



Appeal Decision

Site visit made on 11 June 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/B3410/W/18/3214112

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 Dianne Whetter, the Executor of the estate of Ms J Whetter, against the decision of East Staffordshire Borough Council.
 - The application Ref P/2017/00541, dated 2 May 2017, was refused by notice dated 20 June 2018.
 - The development proposed is described as the "change of use of land to accommodate up to 9 residential dwellings, associated garaging and access".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form advises that the planning applicant in relation to this appeal, Ms J Whetter, has sadly died. The appellant, as noted above, has provided a certificate granting probate, and I have considered the appeal on this basis.
3. The planning application was submitted in outline form with only access for determination. Matters relating to appearance, landscaping, layout and scale are reserved for future consideration. The appellant has provided an indicative layout that I have treated as illustrative for the purposes of this appeal.
4. A completed unilateral undertaking pursuant to section 106 of the Town and Country Planning Act 1990 was submitted as part of the appellant's submission. It secures three affordable dwellings and a financial contribution towards affordable housing provision and education.
5. The appellant suggested that an application for costs would be made at the six week stage. However, no such application has been submitted.

Main Issues

6. The main issues are whether the site is an appropriate location for the development having particular regard to the settlement strategy and accessibility to services and facilities and whether the development would provide a safe and practical pedestrian route to Marchington and Draycott in the Clay.

Reasons

Settlement Strategy

7. Strategic Policy(SP) 2 of the East Staffordshire Borough Council Local Plan 2012 – 2031 adopted in 2015 (the Local Plan) sets out the settlement hierarchy for the

district and seeks to direct development towards the most sustainable locations within the District. The appeal site lies beyond the settlement boundary of Draycott in the Clay and, for the purposes of planning policy, lies within the countryside. Policy SP2 defines the appeal site as a Tier 3: Small Villages and other settlements (without settlement boundaries) whereby development will only be permitted in exceptional circumstances and where the development satisfies other policies within the Local Plan, such as those identified under Policy SP8.

8. Policy SP4 of the Local Plan identifies the need for 250 houses within Tier 3: Small villages and other settlements and the countryside, for the plan period which satisfy the requirements of housing exception sites and housing considered acceptable by reason of Policy SP8. In addition, Policy SP4 identifies a further 20 dwellings at Draycott in the Clay which is defined as a Tier 2: Local Service Village.
9. A Housing Needs Assessment¹ (HNA) has been undertaken by the appellant. While it did not follow the requirements of the Council's Housing Choice Supplementary Planning Document (SPD) it nonetheless identified a need for two and four bedroom properties in the area. However, Policy SP4 of the Local Plan makes it clear that the housing need for Tier 1 and Tier 2 settlements will be delivered within settlement boundaries or in accordance with a Made Neighbourhood Plan (NP) for the area. The appeal site is not within a settlement boundary and a NP for the area has not been Made. Moreover, Policy SP8 states that development outside of settlement boundaries will not be permitted unless it falls within one of the exception categories listed therein, none of which have been advanced by the appellant. In addition, the appellant's HNA makes it clear that the "*application does not comprise a rural exception site, but is for market housing...*".
10. I have carefully considered an appeal decision² that allowed a development of up to eight dwellings on land immediately to the south of the appeal site whereby the Inspector considered the development acceptable despite its conflict with Local Plan policies. However, based upon the evidence before me, for strategic reasons, new build open market housing is not required by the development plan within the countryside, outside of settlement boundaries and is therefore strictly controlled. The use of settlement boundaries is a long established planning tool to direct patterns of development to the more sustainable parts of an area. This is broadly consistent with paragraph 102 of the Framework which sets out its objectives for promoting sustainable transport so that opportunities from existing or proposed transport infrastructure are realised, for example in relation to the scale, location or density of development that can be accommodated.
11. Therefore, I do not find that there is an inconsistency between the development plan and the Framework in terms of the strategic policy or the settlement hierarchy of the Local Plan and I am not persuaded that the weight attached to the conflict between the proposal and the policies of the development plan that I have identified above should be reduced. Furthermore, although I have considered the proposal before me on its own merits, my decision is consistent with other Inspectors that have determined recent appeals³ for residential developments close to the appeal site and arrived at similar conclusions.
12. Thus, I find that the development would undermine the Council's ability to direct development to the most sustainable locations within the Borough. Consequently, the proposal would fail to accord with the adopted settlement strategy for the area

¹ ReSolve Planning P_2017_00541 Received 29/06/2017

² APP/B3410/W/16/3148540 dated 28 March 2017

³ APP/B3410/W/18/3219064 dated 17 June 2019 and APP/B3410/W/19/3221034 dated 28 May 2019

and would conflict with Policies SP2, SP4 and SP8 of the Local Plan, the specific requirements of which are specified above.

Location to Services and Pedestrian Safety

13. The appellant calculates that the settlement boundary of Draycott in the Clay lies some 600m to the southeast of the appeal site. However, the services and facilities within the village are further afield, with the shop, post office and primary school some 1.2km from the appeal site. The appellant also calculates that a pre-school and shop at Marchington are some 2.8km and 3.2km from the shop respectively. The nearest doctor's surgery is further afield at 5.3km from the site. A bus stop is also some 600m from the site that serves Uttoxeter and Burton upon Trent.
14. Although I accept that it would be possible to walk or cycle to either Marchington or Draycott in the Clay, I am not persuaded that this would be preferable to using the private car. I undertook a walk along Stubby Lane which has a pavement in parts, although it is not illuminated and there are large sections of Stubby Lane where no pavement is provided at all. While some of the verges are suitable as a refuge as vehicles pass, that is not the case for all of the verges which are quite narrow in parts and results in pedestrians walking on the highway. This would be especially problematic for those with young children and disabilities.
15. During my visit I also noticed a variety of vehicles using Stubby Lane, some of which were large goods vehicles, which is understandable given the presence of industrial estates in the vicinity. Moreover, given the topography of the lane it is difficult in places to see the road ahead and this would not encourage walking or cycling to Marchington and Draycott in the Clay, especially during bad weather, at night and the winter months. In addition, while there are cycle routes in the area, the appellant confirms that Stubby Lane is not part of the Advisory Cycle Route. Consequently, I am not persuaded that the development would provide a safe and practical pedestrian or cycle route to Marchington or Draycott in the Clay.
16. Furthermore, notwithstanding that a bus stop is close to the site and that it operates as a 'hail and ride' service, the bus will only stop where it is safe to do so and is limited to a two hourly service which does not operate at all on Sunday's or into the evening to access the night time economy and recreational services such as gyms, cinemas and restaurants. This reduces its effectiveness as a potential alternative mode of transport to the private car. Consequently, given the lack of safe or practical access to services in Marchington and Draycott by foot or cycle and the frequency of bus services, I am not persuaded that the site lies within an appropriate location for the proposed development. Moreover, I am not aware whether the Inspector who considered the appeal to the south of the site attempted to walk along Stubby Lane in either direction, the level of traffic that was experienced or whether the availability of the bus service into the evening or during the weekend was taken into account
17. I acknowledge that the Framework recognises that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. However, while there is some limited opportunity to access a sustainable mode of transport, I do not consider the location to be acceptable in terms of walking and cycling to the nearest Tier 2: Local Service Village which are Draycott in the Clay and Marchington. Accordingly, it is likely that the majority of journeys by future occupiers of the proposal to access services and facilities would be made by private car.

18. Thus, the proposal would be in conflict with Policies SP1 and SP35 of the Local Plan and the Framework which seek, amongst other things, to ensure that developments are located where it is convenient and safe to walk, cycle and travel by public transport between the site and workplaces, shops, education and health, recreation, leisure and community facilities.

Other Matters

19. I am also aware of a further appeal decision⁴ which allowed a residential development off Stubby Lane and beyond the settlement boundary of Draycott in the Clay. However, this particular development sought permission for a Rural Exception Site (RES) for a mixture of four affordable dwellings, supported by three market dwellings in accordance with paragraph 77 of the Framework and Policy SP18 of the Local Plan. While the appellant has provided a signed unilateral undertaking that provides for three affordable dwellings and a contribution towards affordable housing provision and education, which weighs in favour of the proposal, the development sought is not a RES and a scheme where affordable housing does not predominate cannot be reasonably described as a scheme for affordable housing. Additionally, the RES allowed at Stubby Lane would also provide a footpath to ensure a safe pedestrian route to Draycott in the Clay.
20. Notwithstanding the allocation of land to the east of Draycott in the Clay, there appellant argues that there remains an uncertainty whether the housing requirement of 20 dwellings can be provided within the settlement boundary of the village during the development plan period. However, while the appellant refers to the Council's Strategic Housing Land Availability Assessment (SHLAA) 2017, I have not been provided with that document so afford it little weight. Nevertheless, even if the SHLAA confirms that the sites identified will not be deliverable for 15+ years and outside the current development plan period, this is not in itself a reason to find in favour of a proposal that is otherwise harmful.
21. I acknowledge that it is not part of the Council's case that the development would have a detrimental impact on the character and appearance of the area. From the evidence before me I have no reason to disagree with that assessment. I also accept that the dwellings would not be 'isolated' as there are other dwellings in the vicinity. While these matters are material considerations that also weigh in favour of the proposal, I do not consider that either individually or cumulatively they outweigh the harm identified above.
22. As I noted in a procedural matter, the appellant has submitted a completed section 106 agreement. The tests in paragraph 56 of the Framework and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. In this case however, as the appeal is to be dismissed on its substantive merits, it is not necessary to assess the agreement against these requirements.
23. I note that representations were made by a local resident and the Parish Council, raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

The Planning Balance

24. The development seeks to boost the supply of housing which would result in some support for local services and facilities, both during construction and when the buildings are occupied. As such, the proposal would have social and economic benefits. However, I have found that the proposed development would be contrary

⁴ APP/B3410/W/18/3213994 dated 10 May 2019

to the development plan to which I afford significant weight. Moreover, even if the Council is unable to demonstrate a five year housing land supply and whether or not the policies which are the most important for determining the appeal are out-of-date, the harm I have found is serious and, in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case. There are no other material considerations that indicate a decision other than in accordance with the development plan.

Conclusion

25. For the reasons given above, and having regard to the development plan when read as a whole, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR