment to highway safety on the surrounding roads. Whilst residents' concerns are noted, the site is large and it is considered that at the reserved matters stage a design and layout could be devised which would protect the amenity of neighbouring occupiers.

CONCLUSION / PLANNING BALANCE

Further information put forward in recent years has shown the site to be a retail garden centre rather than a horticultural nursery in recent years and unlike with the previous application, the redevelopment of the site is now deemed to be acceptable in principle and is not deemed to be inappropriate development in the Green Belt. A development of three 2-bed bungalows can be provided on site without harming Green Belt openness and without harming the visual and residential amenities. It is accepted that some additional vehicle movements would result due to the site being in a not particularly sustainable location but these are not considered to be substantial and is a likely consequence of redevelopment of brownfield sites, allowed in principle under Policy SS10 and the Local Plan in general. Furthermore, this would be outweighed by the benefits of the scheme in providing much needed small units of accommodation and significantly improving the appearance of the site and opportunities for further landscape and ecological gains to offset any perceived harms. The proposal therefore complies with the Local Plan and the government planning guidance in the National Planning Policy Framework (NPPF).

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston

Recommendation Date: 20.4.22

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council