

Appeal Decision

Site visit made on 5 October 2016

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 October 2016

Appeal Ref: APP/B3410/W/16/3153061

Land at Thorney Lanes, Hoar Cross, Staffordshire DE13 8QT

- 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 The Eco Friendly Development Company against the decision of East Staffordshire Borough Council.
 - The application Ref P/2015/01284, dated 8 September 2015, was refused by notice dated 11 March 2016.
 - The development proposed is the construction of 3 low carbon dwellings and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline form with all matters of detail except access and layout reserved for later consideration. I have considered this appeal proposal on the basis of the details of layout and access shown on the submitted plans.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the surrounding countryside; its effect on the living conditions of the occupants of adjacent dwellings, with particular regard to matters of privacy; its effect on the ecology of the area, with particular regard to Great Crested Newts (GCNs); and whether the proposal represents sustainable development in accordance with the National Planning Policy Framework (Framework).

Reasons

Character and Appearance

4. The appeal site is located near to the junction of Thorney Lanes with Abbots Bromley Road, adjacent to the rear gardens of dwellings. Whilst these adjacent dwellings are part of a cluster of buildings that include disused commercial premises opposite the site, the site itself consists predominantly of arable land with improved grassland, bounded by hedgerows and scattered trees to the west and south. To the east and north it adjoins open agricultural land and is in a prominent location near to the brow of a hill. Thorney Lanes has a general rural character and appearance to the north due to its narrow
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verges and carriageway and boundary hedgerows. As such, the site forms part of the surrounding open countryside.

5. Although the proposed 3 dwellings would be mainly seen from the surrounding countryside against the existing cluster of buildings, they would extend the area that has been built upon. Also, the access to the site would be from Thorney Lanes that adjoins the western boundary and would require a relatively wide opening from where the proposed driveways and houses would be visible, together with any vehicles that would be parked. This would result in an erosion of the rural character and appearance of the land.
6. Whilst the boundary along Thorney Lanes includes a field gate towards the southern end of the site, most of it consists of a mature hedgerow that local residents have suggested has historic significance. There is a narrow verge between the hedgerow and the carriageway and the proposed access would be on the inside of a bend in the road. As such, in order to provide a reasonable level of visibility at the access, much of the mature hedgerow would need to be removed. Details of landscaping and appearance are not to be considered as part of this appeal, but any replacement landscaping would take time to establish and would be insufficient to prevent the harm that the proposal would cause to the generally rural character and appearance of Thorney Lanes.
7. I conclude on this main issue that the proposal would have an adverse effect on the character and appearance of the surrounding countryside. It would also fail to accord with East Staffordshire Local Plan (ESLP) Strategic Policy 24, as it would fail to build on the rural local character and would not enhance the landscape; and Detailed Policy 1, as it would not respond positively to the context of the surrounding area and the layout of its parking areas would fail to minimise the visual impact on the area.

Living Conditions

8. The Council has suggested that the proposed dwelling on Plot 1 would result in overlooking of neighbouring gardens from its first floor windows. However, no design details have been provided and I am satisfied that the proposed layout indicates that the dwelling would be a sufficient distance from the adjacent dwellings to ensure that, with the retention of existing boundary vegetation and additional new planting, the proposal would be able to be designed to prevent any significant loss of privacy to neighbouring residents. As such, I find that the proposal would not have an unacceptable harmful effect on the living conditions of the occupants of adjacent dwellings.

Ecology

9. In response to the Council's reason for refusal based on the information that was made available at the time of the application regarding GCNs, the appellant has provided a GCN Report, dated June 2016, carried out by Brindle & Green. This report states that, due to the proximity of breeding ponds to the site boundary and the presence of a medium population of GCNs, it is considered that the risk of killing or injuring individual GCNs during the proposed development works is 'High'. As such, a European Protected Species Licence (EPSL) would be required to be approved by Natural England prior to commencement of the development.

10. Although the report recommends mitigation and compensation measures to demonstrate that the proposal would minimise any potential impacts upon GCNs and that the favourable conservation status of this species would be met, no imperative reason for overriding public interest to permit the proposed development has been established. Furthermore, the report suggests that translocation of GCNs away from the site to an area that provides equivalent or better habitats would be required and I have been given limited details of any such areas and their availability. Therefore, as the proposal does not provide sufficient evidence to show that the criteria for granting a EPSL would be met, I conclude on this main issue that it would have a harmful effect on the ecology of the area with regard to GCNs. As such, the proposal would fail to accord with ESLP Strategic Policy 29, as it would not protect biodiversity.

Whether Sustainable Development

11. Although the appeal site is located adjacent to a cluster of buildings that includes residential properties, which has been referred to as Hoar Cross, it is not a settlement that has been defined by the ESLP. The site is a significant distance away from any facilities, including shops and schools. There are no footways or street lighting in the area and the surrounding roads are relatively narrow. As such, walking and cycling to any of the facilities in surrounding settlements would be unattractive, particularly at night.
12. I have considered the appellant's Travel Plan that identifies the local bus route information together with the County Council run 'Needwood Forest Connect Service'. However, having considered this Plan, the Highway Authority has opposed the proposal and has expressed concerns that there are no bus stops near to the site and that the nearest stops are not connected by footways. The appellant has not disputed this or that the 'Needwood Forest Connect Service' has to be booked in advance on a first come first served basis, as claimed by the Highway Authority. Therefore, I agree with the Highway Authority's view that the proposal fails to demonstrate that sustainable travel would be achieved and that this would result in the likelihood that future residents would be reliant on the private car for transport.
13. The appellant has submitted a sustainability statement in support of the proposal. This demonstrates that the proposal seeks to introduce high quality carbon neutral homes into the area. I accept that the proposal would provide additional housing to meet a social role and would fulfil an economic role by contributing to growth and innovation. However, this is insufficient to outweigh the harm that I have identified that the proposal would cause to the environment, due to its adverse effect on the character and appearance and the biodiversity of the area, and to its social role, due to it being located with limited accessibility to local services other than by car.
14. I conclude on this main issue that the proposal would fail to represent sustainable development in accordance with the Framework. As such, it would not accord with ESLP Principle 1 and Strategic Policy 1, as it would not satisfy the principles for considering whether a new development would be sustainable, including its convenience for walking, cycling and travelling by public transport to necessary facilities and services; and Strategic Policies 2, 4 and 8, as it would be outside settlement boundaries and would not meet any of the identified exceptions.

Other Matters

15. The occupants of 1 Corner Cottage have claimed that allowing the proposed development would interfere with their rights under Article 8 of the Human Rights Act 1998. I have found that the proposal would not cause any unacceptable harm to the living conditions of the occupants of 1 Corner Cottage and, as I have dismissed this appeal, there would be no resulting interference with these rights.

Conclusions

16. Although I have found in favour of the proposal with regard to its effect on the living conditions of neighbouring residents, the harm that it would cause to the character and appearance of the surrounding countryside and the ecology of the area and the reliance that it would have on the use of the private car prevent it from representing sustainable development in accordance with the Framework. As such, it would fail to accord with the development plan as a whole. Therefore, for the reasons given above and having regard to all relevant matters raised, I conclude that the appeal should fail.

M J Whitehead

INSPECTOR