
Appeal Decision

Site visit made on 26 October 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 10 November 2016

Appeal Ref: APP/P3420/W/16/3151190

Builder's Yard, Park Road, Newcastle-under-Lyme, Staffordshire ST5 6LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Knights Professional Services Limited against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 15/00879/FUL, dated 28 September 2015, was refused by notice dated 26 November 2015.
 - The development proposed is the erection of 1no 3 bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1no 3 bedroom bungalow at Builder's Yard, Park Road, Newcastle-under-Lyme, Staffordshire ST5 6LP in accordance with the terms of the application, Ref 15/00879/FUL, dated 28 September 2015, subject to conditions contained within the Schedule attached to this decision.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The Council accept that it is unable to demonstrate a five year supply of deliverable housing sites. Policies in the development plan relating to the supply of housing are therefore not up-to-date when considered in relation to paragraph 49 of the National Planning Policy Framework. Paragraph 14 further advises that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework. The Council confirm that, in principle, residential development in this location is supported.
 4. The appeal site is situated within the urban area of Silverdale and is within reasonable walking distance of shops and services. However, although it is adjacent to two semi-detached dwellings, it is detached from the main built form of the settlement. To the south are open fields and to the north are allotments, which provide an open character to the area.
 5. The appeal site comprises a builder's yard. During my site visit I observed building materials stored on the site and heavy plant machinery. In addition
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there were sheds that appeared to also be used for storage. The site is rectangular in shape and is accessed off Park Road via a double gate. The boundary with the road consists of a hedge and trees that provide some degree of screening from views off the road. The north east and south east boundary consists of timber fencing, hedging and trees which also provide some screening. The north west boundary with the adjacent residential property, Robin Cottage (prev. No 123 Somewhere) consists of a close-boarded timber fence.

6. Notwithstanding the presence of the materials, plant and structures on the site, its general openness and low profile makes some contribution to the openness of the overall area. The site also contributes to the gap between the industrial units to the east and the main built form of Silverdale to the west, which provides an important visual break between the two developments. However, I note that the site is not located within an area of special landscape quality.
7. The proposed dwelling would be single-storey and would be positioned in the western half of the site, adjacent to the boundary with Robin Cottage. Although it would be single-storey in height it would nevertheless be more visually prominent than the existing use of the site and would result in a moderate loss of openness. However, the site is considered to be previously developed land and a single dwelling would be more compatible with adjacent residential properties than the existing builder's yard and would not encroach any further into the surrounding fields or adjacent woodland. Overall, I find that the replacement of the existing use with a single-storey dwelling would not significantly erode the gap between the industrial units and Silverdale. The remaining gap would retain a sufficient degree of openness to ensure there would be an adequate visual break between the industrial units and Silverdale.
8. I find therefore that the proposal would not significantly harm the character and appearance of the area. As such, it complies with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, which, amongst other matters, seeks to ensure that new development is well designed to respect the character, identity and context of the area.

Other Matters

9. I have had regard to the appellant's argument that there are not any restrictive conditions that would limit the intensification of the builder's yard. Whilst my decision does not turn on this matter, the potential significant harm to the character and appearance of the area as a result of such intensification through the increase in materials and plant stored on the site and the number of vehicle movements in and out of the site weighs in favour of the proposal.
10. I have also had regard to the planning history of the site, most notably an appeal decision for an outline scheme comprising two dwellings on the site¹. However, the proposal before me is for a single-storey dwelling and therefore its effect on the character and appearance of the area would be markedly different to two dwellings. In addition, the previous scheme predated the publication of the Framework and the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and therefore was assessed against different local and national policies. Accordingly, the circumstances are not directly comparable to those which apply in this appeal. I have, in any case,

¹ Appeal Ref APP/P3420/A/08/2085841

reached my own conclusions on the appeal proposal on the basis of the evidence before me.

11. I appreciate the concerns raised by local residents in respect of highway safety. However, as the proposal is for a single dwelling I do not find that the limited increase in traffic movements would represent a significant risk to the safety of pedestrians or create congestion problems on Park Road. I also note that the local highway authority raise no objection.
12. In addition, I do not find that the proposal would generate a significant level of noise that would be harmful to the living conditions of the occupants of the neighbouring property. Whilst noise and disturbance would be generated during the construction of the dwelling, this would be for a temporary period only. Furthermore, there is no substantive evidence that the proposal would significantly compromise any wildlife value which the site may have.
13. Whilst I acknowledge the adjacent neighbours concerns with regard to the loss of views of the countryside, there is no right to a view within the planning system.

Conditions

14. I have had regard to the various conditions that have been suggested by the Council. I have amended some of the conditions for clarity and conciseness.
15. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area conditions regarding tree protection and landscaping are necessary. In the interests of highway safety, conditions regarding access improvements and parking areas are required. Also, in the interests of safeguarding public health, conditions regarding land contamination and contaminated top soil are necessary. Furthermore, due to the proximity of the site to industrial uses, a condition is necessary regarding appropriate noise mitigation measures.
16. It is essential that the requirements of conditions 3, 7 and 8 are agreed prior to the development commencing to ensure an acceptable form of development in respect of preserving the character and appearance of the area and to safeguard public health.
17. I have had regard to the condition suggested by the Parish Council with regard to a traffic management plan, the implementation of a 20mph speeding zone and a designated footpath and lighting. However, given the scale of the development and its limited increase in traffic such conditions would not be reasonable or necessary.

Conclusion

18. The government is seeking to significantly boost the supply of housing and Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. The development would provide economic benefits through the creation of construction jobs during the time of the build. However, these would only be short term. The site is an accessible one, close to services and a range of facilities in Silverdale. In this respect the location is suitable for development. However, as a single dwelling, the proposal would make only a minimal

contribution to the district's identified housing need. Nevertheless, these modest benefits weigh in the scheme's favour.

19. As I have found that the proposal would not significantly harm the character and appearance of the area, and there is no identifiable harm that would significantly and demonstrably outweigh the above benefits, when assessed against the policies of the Framework when taken as a whole, in accordance with paragraph 14 of the Framework, planning permission should be granted.
20. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1523-08, Block Plan as Existing 1523-08, 1523-07C, 1523-06A.
- 3) No development shall commence until a landscape scheme has been submitted to and approved in writing by the local planning authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on or adjacent to the land which shall be retained in their entirety, unless otherwise agreed in writing by the local planning authority, together with measures for their protection in the course of development.
- 4) The approved landscape scheme (both hard and soft) shall be carried out before the occupation of the building or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the local planning authority. 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, unless the local planning authority gives written consent to any variation.
- 5) The dwelling hereby permitted shall not be occupied until the access, parking and turning areas have been provided in accordance with drawing no: 1523-07C and surfaced in a bound and porous material, which shall be retained as such thereafter.
- 6) The dwelling hereby permitted shall not be occupied until visibility splays 2.4m x 43m have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.
- 7) Prior to the commencement of development, including demolition and site clearance, a Phase 2 contaminated land assessment report shall be submitted to and approved in writing by the local planning authority. The

- report shall include the results of test bores/windows samples carried out at the site, including the presence of any contaminants and where required a plan of remediation for the safe removal of any contaminated land and its replacement with inert fill, or alternatively, a plan of how contaminated land is to be safely encapsulated or otherwise remediated.
- 8) No development shall commence 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's 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.
- 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 the development is occupied.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 11) No development shall commence until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing within 30 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 30 days and approved in writing within

30 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.

- 12) No top soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the development. A suitable methodology for testing this material should be submitted to and approved in writing by the local planning authority prior to the soils being brought on to the site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing by the local planning authority.
- 13) Construction work shall not take place until a scheme for protecting the hereby permitted dwelling from noise from the nearby industrial uses shall have been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed prior to the occupation of the dwelling and retained thereafter.