
Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

by Beverley Doward BSc BTP MRTPI

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

Decision date: 28 March 2017

Appeal Ref: APP/B3410/W/16/3148540

The Lont, Stubby Lane, Draycott in the Clay, Staffordshire, DE6 5BU

- 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 Ms J Whetter against the decision of East Staffordshire Borough Council.
 - The application Ref P/2015/01585, dated 12 November 2015, was refused by notice dated 3 February 2016.
 - The development proposed was described as "change of use of land to accommodate up to 8 residential dwellings, associated garaging and access".
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Decision

1. The appeal is allowed and planning permission is granted for up to 8 residential dwellings, associated garaging including details of access at The Lont, Stubby Lane, Draycott in the Clay, Staffordshire, DE6 5BU in accordance with the terms of the application, Ref P/2015/01585, dated 12 November 2015, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made in writing by Ms J Whetter against East Staffordshire Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. The description of development in the heading above is taken from the planning application form. It was confirmed by the main parties at the Hearing that the planning application that is the subject of this appeal sought outline planning permission for up to 8 residential dwellings with all matters other than access reserved for future consideration. The Council dealt with the proposal on this basis and so shall I. I have treated the layout plans submitted with the planning application as being illustrative in all respects other than in relation to access. I have similarly treated the elevational/street scene plans as being for illustrative purposes only. I have used the description of development given on the Council's decision notice in my formal decision as this more accurately describes the development.
4. The Council's third reason for refusal relates to the lack of affordable housing provision. However, at the Hearing the Council confirmed that, in the light of the Court of Appeal judgment of May 2016 regarding the Ministerial Statement of November 2014 in relation to affordable housing contributions from

developments of 10 units or less, it was no longer pursuing that reason. Accordingly, I have not needed to consider that matter further.

5. At the Hearing session held on 4 October 2016 the Council was unable to provide the detailed figures to substantiate its explanation of an apparent discrepancy in its published information regarding housing completions. Accordingly, in the light of the issues in this case I gave the Council the opportunity to provide further information on this matter in writing after the Hearing session. I also provided the Council the opportunity to submit a copy of the document that it referred to at the Hearing session in relation to its request that if I were minded to allow the appeal I include a condition requiring the provision of household waste recycling/disposal receptacles. The Council submitted the information within the timescales set and the appellant was provided the opportunity to comment upon it in writing. I have had regard to the submitted information and the appellant's response on these matters and return to them below.

Main Issues

6. Having regard to all that I have read and the discussion at the Hearing I consider that the main issues in this case are whether the proposal for housing development in this location would be acceptable having regard to:
 - the development strategy for the area;
 - its accessibility by sustainable modes of transport;
 - the effect on highway safety; and
 - the principles of sustainable development defined in the National Planning Policy Framework (the Framework).

Reasons

Development Strategy

7. The development plan for the area in which the appeal site is located is the East Staffordshire Local Plan 2012-2031 (Local Plan) which was adopted in October 2015. In relation to this issue the Council's decision notice refers to Strategic Policies 2, 4 and 8 of the Local Plan. The Council has also referred me to Strategic Policy 1 of the Local Plan which it considers relevant to the proposal.
8. Strategic Policy 2 (SP2) of the Local Plan indicates that development will be directed towards the most sustainable locations in accordance with a settlement hierarchy comprising the Main Towns, Strategic Villages and Local Service Villages. It indicates that new development should be concentrated within the settlement boundaries of the Main Towns, Tier 1: Strategic Villages and Tier 2: Local Service Villages as shown on the policies maps. Draycott in the Clay is identified as a Tier 2: Local Service Village. SP2 goes on to state that Tier 3: Small Villages and other settlements (without settlement boundaries) are treated as open countryside where development will be permitted only in exceptional circumstances as set out in other policies of the Plan, including Strategic Policy 8 (SP8).
9. The explanatory text to SP2 indicates that the purpose of identifying a network of settlements is to ensure that the right level of development takes place in

the right places, recognising that each settlement performs a different role and function within the network and indicates that consideration has been given to ensuring development takes place in locations served by services, facilities and public transport.

10. Strategic Policy 4 (SP4) of the Local Plan sets out the distribution of housing growth for the period 2012-2031 across the Borough. It identifies a development requirement of 20 houses for Draycott in the Clay to be delivered within the settlement boundary or in accordance with a Made Neighbourhood Plan. It also identifies a total development requirement of 250 houses for Tier 3: Small villages, other settlements and the countryside which includes housing exception schemes in accordance with SP18 or the types of housing considered acceptable in the countryside by virtue of SP8.
11. Strategic Policy 8 (SP8) of the Local Plan indicates that development outside settlement boundaries will not be permitted unless it complies with one of the specified exceptions. The supporting text to the policy indicates that it applies to open countryside and to settlements that do not have a settlement boundary and indicates that it should be read in conjunction with other policies including SP2. It also indicates that it applies to all types of development, including housing.
12. There is nothing in the Framework regarding settlement boundaries to suggest that they are inappropriate in principle as a tool to direct new development to sustainable locations and to protect the character and appearance of the countryside or that it is not appropriate for a local planning authority to determine the specific circumstances to apply in its consideration of development within the countryside in order to protect its character and appearance. Accordingly, in these respects I am satisfied that SPs 2, 4 and 8 of the Local Plan are broadly consistent with the advice of the Framework in relation to promoting sustainable development in rural areas, avoiding isolated homes in the countryside, delivering a wide choice of quality homes, supporting a prosperous rural economy, promoting sustainable transport and conserving the natural environment.
13. I am also mindful that in this case the Local Plan has only recently been adopted and that consistency with national policy is one of the tests of soundness that would have been considered by the Inspector examining the Local Plan. Therefore, I see no reason to reduce the weight to be attributed to these policies in my consideration of this appeal.
14. The appeal site comprises a paddock. It is on the edge of the settlement of Draycott in the Clay albeit outside the settlement boundary as indicated on the policies map. There is no dispute between the parties on this matter. The site is therefore within the open countryside for planning policy purposes and the proposal would conflict with the locational requirements of SP2 of the Local Plan.
15. There is also no dispute between the parties that the proposed development would not accord with any of the exceptions set out in SP8. Accordingly, it would not be supported by SP8 or SP4 of the Local Plan. There is not a Neighbourhood Plan for Draycott in the Clay.
16. Strategic Policy 1 (SP1) of the Local Plan indicates that, in line with Principle 1 of the Local Plan which embodies the presumption in favour of sustainable

development as indicated in the Framework, development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to East Staffordshire Borough Council. It indicates that in assessing whether a development proposal is as sustainable as possible, the Council will apply a number of principles. These include whether it is located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the open countryside and whether it is convenient and safe to walk, cycle and travel by public transport between the site and existing homes, workplaces, shops and other facilities.

17. The appeal site lies on the northern side of Stubby Lane (B5017). To the east Stubby Lane joins the A515 which joins the A50 trunk road to the north. To the west the B5017 enters the settlement of Uttoxeter and joins the A518 which in turn joins the A50 trunk road that links the M1 and A38 trunk roads to the M6. Accordingly, the proposed development would have good links to the strategic highway network. There is nothing in the evidence before me to suggest that the proposal would result in vehicles harming residential amenity and as indicated below I have found that it would not cause material harm to highway safety.
18. Although the appeal site is treated as being within the countryside for planning policy purposes it is no part of the Council's case that the proposed development would cause harm to the character and appearance of the area and from what I saw on my site visit and on the evidence before me I see no reason to take an alternative view.
19. The proposed development would not appear as isolated development within the countryside given that the site is adjoined to the south-east by a residential property beyond which is a large logistics employment site and that there are other residential properties to the north-west including the residential development at Deep Cut Road. Furthermore, as I have found below it would be accessible by sustainable modes of transport to the local services and facilities in Draycott in the Clay and Marchington and to the higher order services and facilities in the Main Towns of Uttoxeter and Burton upon Trent. Accordingly, the appeal proposal would comply with the requirements of SP1 of the Local Plan which sets out East Staffordshire's approach to sustainable development.
20. Having regard to all of the above therefore, the proposal would comply with the requirements of SP1 of the Local Plan which sets out East Staffordshire's approach to sustainable development. Although it would be contrary to the locational requirements of SP2 of the Local Plan and would not be supported by SP4 or SP8 it would not undermine the purposes of these policies which from the evidence seem to me to be to maintain and sustain rural communities, ensure that development takes place in locations served by services, facilities and public transport and to protect the character and appearance of the countryside. Therefore, despite the conflict I have found with policies SP2, SP4 and SP8 of the Local Plan, in this particular case because of the specific characteristics of the site there would be very little harm by virtue of that conflict and the proposal would not undermine the overall development strategy of the area.

Accessibility by sustainable modes of transport

21. The appeal site lies about 0.6km from the settlement boundary of Draycott in the Clay. It is located within reasonable walking and cycling distance of the local services and facilities within both Draycott in the Clay and the nearby settlement of Marchington, both of which are identified as Tier 2: Local Service Villages in the Local Plan. Although there is not a continuous footway along the route from the appeal site to Draycott in the Clay or Marchington as detailed below, much of the road is bordered by grass verges of varying width. Furthermore, as agreed by the parties at the Hearing the proposed development would be served by the hail and ride bus service which provides regular services between Burton upon Trent and Uttoxeter and which can be accessed from immediately outside the site.
22. The bus service serves both Draycott in the Clay and Marchington thereby providing an alternative to walking to access the local services and facilities in these settlements as well as serving to access the higher order services and facilities within Burton upon Trent and Uttoxeter. I appreciate that the bus service, albeit regular, runs only at two hourly intervals. However, given its timings in the morning and evening during the week it would provide an alternative to the private car for residents of the proposed dwellings to access employment opportunities in the higher order centres of Burton upon Trent and Uttoxeter. I am also mindful that in terms of accessibility by public transport services it was agreed at the Hearing that there was no difference between the appeal site or a site which may be located within the settlement boundary of Draycott in the Clay in this respect.
23. In the light of all of the above therefore I conclude that the proposed development would be accessible by sustainable modes of transport and that future residents of the proposed dwellings would therefore not necessarily be reliant on the private car for transport to access services and facilities. Accordingly, it would comply with SP1 of the Local Plan which identifies the ability of a proposal to demonstrate that it is convenient and safe to walk, cycle and travel by public transport between the site and existing homes, workplaces, shops and other facilities as one of the principles to apply in assessing whether a development proposal is as sustainable as possible. It would also comply with Strategic Policy 35 (SP35) which seeks to encourage the use of sustainable modes of transport as an alternative to the car.

Highway Safety

24. The proposed development would be accessed by an existing access off the northern side of Stubby Lane which currently serves a range of farm buildings/stables and agricultural land. There is no dispute between the parties that satisfactory improvements could be made to the existing access to serve the proposed development. However, the adequacy of pedestrian connectivity from the site to the services/facilities in Draycott in the Clay and the nearby settlement of Marchington and the consequential likelihood of conflict between vehicles and pedestrians is a matter of contention between the parties. The evidence indicates that there have been no accidents within the vicinity of the existing vehicular access to the appeal site.
25. Stubby Lane (B5017) is a classified rural single two-way road with a speed limit of 40mph which reduces to 30mph about 700m to the east on entry to Draycott in the Clay. It serves the two nearby employment sites, Marchington

Industrial Estate to the west of the appeal site and the Kuehne and Nagel Logistics employment site to the east. However, at the time of my site visits, during the morning peak period and in the early afternoon, traffic volumes on the road did not appear to be great.

26. There is no street lighting in the vicinity of the appeal site. Within the vicinity of the appeal site there is a 1.2m wide footway on the southern side of Stubby Lane which runs both eastwards and westwards. However, to the east the footway ends just west of the access to the Kuehne and Nagel Logistics employment site and to the west it ends just east of Woodlands Drive, from where it continues on the northern side of Stubby Lane until it ends at the access to the Poplars Mobile Home Park. Accordingly, there is not a continuous footway along the route from the appeal site to Draycott in the Clay or Marchington and for some of the way pedestrians would need to walk in the carriageway to access the local services and facilities in these settlements. However, much of the road is bordered by grass verges of varying width and so in most places any pedestrian would be able to step off the carriageway when a vehicle passes. There are also a number of driveways and accesses within which it is possible to take refuge. Whilst I appreciate that taking such evasive action may not be as easy for anyone pushing a buggy or using a wheelchair I am also mindful that the hail and ride bus service which can be accessed from immediately outside the site would provide an alternative to walking to the nearby settlements for those pedestrians.
27. Having regard to all of the above therefore, I consider that the consequential likelihood of conflict between vehicles and pedestrians due to the lack of a continuous footway from the appeal site to Draycott in the Clay and Marchington is limited and that therefore the proposed development would not cause material harm to highway safety. Accordingly, the proposal would comply with SP1 of the Local Plan which identifies the effect of a proposal on highway safety as being one of the principles to apply in assessing whether a development proposal is as sustainable as possible. Furthermore, it would comply with SP35 of the Local Plan which seeks to encourage the use of sustainable modes of transport.
28. For completeness the Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This is a high bar and on the basis of the evidence before me, I am not satisfied that this is the case here.

Principles of sustainable development

29. In terms of the social role the appeal proposal would contribute to the supply of housing and the occupiers of the proposed houses would have access to, and help support the local services in Draycott in the Clay and Marchington which are both identified as Tier 2: Local Service Villages in the Local Plan. They would also have access to the higher order services in the Main Towns of Burton upon Trent and Uttoxeter.
30. Paragraph 7 of the Framework sets out the three dimensions of sustainable development: economic, social and environmental. The appeal proposal would fulfil an economic role by the provision of housing and the provision of employment opportunities during the construction phase of the houses. The proposal would also provide a further economic benefit to the area in so far as

occupiers of the houses would assist in supporting local services which the Council indicates are currently struggling.

31. In terms of the environmental role the proposal would not cause harm to the character and appearance of the countryside. Furthermore, although it would result in the loss of a greenfield site it would not cause any harm to biodiversity. The proposed development would be accessible by sustainable modes of transport to both local and higher order services and facilities thereby providing benefits by reducing the reliance on the private car for transport.

Planning balance

32. Notwithstanding, the theoretical conflict with policies SP2, SP4 and SP8 of the Local Plan, having considered the harm and taking a pragmatic approach when considered against the purposes of these policies and the compliance with the requirements of SP1 of the Local Plan which sets out East Staffordshire's approach to sustainable development, the proposal would not undermine the overall development strategy of the area. Furthermore, it would be accessible by sustainable modes of transport and would not cause material harm to highway safety thereby complying with SPs 1 and 35 of the Local Plan in these respects.
33. There would be economic, social and environmental benefits from the proposal and no significant disbenefits. Therefore, taken overall I am fully satisfied that the proposal would comprise sustainable development and that it would accord with the development plan when taken as a whole.

Other matters

Housing Land Supply

34. There is disagreement between the parties as to whether or not the Council can demonstrate a five year supply of deliverable housing land. The main differences between the parties in relation to this matter relate to the housing completion and under delivery figures, the deliverability of specific sites and whether the Council's approach to applying a 10% lapse rate only to small sites is correct.
35. At the Hearing the Council indicated that the apparent discrepancy in its published information relating to completions for the period 2015/2016 was because the figure of 401 indicated as the cumulative total of completions in the table titled Housing Pipeline only related to partially completed sites whereas the figure of 459 indicated in the table titled Completion Totals 2012/13 up to 2015/16 took account of all completions including those on sites which had been fully built out during the year.
36. As indicated above the Council was provided the opportunity to submit further information in writing after the Hearing session to clarify the position in this respect. There appear to be a number of further discrepancies between the number of completions indicated on specific sites in the additional information submitted by the Council and that indicated in its published information. Nonetheless, I have not considered it necessary to obtain further clarification on this matter because in the light of my findings above the matter of housing land supply is not determinative in my consideration of this appeal.

37. There is nothing in the Framework which precludes further development if a 5 year supply of housing land exists. Therefore, even if the Council does have a 5.72 year of housing land supply as contended, it would not make any difference to my decision to allow the appeal. Accordingly, despite spending some time at the Hearing discussing the areas of disagreement between the parties in relation to the various components of housing land supply, it has not been necessary for me to come to a finding on the existence or otherwise of a five year land supply.

Precedent

38. I have considered the Council's argument that the grant of planning permission for the appeal proposal would set a precedent for housing developments outside settlement boundaries elsewhere in the Borough. However, I have concluded that the proposal would be acceptable having regard to the relevant planning policy, the specific context of the site and its surroundings and other material considerations. Therefore, a generalised concern of this nature does not justify withholding permission in this case.

Conditions

39. The Council suggested a number of conditions which it considered should be imposed if I were minded to approve the proposed development. These were discussed at the Hearing and it was agreed that a number of them related to the reserved matters and were therefore not necessary. Accordingly, I have not imposed these conditions. As indicated above the Council also suggested at the Hearing that a condition requiring the provision of household waste recycling/disposal receptacles was necessary. I have considered the information provided by the Council after the Hearing session and the appellant's comments. However, from the evidence before me I am not satisfied that such a condition is justified by the policies of the Local Plan referred to by the Council or that it meets the six tests set out in paragraph 206 of the Framework. Accordingly, I have not imposed this condition.
40. I have considered both the wording and reasoning for the other suggested conditions in the light of the Framework and the Planning Practice Guidance. I have amended, simplified and amalgamated some of the suggested wording for clarity and to ensure compliance with national policy and guidance.
41. Conditions relating to the timing of development, submission of reserved matters and compliance with approved plans are necessary to provide certainty. A condition is necessary to ensure satisfactory drainage. In the event of contamination being found to be present on the site during the course of construction a condition is necessary in the interests of human health and to safeguard the water environment.

Overall Conclusion

42. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Beverley Doward

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Eleonor Overton MRTPI	Agent/Consultant, ReSolve Planning
Suntokh Raju BSc (Hons), ICIOB, MCIHT	Agent
Jeremy Hurlstone CMILT, MCIHT	Consultant
Joan Whetter	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Naomi Perry	Principal Planning Officer, East Staffordshire Borough Council
Anna Miller	Planning Officer, East Staffordshire Borough Council
John Derry	Transport Development Control, Staffordshire County Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Extract from Local Plan - Inset no 11: Draycott in the Clay.
2. Extract from Local Plan - Principle 1 Presumption in favour of Sustainable Development.
3. Extract from Local Plan - Strategic Policy 1 East Staffordshire Approach to Sustainable Development.
4. East Staffordshire Borough Council's Suggested Conditions.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. East Staffordshire Borough Council - Housing completions for 2015/2016.
2. Copy of Waste Storage and Collection Guidance for New Developments April 2012.
3. E mail from East Staffordshire Borough Council including suggested wording for condition regarding provision of household waste recycling/disposal receptacles bins.
4. E mail from Eleanor Overton attaching appellant's comments on additional information submitted by the Council.

SCHEDULE OF CONDITIONS

- 1) Details of the 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.
- 2) 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans subject to compliance with other conditions of this permission: Drawing Numbers 15.139.01 and 15.139.02 but only in respect of the details of the access shown on these plans and the Location Plan Drawing Number 15.139_0S1-1:1250.
- 5) No development shall take place until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details prior to its first occupation.
- 6) If during the course of development, contamination not previously identified is found to be present on site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.