

Appeal Decision

Site visit made on 24 January 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 1st February 2017

Appeal Ref: APP/P3420/W/16/3163358

Land adjacent Maerfield Gate Farm, Stone Road, Blackbrook, Newcastle under Lyme, ST5 5ED

- 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 Appollo Developments Ltd against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 16/00460/OUT, dated 31 May 2016, was refused by notice dated 29 July 2016.
 - The development proposed is erection of two detached dwellings and garages – demolition of existing warehouse and formation of a new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application to which this appeal relates was submitted in outline with all matters except access reserved for determination at a later date. I have dealt with the proposal on that basis.
3. Both parties have referred to various local and national policies. Whilst I have had regard to those identified, I have only specifically referred to those policies which I consider to be most relevant to my Decision.

Main Issue

4. The main issue is whether the development proposed is acceptable with regard the principle of sustainable development.

Reasons

5. The appeal site is an area of land with a barn situated upon it. Whilst the appeal site has historically been used for agricultural purposes, in more recent years (some time prior to February 1994) the barn has been used as a warehouse/store. I have been made aware of the planning history relating to this. The remainder of the site is laid to grass. The site fronts on to the main A51 and is immediately adjacent to its junction with Stone Road.
 6. The appeal proposal would see the demolition of the existing building on the site and the construction of two dwellings with associated garages. A new vehicular access on to Stone Road would also be created.
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Principle of the development proposed

7. The development plan for the area comprises the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS) (adopted October 2009) and the saved policies of the Newcastle-under-Lyme Local Plan 2011 (adopted in October 2003) (LP).
8. The general thrust of relevant policies from the CSS, including policies SP1 and ASP6, seek to direct the majority of new housing development towards Newcastle town centre and other identified significant urban centres. New development is prioritised in favour of previously developed land where a range of services can be accessed by foot, public transport and cycling. A number of key Rural Service Centres are also identified. Policy H1 of the LP also seeks to support housing within the urban area of Newcastle or Kidsgrove or one of the village envelopes.
9. Baldwin's Gate is not identified as one of the Rural Service Centres nor is it within a village envelope. Local policies indicate that open market residential development should be resisted in villages other than those identified as key Rural Service Centres. Baldwin's Gate is identified as a village and the CSS indicates that no further growth is planned for the villages. The appeal site is approximately 1Km from the development boundary of the village and for the purposes of the Development Plan, is therefore within the open countryside.
10. The appeal site is not therefore in a location where the Development Plan would support new open market housing and the principle of the development proposed therefore conflicts with policies SP1 and ASP6 of the CSS and policy H1 of the LP as a consequence.

Housing land supply

11. It is a matter of common ground between the main parties that the Council is currently unable to demonstrate a five year supply of housing land in line with the requirements of the National Planning Policy Framework (Framework). As such, paragraph 49 of the Framework is relevant to my consideration of this appeal. The paragraph states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
12. As policies SP1 and ASP6 of the CSS and policy H1 of the LP seek to control the supply of housing in terms of its spatial distribution and to restrict the provision of new housing in some rural locations, these policies are relevant to the supply of housing. They are not therefore up-to-date for the purposes of paragraph 49 of the Framework. Paragraph 14 of the Framework indicates that where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, I shall now go on to consider whether the development proposed would be acceptable with regard to the principle of sustainable development.

Whether sustainable development – accessible location

13. Paragraph 7 of the Framework confirms that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 55 also states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The paragraph goes on to state that new isolated homes in the countryside should be avoided, unless there are special circumstances which include where the development would re-use redundant or disused buildings. The appeal proposal would see the demolition of the existing building and not its re-use. The development proposed would therefore not comply with this particular exception.
14. Although the appeal site is directly opposite Slaters, which is a small collection of retail and rural enterprise units, the area is otherwise defined by an open, agricultural landscape with views of scattered farmhouses and dwellings. The appeal site is therefore in a rural location.
15. There is some dispute between the main parties as to whether or not the appeal site is in an accessible location in terms of goods and services that future occupants of the proposed dwelling would rely on to meet their day to day needs. My attention has been drawn to two previous appeals where this issue has been considered.
16. There has been a previous appeal¹ at the appeal site for a replacement warehouse building which was allowed in August 2014. The main issue in that case was identified as being the effect of the development proposed on the interests of sustainable development. The previous Inspector referred to local policies that adopted a positive approach to rural enterprises and found on balance that the proposal would not harm the interests of sustainable development. A subsequent appeal² in November 2015 dealt with a residential scheme comprising 4 dwellings on an area of land situated close to the appeal site. This appeal was dismissed with the previous Inspector concluding, amongst other things, that the proposed location would not be sustainable.
17. The two previous appeals therefore considered two different types of development, one commercial and one residential. The Inspectors also dealt with the issue of whether the area within which the appeal site is situated can be considered to be accessible. In the case of the 2014 appeal, although the Inspector referred to conflicting submissions by the main parties as to whether the appeal site is in an accessible location, he stated that he did not consider it necessary to deal in detail with the conflicting submissions on this point. In contrast, the Inspector in the subsequent 2015 appeal dealt with this issue in detail and reached a firm conclusion. I have therefore had greater regard to the conclusions of the Inspector in the more recent 2015 appeal on this issue, particularly as the proposal before me is also for residential development.
18. The appeal site is approximately 1km away from the development boundary of the nearest village, Baldwin's Gate. Future occupants of the development proposed would therefore be required to undertake a 15-20 minute along a busy, well used road where there is no street lighting in order to access goods and services in the village on foot or via bicycle. I am therefore in agreement

¹ Appeal Ref: APP/P3420/A/14/2217252 Decision date: 6 August 2014

² Appeal Ref: APP/P3420/W/15/3022963 Decision date: 2 November 2015

with the 2015 appeal decision that future occupants would be likely to consider this journey as undesirable and would be more likely to drive into the village. Whilst there are a range of businesses at the Slaters complex opposite, they do not include facilities that would readily meet the everyday needs of future occupants, such as a convenience or food store, newsagents or post office.

19. The appellant has referred to a bus service which operates the route between Shrewsbury and Market Drayton and also Newcastle and Hanley to Market Drayton. However, as noted by the previous Inspector, there are limitations to the service. These include two early morning buses that only run on Saturdays, no service in the evenings and no service on Sundays (the timetable states Mondays to Saturdays). Whilst the service may be hourly during the day, that is not always convenient for commuting purposes or for a specific timed appointment such as for a dentist or doctor as arrival or departure times may not always exactly correspond with the desires of future occupants. Future occupants might also work elsewhere other than the locations served by the bus service.
20. There is no specific information before me as to the exact distance of goods and services that future occupants would be reliant upon, such as supermarkets, the nearest GP practice or school, from the appeal site and whether or not these would be readily accessible via the bus route. Additionally, future occupants undertaking large weekly food shops or travelling with children may well view the use of the private car as more convenient to undertake trips as it is often easier to carry large volumes of shopping or bulky items such as prams this way. For these reasons, whilst there is a bus service available that future occupants could use, I consider it likely that future occupants would be likely to undertake the majority of trips via the car as this would be likely to be seen as a more convenient option.
21. Accordingly, I consider that future occupants would be likely to undertake the majority of journeys by car and the appeal site is situated in an open, rural landscape, where notwithstanding the Slaters complex, there is little other visible of built development other than scattered dwellings. I therefore conclude on this issue that the development proposed would be in an isolated location and would not enhance or maintain the vitality of rural communities. The development proposed would therefore conflict with paragraph 55 of the Framework.

Other sustainable development considerations

22. Two additional housing units would be provided as a consequence of the appeal proposal and the appellant has referred to an intention to utilise sustainable construction methods and incorporate renewable energy measures where possible. Whilst overall this would be a very modest contribution to the supply of housing in the area overall, this is a matter that does weigh moderately in favour of the proposal.
23. The appeal proposal would see the re-use of some previously developed land. This also weighs moderately in favour of the proposal.
24. The existing agricultural barn is partially clad in metal and in a poor state of repair. It is also prominent in views from the main highway due to it being close to the road and on a corner plot. However, this type of agricultural style building is fairly typical within a countryside setting and as a consequence it is

not seen as an unduly discordant or harmful feature to the visual appearance of the area. Whilst appearance, scale and siting are reserved matters at this stage, there is no specific information before me to indicate that the two dwellings proposed would cause undue harm to the character and appearance of the area. However a lack of harm in this respect is a neutral matter that does not weigh in favour of the appeal proposal.

25. I understand that it has previously been accepted that the removal of a mature sycamore tree showing some signs of disease would be required as part of the approved 2014 warehouse scheme and that the remaining trees and hedgerows on the site would be retained. I see no reason to reach a different conclusion. This is also a neutral matter.
26. The proposed access is in the same position as that approved as part of the 2014 warehouse scheme. Based on the information before me, I am satisfied that a safe and suitable access could be provided. I also note that the highway authority did not object in this regard, subject to conditions. Whilst the appellant has referred to the proposed relocation of the access on to Stone Road as an improvement, I have not been made aware of any particular safety concerns or specific accident data relating to the use of the existing access in its current location. Whilst disabled parking facilities could be incorporated into the design of the scheme, the exact nature of what this would entail has not been described and dedicated parking spaces close to the dwellings proposed would be required in any event. This is also therefore a neutral matter.
27. In terms of the proposed landscaping, given that the site currently has an agricultural appearance that blends visually with the surrounding countryside, any alteration in the existing landscaping arrangements on the site would also have a neutral affect overall on the character and appearance of the area.
28. The appellant has referred to permitted development rights where it is stated that it would be possible to seek a change of use of the building from one used for the purposes of storage and distribution (Class B8) to a single dwelling (C3). There is no evidence before me to confirm whether the appellant has formally applied to the Council to do this. Indeed the Council disputes whether the permitted development rights could be exercised in this case on the basis of the extent of alterations that would be required to make the existing building fit for residential use. For these reasons, I attach limited weight to this 'fall back' position.

Overall conclusion

29. Drawing matters together, whilst the appeal site is in a countryside location where the Development Plan would not normally permit new open market housing, due to the lack of a five year supply of housing land I attach less weight to the conflict with policies SP1 and ASP6 of the CSS and policy H1 of the LP. I have therefore gone on to consider the merits of the appeal proposal in light of relevant sustainable development considerations in accordance with paragraphs 14 and 49 of the Framework.
30. There are elements that weigh in favour of the appeal proposal, including the modest contribution made to housing supply by the provision of an additional two dwellings, the appellant's stated intention to incorporate sustainable construction and renewable energy measures and the proposed re-use of a

small area of brownfield land. Due to the scale of the development proposed these matters weigh moderately in favour of the proposal.

31. I have also identified several neutral issues whereby a lack of harm does not weigh in favour of the appeal proposal. These include character and appearance, trees and hedgerows, access and parking and landscaping. For the reasons given, I attach limited weight to the appellant's 'fall back' position regarding stated permitted development rights.
32. On the other hand, I have concluded that the proposed dwellings would be in a location where future occupants would be likely to be reliant on the private car in order to access everyday goods and services. Taking this into account and the fact that the appeal site is in a rural location with little visible evidence of other development, notwithstanding the Slaters complex opposite, I concluded that the proposed dwellings would be in an isolated countryside location and as such would fail to enhance or maintain the vitality of rural communities to any meaningful extent. Paragraph 55 of the Framework confirms that new isolated homes in the countryside should be avoided, except in the special circumstances listed none of which are relevant to the appeal proposal.
33. For these reasons, I conclude that the adverse impacts of the appeal proposal do significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The development proposed does not therefore amount to a form of sustainable development and the Framework's presumption in favour does not apply.

Conclusion

34. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas-Gosnold

INSPECTOR