
Appeal Decision

Site visit carried out on 12 December 2016

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 06 January 2017

Appeal Ref: APP/M3455/W/16/3158242

Land to north side of Rosy Bank, Stockton Brook, Stoke on Trent ST9 9PJ

- 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 Edwardson against the decision of Stoke-on-Trent City Council.
 - The application, No 59252, dated 12 December 2015, was refused by a notice dated 9 March 2016.
 - The development proposed comprises a detached dwelling.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Procedural Matters

2. This is an outline application. Whilst the appellant suggests that no details of the precise location or height of the dwelling proposed are included for consideration, commenting elsewhere that alternative access options to the site exist, the planning application form is completed to the effect that matters of access, layout and scale *are* for consideration at this stage, with only matters relating to appearance and landscaping reserved for future consideration. I note, in this regard, that the submitted plans, together with the Design and Access Statement, indicate the erection of a detached two-storey dwelling located towards the Cocks Lane frontage at the northern end of the site. The building is shown as having a footprint of 15 x 10 metres and is described as having a maximum height of 8 metres. The plans clearly show it to be served by a new vehicular access off Cocks Lane. That said, whilst I have dealt with the application on the basis of the submitted details, I confirm that the outcome would have been the same even were I to have dealt with the appeal on the basis that matters of layout, access and scale were reserved.
3. The appellant expresses concern in relation the Council's handling of the planning application, in particular the site visit process. However, such matters are outwith my remit in considering the planning merits of the appeal scheme. It would be for the appellant to pursue this matter directly with the Council in the first instance.

Main Issues

4. These relate to whether the proposal comprises inappropriate development within the Green Belt; effect on the openness of the Green Belt; effect on the character and appearance of the area; effect on vehicular and pedestrian safety; and, if the proposal does amount to inappropriate development, whether the harm in this regard, together with any other harm, is clearly

outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

5. Paragraph 89 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate development. There are, however, certain exceptions to this, including limited infilling within villages. Whilst the Framework does not include any definition as to what comprises limited infill development, saved policy GP1 of the City of Stoke on Trent Local Plan 1990-2001 (adopted September 2003) which reiterates the general presumption against development in the North Staffordshire Green Belt, indicates that exceptions may include the development of a gap within an otherwise built-up frontage, where the gap does not make a material contribution to the amenity of the locality.
6. The western side of Cocks Lane, opposite the appeal site, is defined by the fenced rear garden boundaries of suburban bungalow properties on Brentwood Grove, which are at a lower level than Cocks Lane. However, the eastern side of this narrow lane, including the appeal site, has a completely different character and appearance comprising, for the most part, a steep well-vegetated embankment between Cocks Lane and Greenway Hall Road above. Housing along this side of the lane is sporadic and generally well dispersed. I saw a cottage at the southern end of the lane, at its junction with Rosy Bank. There is a sizeable gap between that cottage and Cockswood, a detached dwelling. A much more substantial gap separates that property from Hillside Cottage/Dawson Cottage/Thorn Cottage to the north. The appeal site comprises approximately one third of that larger gap, located roughly mid-way between Cockswood and Hillside Cottage.
7. The embankment may well have been 'consumed into the domestic curtilage of adjacent properties' and a change of use may have occurred. I am mindful, in this regard, as noted by the appellant, that the making of a material change of use comprises development in the terms of the Town and Country Planning Act 1990 (as amended). However, that is not the same, necessarily, as built development. Notwithstanding the presence of a group of sheds to the rear of Hillside Cottage/Dawson Cottage/Thorn Cottage, and a couple of small garden structures close to Cockswood, there is no impression of what might be perceived as an otherwise 'built-up' frontage along the eastern side of Cocks Lane here. Rather, what built development there is, is much more dispersed, with the land around the appeal site, to the rear and to either side, being predominantly open and undeveloped, in that it is largely free of built development. As a consequence, the appeal site is not perceived as a 'gap' between existing properties, or indeed as a gap within an 'otherwise built up frontage'. It would not, therefore, comprise limited infilling. As such, having regard to the Framework and local planning policy, the scheme proposed would comprise inappropriate development in the Green Belt.

Openness

8. As set out in the Framework, one of the essential characteristics of Green Belts is their openness. The concept of openness in this regard, relates to the absence of buildings and development. The erection of a two storey dwelling,

with a footprint of some 150 square metres on land that is currently open and undeveloped would unavoidably mean that this part of the Green Belt would be less open than it is now. That decrease in openness adds to the harm by reason of inappropriateness that I have identified above.

Character and Appearance

9. Cocks Lane forms the western edge here of what is, in essence, a landscape corridor that runs north/south and which rises steeply to the east. This swathe of land is largely open, with what built development there is, including residential properties, being generally dispersed. As a consequence, it has a rural character and appearance that is quite distinct from the hard edge created by the suburban residential development on Brentwood Grove which backs onto the western side of the lane here. As such, I consider that the land on the eastern side of the lane, including the appeal site, forms part of the open countryside, providing a rural setting to Stockton Brook.
10. Although there are sporadic dwellings on the eastern side of the lane, there is no settlement 'pattern' as such. I am in no doubt that the erection of a dwelling on the currently open appeal site, land that currently appears as an intrinsic part of the wider countryside, would erode the distinctive rural character and appearance of the area and would detract from the rural setting of Stockton Brook. There would be conflict, in this regard, with policy CSP1 of the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 (adopted October 2009) which, among other things, requires that new development should respect the character, identity and context of the area's landscape, in particular its rural setting and settlement pattern.

Highway Safety

11. The roads around the appeal site, including Cocks Lane from which access would be taken, are narrow, mainly single track winding lanes that are steep in places. There are no footways for the most part, with very limited opportunities for oncoming vehicles to pass and very little in the way of street lighting. Moreover, many of the junctions connecting the lanes do not meet current design standards, with restricted visibility and such tight junction radii that, on some approaches, a number of manoeuvres are required in order to make the turn.
12. I am satisfied that any dwelling on the appeal site could be provided with adequate parking and turning facilities. However, whilst the volume of traffic likely to be generated would be relatively low there would, nevertheless, be an increase in traffic movements on the adjacent lanes which would, in turn, increase the prospect of conflict between highway users, both vehicular and pedestrian. Even were the site to be accessed off Greenway Hall Road, as opposed to Cocks Lane, traffic would still need to use the narrow lanes. As such, that potential alternative arrangement would not address my concerns in this regard.
13. The appellant indicates that he would be prepared to make provision for a footway across the width of the appeal site on the Cocks Lane frontage and to provide additional street lighting if required. However, the footway would not link directly to any other footway, which limits its usefulness, and the offer of street lighting is not secured by any formal arrangement. In any event, the shortcomings with the local highway network that I have identified are

significant and could not be adequately overcome by improvements that would be proportionate to the scale of development proposed. On balance, therefore, I consider that the proposal would exacerbate an already hazardous situation and would unacceptably increase the risks to all users of the challenging local highway network, contrary to the provisions of policy SP3 of the Core Spatial Strategy which seeks, among other things, to ensure that developments adopt design principles which work to create safer environments.

14. In support of the proposal, the appellant suggests that no objections were raised on highway safety grounds to an application for a doctors' surgery at the junction of Nursery Lane with Baddeley Green Lane and Leek New Road, or to a subsequent application for a development of eleven houses on the same site. No details about those permissions are before me, but that site does not lie at the heart of the labyrinth of narrow winding lanes. I am not persuaded, in this regard, that there is any inconsistency in the Council's position in relation to highway safety, since the location of that site is not, it seems to me, directly comparable to the appeal site.
15. I understand that Cocks Lane may have been signed as a diversion route during recent road works in the locality. However, that does not mean that it is necessarily a suitable or safe route for increased traffic, simply that it was used as an alternative route for a temporary period.
16. The appellant suggests that policy SP3 is outdated and that there is a tension with paragraph 32 of the Framework, in particular the third bullet within that paragraph. However, the paragraph referred to, which is in the section of the Framework that seeks to promote sustainable transport, begins by stating that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. It then goes on to set out relevant considerations in three bullet points. The appeal scheme is not one which would generate a 'significant' amount of traffic movement such that a Transport Statement or Transport Assessment is required. As such, I consider that the advice in the three bullet points, which need to be read together, is of limited relevance in relation to the appeal scheme. Moreover, the chronological age of a policy does not, by itself, mean that it is outdated. Rather, it is necessary to look at what it seeks to achieve. In seeking to create safer environments, I find no conflict between policy SP3 and the Framework and am not persuaded that it is out of date in this regard.

Other considerations

17. I have found that the appeal scheme would comprise inappropriate development in the Green Belt. Such development should not be approved except in very special circumstances, which circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. The appellant refers me to a development of six properties constructed within the Green Belt in Glastonbury Close, which lies on the opposite side of Greenway Hall Road. However, I have no information as to the circumstances that led to that grant of permission. I have no way of knowing therefore, whether the circumstances relating to that development are directly comparable to the appeal scheme, which I have considered on its own merits. That development does not attract any weight as an other consideration.

19. There is no dispute that the Council cannot demonstrate a five year supply of housing land at the present time. I recognise, in this regard, that the appeal scheme would contribute to housing supply at a time of need. That factor adds some weight in favour of the proposal. However, that is tempered by advice in the Government's Planning Practice Guidance (planning guidance) that unmet housing need is unlikely to outweigh the harm to the Green Belt, and other harm, sufficient to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt.¹

Other Matters

20. One of the reasons for refusal related to insufficient information in relation to the effect of the development proposed on ecological interests. However, subsequent to determination of the application, many of the mature trees that were on the site were felled and the site has largely been cleared of vegetation. Whilst local residents are concerned about those works, the Council confirms that the trees were not protected. Consent would not, therefore, have been required for the works of felling and site clearance that have been undertaken.
21. The results of an ecological appraisal carried out in October 2016 were submitted in support of the appeal. It advises that the habitats that remain on site, including scrub and tall herb, are low in ecological value and botanical interest in terms of the plant species they support and they do not require protection as part of the appeal scheme. Whilst there was no evidence of badger activity, the small areas of scrub and other areas of vegetation are likely to be used by a number of species of bird, as they provide nesting sites and food. The protection during construction of any nesting birds could be secured by condition, as could the provision of bird boxes. I have no reason to suppose, therefore, that such ecological interest that there is on the site could not be protected satisfactorily were the appeal to succeed.
22. Whilst each application must be treated on its individual merits, I note the comments of the Council that approval of this proposal could be used to support similar schemes in this locality. Whilst there may currently be no intention on the part of others to undertake such development, I am satisfied that this is not a generalised concern, but a realistic and specific concern in view of the extent of open, largely undeveloped land along this side of Cocks Lane. Were the appeal to succeed, that could make it more difficult for the Council to resist further planning applications for similar development here, the cumulative effect of which would exacerbate the harms I have identified above.
24. Local residents raise a number of concerns, including the impact of the development proposed on privacy and outlook. Whilst the Council takes no issue on this point, I am mindful that the dwelling proposed would occupy an elevated position in relation to the bungalow properties on Brentwood Grove opposite. It seems to me, given the close proximity and the significant differences in levels, that there may be scope for overlooking and impact on outlook for existing residents. Had the scheme been acceptable in all other regards, I would have required further information on this, such as cross sections, to demonstrate that the living conditions of nearby residents could be adequately protected in these regards.

¹ Planning Practice Guidance ID: 3-034-20141006

Overall Planning Balance and Conclusion

25. The Council cannot demonstrate a five year supply of housing land. It follows that, in accordance with paragraph 49 of the Framework, relevant policies in the development plan for the supply of housing are out of date. Inasmuch as it has a bearing on the location and thus the supply of new housing, saved policy GP1 of the City Plan is such a policy. However, whilst Framework paragraph 14 indicates that where relevant policies are out of date planning permission should be granted, this is subject to the caveat that this is unless 'specific policies in this Framework indicate development should be restricted'. Footnote 9 of the Framework lists policies related to land designated as Green Belt as such a policy.
26. I have found that the development proposed would be inappropriate and would harm the openness of the Green Belt. I have also found that there would be harm to the character and appearance of the area and to highway safety. The matters raised in support of the proposal do not clearly outweigh the substantial weight which must be attached to the harm to the Green Belt by reason of inappropriateness and loss of openness, together with the other harms identified. Therefore, for the reasons set out above, and having regard to all other matters raised by the appellant, I conclude on balance that the appeal should not succeed.

Jennifer A Vyse

INSPECTOR