



Appeal Decision

Site visit made on 15 March 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/B3438/W/21/3283569

Land adjacent to Knot Inn, Station Lane, Rushton Spencer SK11 0QU

- 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 R Bailey against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2020/0295, dated 7 June 2020, was refused by notice dated 8 April 2021.
 - The development proposed is described as 'an outline planning application for residential development of a detached dwelling with all matters apart from access reserved and demolition of existing agricultural building.'
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Decision

1. The appeal is allowed and planning permission is granted for development described as 'an outline planning application for residential development of a detached dwelling with all matters apart from access reserved and demolition of existing agricultural building' at land adjacent to Knot Inn, Station Lane, Rushton Spencer SK11 0QU in accordance with the terms of the application, Ref SMD/2020/0295, dated 7 June 2020 subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal scheme seeks outline planning permission with access to be considered at this stage. All other matters are reserved. In addition, the address of the appeal site has been referred to as both Knot Inn and Knott Inn. I have, for consistency, referred to the former since this is how it is spelt on the planning application form.

Main Issues

3. There are three main issues. These are a) whether the proposal would be inappropriate development in the Green Belt, and the effect of the proposal on b) the setting of listed buildings and c) the character and appearance of the area.

Reasons

Inappropriateness

4. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. There is a general presumption against new buildings in the Green Belt set out by the National Planning Policy Framework

(the Framework), regarding them as inappropriate development. Paragraph 149 sets out a number of exceptions. One such being limited infilling in villages.

5. The Framework does not define a 'village' or 'limited infilling' and nor have I been provided with any such definitions from the development plan. Reference has been made to case law¹ which has determined that whether or not a proposed development constitutes limited infilling in a village for the purposes of the Framework is a question of planning judgement and this would include an assessment of the position on the ground in the relevant case.
6. The appeal site is located on Station Lane adjacent to a tree lined brook which the Council considers marks the logical boundary to the current settlement. To the east of the brook on Station Lane are three detached dwellings. To the west, beyond the appeal site, there are a number of other buildings. The building to building separation between 'Cherry Brook' and Knot Inn, either side of the appeal site, is given as c. 50m. It is however accepted by the Council that the appeal site has a frontage width that is not dissimilar to other properties along this section of Station Lane, and I consider that it appears as a contextually small gap in a linear, relatively close-knit pattern of development.
7. Although the historic situation was that the former Rushton Station and Knot Inn were developed away from the village, the development of more modern detached houses has resulted in the appeal site being bounded on two sides by other properties. I was able to see at the time of my visit that the open frontages of the nearby listed buildings contrasts with the verdant frontages of the modern detached houses that are set further back behind garden areas. This doesn't however detract from the close physical relationship of these two groups of properties nor does the fact that in selected views, the older and newer groups of properties are not seen together.
8. I don't consider the presence of the brook is a defining feature that marks a visual break in the built form in the area. As it is below ground level with only a small stone parapet bridge wall, it is not a prominent feature and although wooded, this does not result in the site being seen as part of the countryside, particularly given the frontages and gardens of the other nearby detached properties have similar planting to their fronts. As such, I don't consider the dwelling 'Cherry Brook' to be the last building which might reasonably be considered within the village, but that it also extends to cover the appeal site as well as well other buildings to the west.
9. With this in mind, the appeal scheme would represent limited infilling in a village. I therefore conclude that the proposal would not be inappropriate development in the Green Belt. It would not be contrary to the Framework in this regard and would also not conflict with Policies SS 1, SS 9, SS 10 or H 1 of the Staffordshire Moorlands Local Plan (Local Plan) which, amongst other things, seek strict control to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy. A finding of the acceptability of the proposed development on the openness of the Green Belt and the purposes of including land within it is

¹ Wood v Secretary of State for Communities and Local Government, Gravesham Borough Council [2014] EWHC 683 (Admin) and Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWCA Civ 195

implicit in a finding of it no being inappropriate development. I am not therefore required to consider this matter further.

Listed Buildings

10. The Framework in Annex 2 defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings may change. This appears to be the case with the two nearby Grade II listed buildings to the appeal site, which were historically separated from the remainder of the village by open land, but following housing development in the 20th Century along Station Lane, now have a closer relationship with the other buildings in Rushton Spencer.
11. The Grade II listed former Rushton Station building and Knot Inn date from around the mid-19th Century and form a close relationship between each other on Station Lane. The listing descriptions set out the significance of the buildings lies in their architectural interest. Although they were physically separate when constructed from the rest of the village, it is evident that the Station and Inn were strongly connected historically to the village as they performed both a transport and social function.
12. The setting of these listed buildings is of a rural landscape with open fields and small clusters of buildings. This setting contributes positively to the significance of the buildings. The Council consider the separation provided by the appeal site is indicative of the original historic arrangement. However, the appeal site only provides a limited separation from the more modern buildings to the east. I do not consider the appeal site takes on a greater significance following the development of the 20th Century housing along Station Lane. The proposed house would appear as part of a collection of dwellings in the village. The loss of this gap through the development of a dwelling would not adversely affect the rural setting which would continue to be provided by the open fields around them.
13. I therefore conclude that there would be no harmful effect on the setting of the nearby listed buildings. The development would not therefore conflict with Policies SS1, SS 9, SS 10, DC 1, DC 2 or DC 3 of the Local Plan, which seek, amongst other matters, to conserve heritage assets, including their setting in a manner appropriate to their significance. Local Plan Policy H 1 is referenced, but this is not relevant to heritage matters. It would also not conflict with Paragraph 195 of the Framework in relation to development affecting the setting of a heritage asset.

Character and Appearance

14. The open fields and small groups of buildings in verdant surroundings, as set out above, combine to give the area a rural, open character. As the proposal would be an infill development, I do not consider that the proposal would create or extend ribbon development and it would be well related to the existing pattern of development.
15. Although layout, scale and appearance are reserved matters, the submitted indicative plan demonstrates that a building could be suitably located on the appeal site, being set back from the road within a garden area. The existing access would also be utilised. Landscaping is another reserved matter, but the

indicative plans show that the existing trees to the front of the site and along the brook could be retained and enhanced and the extent of hard surfacing could also be governed. As such, I consider that a building could be designed of suitable architectural merit that would not have a harmful effect on the character and appearance of the area.

16. As such, the proposal would not conflict with Policies SS1, SS 9, SS 10, DC 1, DC 3 or H 1 of the Local Plan, which seek, amongst other matters, high quality housing that contributes to and complements the special character of an area. It would also not be contrary to guidance within Section 12 of the Framework.

Other Matters

17. Reference has been made to the planning history of the site including a previous refusal for three dwellings. It has also been set out that a need for the dwelling to house an agricultural worker has not been put forward formally and that the appellant is required to reside elsewhere in a farmhouse. I can however confirm that I have considered the appeal on its own merits. Some concerns have been raised on the potential for this scheme to set a precedent for further applications. Reference has been made in this regard to a large housing estate. However, such a development would be different to the single dwelling appeal proposal, and would be assessed on its own merits, as would any other proposals in Rushton Spencer.
18. The appeal site is currently in use as farmland but forms a small part of a much larger field which would be unaffected by this development. I don't therefore consider the loss of this small area of farmland to be harmful. I can see that the access to the field is through the appeal site. The submitted indicative plans demonstrate that such access would continue to be available.
19. Although employment opportunities and access to retail and services are limited in the village, the Council have not raised any concerns in this regard, and I have no reason to take a different position.
20. Concerns have been raised in relation to drainage and flooding problems. Although I note the junction of two streams is by the entrance of the site, the appellant has submitted a Flood Risk Assessment which concludes that the development is acceptable in this regard and is not expected to increase the risk of flooding elsewhere.
21. I have considered all other representations made, including reference to attempts to include the site within the Local Plan, housing requirements locally within the village and the site being located within a ground water source protection zone, but none of these matters would outweigh my conclusions on the main issues.

Conditions

22. I have considered the conditions suggested by the Council and other parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of the suggested conditions as appropriate.
23. I have imposed a condition specifying the relevant drawings in relation to access as this provides certainty. Standard conditions relating to the submission and timing of reserved applications and the commencement of

development are necessary. A condition is also required in relation to the protection of trees to be retained.

24. A number of conditions have been suggested in relation to land contamination, which are necessary given the former use of the site in order to ensure that risks from such contamination are addressed. A condition is also necessary to ensure adequate drainage of the site, in the interest of flood prevention. It is essential for details relating to these conditions are approved before any works commence to ensure risks from land contamination and flooding are minimised.
25. A number of conditions have been suggested by the Highway Authority. As the proposal seeks to utilise the existing access, I do not consider it necessary for revised access details to be provided or for the nearby telegraph pole to be relocated. The internal layout and surfacing materials will be considered as part of the revised matters, with drainage to be addressed as part of condition 10.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is allowed.

F Rafiq

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of 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 takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans (only in respect of those matters not reserved for later approval): Drawing No: 780-1 and Drawing No: 3601-06C.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The details submitted in accordance with condition 3 in relation to landscaping above shall include:
 - a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;
 - a schedule in relation to every tree identified listing:
 - information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - in relation to every existing tree identified to be retained on the plan referred to in the first bullet point above, details of:
 - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
 - areas of existing landscaping to be protected from construction operations and the method of protection.

- 7) No development shall take place in relation to the erection of the dwelling hereby permitted until the existing agricultural store on the site has been demolished/dismantled to ground level and the waste/materials resulting from the demolition/dismantling removed from the site.
- 8) No development shall take place until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before any part of the development is occupied.
- 10) No development shall take place until such time a scheme for the management and disposal of foul and surface water has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.