
Appeal Decision

Site visit made on 17 June 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2019

Appeal Ref: APP/Y3425/W/19/3225240

Plot 146 Melville Court, Clayton, Newcastle Under Lyme, Staffordshire ST5 4HJ

- 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 M Robinson against the decision of Stafford Borough Council.
 - The application Ref 18/29181/FUL, dated 30 August 2018, was refused by notice dated 29 October 2018.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site lies within the administrative boundary of two local planning authorities. An appeal has also been lodged against the decision of Newcastle-under-Lyme Borough Council. This is the subject of a separate decision.

Main Issues

3. The main issues are as follows:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
 - the effect of the development on the openness and the purposes of including land within the Green Belt;
 - the effect of the development on the Council's housing strategy, having regard to its location;
 - the effect of the development on the character and appearance of the area, having particular regard to the effect on protected trees;
 - the effect of the development on biodiversity; and,
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriateness

4. The appeal site falls within the Green Belt as defined in the Council's development plan, which includes The Plan for Stafford Borough (TPSB) 2014.
5. The appellant contends that the appeal site appears on two Land Registry plans dated 1974 and 1988 on which the site does not encroach into the Green Belt. However, there is no evidence before me of these plans. In any event, the plans would predate the TPSB and therefore, even if the site was not within the Green Belt on those dates, it is plausible that the Green Belt has been extended since. I note the appellant's argument that if the Green Belt was extended during more recent times then the landowner was not consulted. However, the TPSB would have gone through an extensive public consultation exercise and there is no evidence before me that the landowner was not invited to participate in this. Notwithstanding this, the fact remains that the site falls within the Green Belt.
6. The Framework states that inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. There are a number of exceptions to this. However, the appellant does not contend that the proposal falls within any of these.
7. I find therefore that the proposal would be inappropriate development. In accordance with the Framework, substantial weight must be given to this harm.

Openness of the Green Belt

8. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
9. The dwelling would be located in what is currently a densely wooded area that is free from any built-form, to the south of an existing housing development. Whilst the site is overgrown with various trees and undergrowth, it nevertheless provides a verdant openness that makes an important role in defining the edge of the Green Belt. The introduction of a dwelling on the site, and the resultant loss of trees and vegetation, would create an intrusive form of development.
10. Moreover, the erosion of three-dimensional space arising from the overall size of the buildings would in itself result in an erosion of openness, which would conflict with paragraph 133 of the Framework which identifies openness as an essential characteristic of Green Belts. Accordingly, I attribute significant weight to the effect it would have on openness.
11. In addition, the dwelling would extend the existing built form of the adjacent housing development, therefore encroaching into the countryside. This would be contrary to one of the five purposes of the Green Belt set out in paragraph 134 of the Framework, which seeks to safeguard the countryside from encroachment.

12. I therefore find that the visual intrusion of the dwelling and its erosion of three-dimensional space arising from its size would result in the erosion of openness, which would conflict with paragraph 133 of the Framework. In addition, it would conflict with the purposes of including land within it, in particular safeguarding the countryside from encroachment.

Housing Strategy

13. Policy SP3 of TPSB states that the majority of future development will be delivered through the Sustainable Settlement Hierarchy based on identified areas. Policy SP4 of the TPSB sets out the targets for growth in these settlements and for the rest of the Borough area. The appeal site falls outside the boundaries for any of the settlements identified in Policy SP3.
14. Policy C5 of the TPSB allows development outside the settlements identified in Policy SP3, subject to it meeting specific requirements as well as the qualifying criteria set out in Policy SP7 of the TPSB. There is no evidence before me that the development satisfies all of the requirements set out in Policy C5 or any of the criteria set out in Policy SP7.
15. There is no dispute that the Council can demonstrate a five year supply of deliverable housing land and there is no evidence to suggest that the policies which are most important to the determination of the proposal are out-of-date. Accordingly, I attribute these policies full weight.
16. I find therefore that the proposal would not be located in a suitable location for open market housing, as envisaged by Policies SP3, SP4, SP7 and C5 of the TPSB and as a consequence would significantly harm the Council's housing strategy.

Character and Appearance

17. The existing trees, some of which are the subject of a Tree Preservation Order, and undergrowth form part of a wider woodland that links in with the nearby nature reserve. Whilst the site is unkempt and many of the trees are likely to have been self-set, I do not find that this has a detrimental effect on the visual amenity of the area. On the contrary, I find that it makes a positive contribution to its character and appearance, defining the boundary between the built and natural environment.
18. It is proposed that many of the existing trees would be retained to the front, rear and side of the dwelling, therefore reducing its visual impact. However, many of these trees would be in proximity to a number of the windows in the dwelling and therefore would likely reduce the level of light entering the dwelling when the trees grow larger. Furthermore, much of the outdoor amenity space would be in shadow, particularly when the trees are in leaf, thus reducing the usability of the amenity space. In addition, due to the proximity of the proposed dwelling to the retained trees, in time there would be pressure to remove overhanging branches given that they could be directly above the dwelling. The potential fear of falling branches and damage to the dwelling would likely give rise to an increase in pressure for the reduction or, at worst, removal of the trees. Consequently, such works would have a significantly detrimental effect on the appearance of the site and the overall character and appearance of the area.

19. The dwelling would extend no further south than the existing development on the opposite side of the road and, on plan, would be read as rounding off the existing development. However, this does not provide sufficient justification for the harm I have identified above.
20. I find therefore that the proposal would significantly harm the character and appearance of the area, contrary to Policies N1 and N4 of the TPSB, which, amongst other matters, seek to ensure that development has regard to local context and protects the natural environment. In addition, it would fail to accord with the design objectives of the Framework.

Biodiversity

21. Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation-statutory obligations and their impact within the planning system' ODPM states that developers should not be required to carry out surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.
22. Due to the wooded nature of the site and its proximity to Ferndown Local Nature Reserve there is a reasonable likelihood of protected species being present and affected by the development and, as such, I consider that an ecological assessment is required. No such assessment has been submitted.
23. I acknowledge the appellant's contention that any effects on ecology would be addressed. However, without knowing what these effects would be it is not possible to demonstrate that they could be adequately addressed. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances¹. There is no evidence before me to suggest that there are any such exceptional circumstances.
24. I find therefore that in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the dwelling would have on protected species. Therefore, the proposal would fail to comply with Policies N4 and N5 of the TPSB, which, amongst other matters, seek to protect the natural environment, including Local Nature Reserves. Furthermore, it would fail to accord with the design objectives of the Framework.

Other Considerations

25. The dwelling would logically fit between the existing Nos 4 and 6 Melville Court. However, the numbering of the dwellings has had no bearing on my consideration of the planning merits of the proposal.
26. The appellant has referred me to numerous Ordnance Survey maps. However, these plans are not before me and therefore I attribute them very limited weight.

¹ Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

Planning Balance

27. The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Furthermore, the development would significantly harm the Council's housing strategy, the character and appearance of the area and biodiversity.
28. I consider that the substantial weight given to Green Belt harm is not clearly outweighed by any considerations advanced by the appellant. Therefore, there are no very special circumstances to justify the new dwelling and the proposal would conflict with the Framework.

Conclusion

29. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR