



Appeal Decision

Site visit made on 17 July 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/B3410/W/19/3226997

**Lawley Cottage, Newborough End, Newborough, Burton-on-Trent,
Staffordshire DE13 8SR**

- 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 Mr Michael Clamp against the decision of East Staffordshire Borough Council.
 - The application Ref P/2018/01487, dated 20 November 2018, was refused by notice dated 1 February 2019.
 - The development proposed is the conversion of a garage to 2 maisonettes.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the name of the appellant and inserted in the address "Burton-on-Trent, Staffordshire" from the appeal form as it is more precise.

Main Issues

3. The main issue in the appeal are:
 - whether having regard to the development plan and national planning policy, the appeal site would provide an appropriate location for new residential development of the type being proposed;
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area;
 - the effect of the development on the living conditions of future occupiers with particular regard to private and shared outdoor amenity space; and,
 - the effect of the proposal on highway safety.

Reasons

Suitable location for housing

4. The appeal site consists of a detached garage which has first floor accommodation within its roof space that currently comprises a games room. that lies within the residential curtilage of a detached cottage (the cottage). The proposed development is for conversion, extension and alteration of the existing garage to provide 2 maisonettes that would both comprise of 2 bedrooms, one with en-suite, a store and a bathroom at ground floor. At first floor there would be a kitchen / dining area and a lounge with access to a front

- facing balcony through triple doors. The existing site access / parking area would be retained for the use of future occupiers of the new maisonettes.
5. The development plan comprises the East Staffordshire Local Plan 2015 (LP), and the 'made' Newborough Parish Neighbourhood Development Plan 2016 (NP). It is a statutory requirement that decisions are to be made with regard to the development plan unless material considerations indicate otherwise. Of course, the Neighbourhood Plan must comply with strategic policies in 'higher order' plans, but otherwise the intention of the Localism Act and of Government policy is that it should give expression to the planning aspirations of local communities enabling them to exercise some control over how the settlements in which they live should respond to the development needs in the locality.
 6. LP Policy SP1 sets out the Council's approach to sustainable development, which includes the application of principles depending on the type of development proposed. LP Policy SP8 states that development outside settlement boundaries will not be permitted unless it meets one of a number of criteria. One of the criteria relates to the appropriate re-use of rural buildings following guidance set out in the Rural Buildings Supplementary Planning Document 2010 (SPD). LP Policy SP35 seeks to develop a well-integrated community connected by a sustainable transport system which connects people to jobs, services and community facilities. This will be achieved encouraging the use of sustainable modes of transport, amongst other things.
 7. The NP has similar aims with regards to the delivery of sustainable development and NP Policy SP1 requires new residential development to contribute to the vitality and viability of Newborough village (the village) and the resulting development would be of an appropriate design, which complements the local vernacular and character of the village and the rural setting, and would be accessible by sustainable modes to local facilities (school, public house, church) with local shops easily accessible by public transport. NP Policy HE3 states that the creation of single dwellings will be supported, subject to a number of criteria. One of the criteria is for the conversion of existing buildings (where these are not already permitted development) where any associated extensions and/or alterations would be of a scale and type that would not detrimentally affect the character, appearance or integrity of the building concerned.
 8. LP Policy SP8 and the Rural Buildings SPD do not provide a specific definition of rural buildings. However, paragraph 2.3 of the SPD under the general principles heading includes the following: *"It should also be noted that in the case of more modern structures it will be necessary to demonstrate that the building has been properly used for agricultural purposes for a substantial period of time prior to any application being submitted for an alternative use. This is to prevent buildings being constructed under false pretences merely to secure a non-agricultural use in a rural location"*.
 9. Having regard to the above, it is evident from the planning history that the building was initially erected as a detached garage for the occupier of the cottage at the time planning permission was granted in July 1989¹ to house a personal motor car collection. There is no evidence before me that the building has been used for agricultural purposes at any time and therefore, the proposal does not comply with a general principle of the guidance in the SPD.

¹ HO/11727/005

Consequently, the proposal does not accord with the related listed criterion contained within LP Policy SP8 as it would not be an appropriate re-use of rural buildings following guidance contained within the SPD. In any event, even if I did consider that the proposal complied with the general principles of the SPD, I still find that the proposal would involve substantial alterations and extensions to the host building.

10. The NP identifies that there are few public transport connections within the parish through a reduced bus service that runs through the village. Additionally, the bus service to Burton upon Trent and Uttoxeter only operates at off peak times. Thus, the limited public transport access across the parish results in residents relying heavily on the private car as their main means of transport and a low level of people using sustainable modes of transport within the parish. The NP advises that the village offers a limited number of services, comprising a public house, coffee shop, tea garden and a bed and breakfast. This is not disputed by the appellant. Therefore, residents of the village would likely need to travel to neighbouring settlements to access a wider range of shops, services, possible places of employment and public transport networks on a frequent basis.
11. I note reference by the appellant to the wide grass verges and the overall distance between the appeal site and the village, which is disputed between the main parties. However, I found on my visit that the verges mainly comprised of long grass that was not conducive to walk on. Additionally, I note the comments from the County Highway Engineer. However, regardless of the ability or willingness of future occupants to walk or cycle, private vehicles would likely still be used to access facilities and services on a regular basis, especially during the hours of darkness, in the winter and/or in periods of inclement weather.
12. These factors would all together, in my opinion, result in future occupants of the development proposal using private motor vehicles to travel to facilities or services in the nearby village or neighbouring settlements on a more frequent basis. In this respect, I note that the National Planning Policy Framework (the Framework) acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Additionally, I note that future residents could work from home, but this would not be likely in all instances or would itself not overcome the overall reliance on a private motor vehicle.
13. I note the comments from the appellant that the area surrounding the appeal site is regularly used by cyclists and pedestrians that includes dog walking and jogging, but there is little to substantiate this assertion. Additionally, I note reference by both parties to an approved application² and an appeal decision³. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes and I do not know what evidence was before the Inspector at the time of her decision. In any event, from the limited evidence before me, they would not appear to be directly comparable, and all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.

² P/2017/00612

³ APP/B3410/W/18/3200932

14. For the reasons set out above, I conclude that the development would not represent a suitable location for housing. Therefore, the development would fail to accord with the Council's strategy for residential development and the sustainability aims of LP Policies SP1, SP8 and SP35, NP Policies SP1 and HE3, and the Framework.

Character and appearance

15. The host building occupies a prominent location close to the road and in an area of open countryside. Although, the built form of the existing garage is large in comparison to the neighbouring detached garage at the adjacent property, it clearly reads as an ancillary building to the cottage and overall contributes to the overall relatively open character and appearance of the site.
16. I acknowledge that the proposal has been designed to replicate the scheme that has been recently approved for the cottage, in particular the use of cream 'K' render on all elevations and plain clay tiles on the roof. However, I find through the amount of extensions and alterations to the host building that the overall character and appearance of the site would alter significantly, including the increase in height. The increase to the bulk and massing of the host building above ground floor would be notable, and whilst the front facing gables on the proposal aim to replicate those on the approved application for the cottage, they are much more prominent due to their increased size and them forming the main roof of the proposed maisonettes.
17. Furthermore, the fenestration details on the front elevation of the proposal, in particular, the triple doors at first floor and the steel balcony would form incongruous features to the detriment of the character and appearance of the appeal site. Consequently, I find the proposed development would form a discordant addition to this part of the road and surrounding area, contrary to its rural character.
18. For the reasons set out above, I conclude that the development would have an adverse effect on the character and appearance of the appeal site and surrounding area. Therefore, the development would fail to accord with the design, character and appearance aims of LP Policies SP24 and DP1, NP Policy HE4, and the Framework.

Living conditions

19. The maisonettes proposed would have accommodation located over 2 floors, providing 2 double bedrooms. It is common ground between the parties that the proposed outside shared amenity area amounts to 18m². I note that the Council does not have any adopted guidance in this respect and whilst the Council has brought to my attention a draft Supplementary Planning Document⁴ it has only recently started public consultation and therefore I can only give it limited weight. In any event, I find the proposed shared amenity space to be a very small area in the context of the size of the proposed dwellings and hence likely occupancy.
20. I conclude that there is an unacceptable shortfall of private amenity space and usable outside shared amenity space for the occupiers of each of the proposed maisonettes. I have considered the rural location of the appeal site and the balconies that would be located to the front of the development. However,

⁴ Draft Separation Distances and Amenity Supplementary Planning Document June 2019

even when this is taken into account, I still consider that there is a shortfall in the amount of space that one would ordinarily need and expect for properties of this size. Whilst the site is within a countryside setting there is a functional difference between spaces which can generally be used by the public and the more private and shared outside amenity space which is reasonably required in association with the use of dwellings.

21. For the reasons set out above, I conclude that the development would have a significant harmful effect on the living conditions of future occupants. Therefore, the development would fail to accord with the amenity aims of LP Policies DP1 and DP3, and the Framework.

Highway safety

22. The development would use the existing access to the site. I also note that Newborough End is a classified road (C143) and subject to the national speed limit of 60mph and that the County Highway Engineer has stated there have been no recorded incidents within the last 5 years of the site. Additionally, I note that the appellant asserts that an application has been submitted to relocate the 30mph speed limit, but there are little details to its proposed location. In any event, the fact remains that at the time of my visit, a large proportion of the road between the site and the village is subject to the national speed limit.
23. Whilst I find the comments of the County Highway Engineer to form a material consideration, I consider that the proposed development in this location would not have access to a safe or practical pedestrian route. Consequently, I find that there is a likelihood of conflict between vehicles and pedestrians due to the lack of a continuous footway and street lighting from the site to the village and the conditions of the road where pedestrians would have little opportunity to step off the carriageway.
24. For the reasons set out above, I conclude that the development would likely result in conflict between pedestrians and vehicles. Therefore, the development would fail to accord with the highway safety aims of LP Policies SP1 and SP35, and the Framework.

Other Matters

25. Neighbouring residents have also expressed a wide range of concerns on the application including, but not limited to the following: loss of privacy, sunlight and effect on wildlife. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
26. There is no disagreement between the parties as to whether or not the Council can demonstrate a five-year supply of deliverable housing land. Nevertheless, I acknowledge that the development would make some positive contribution to the Council's supply of housing sites and that it would bring some social and economic benefits to the area through the provision of new housing and during the construction phase of the development. However, I find these benefits to be relatively limited and not sufficient to outweigh or alter the harm identified

in respect of my conclusions on the main issues. I have considered this proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

Planning Balance and Conclusion

27. I acknowledge the factors in favour of the development, including the contribution of 2 dwellings to the supply of housing and the associated economic and social benefits identified. However, the proposal would conflict with the development plan and the Framework as a whole and there are no material considerations that justify determining the appeal otherwise.
28. For the reasons set out above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR