



Appeal Decision

Site visit made on 19 November 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/P3420/W/19/3235664

**The Bennett Arms, London Road, Chesterton, Newcastle-under-Lyme
ST5 7PS**

- 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 Andrew Green against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00371/FUL, dated 10 May 2018, was refused by notice dated 28 February 2019.
 - The development proposed is full planning permission for 14 two and three storey terraced houses in three blocks with associated landscape works and parking for 22 vehicles.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Green against Newcastle-under-Lyme Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are as follows:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on flood risk; and
 - The need for a planning obligation, in light of viability information.

Reasons

4. The appeal site is an area of open land, on which the public house was located. An extant permission for housing exists, from an approval for seven properties in 2009. From my site visit, it is apparent that the bases of some of these properties were constructed. The properties on Leech Avenue form the western boundary, with the highway forming the southern boundary. There is public open space to the eastern boundary and the northern boundary has a sports pitch, with an industrial estate beyond.
5. The site also houses a number of structures relating to the original construction which are in a poor state, and the site is generally overgrown, with temporary fencing located on the southern boundary with the highway. Overall the site currently presents an unsightly appearance to the highway and the wider area.

Character and appearance

6. A total of fourteen units are proposed, in three blocks. Six units would front onto London Road, with four units backing on to those at right angles, and a further four units to the rear of the site. Access would be provided onto the site from London Road, with a turning head close to the rear of the site. Ten parking spaces would be located on the western boundary, with eight spaces to the front of the block located at the rear of the site, and a further four located to one corner of the turning head.
7. Policy CSP1 of the Newcastle-Under-Lyme and Stoke-on-Trent Core Spatial Strategy (2009) (the CSS) states that new development should be well designed to respect the character, identity and context of the townscape and landscape. This is reinforced by Policies R3, R5 and R12 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (the SPD) which collectively state that new housing must relate well to its surroundings, responding to and enhancing it, define the street space and be designed to improve the character and quality of the area.
8. I find that the scale and massing of the development would create an overly dominant, cramped feature due to the number of properties on a relatively small site, which would create a high density development in a relatively traditional area of two storey semi-detached dwellings. The development would create a harsh appearance within the locality and would not sit well within its surroundings. The design of the properties on the London Road frontage, at two and a half storeys, would not respect the character and appearance of the locality, and the wider development, by means of layout, does not respect the simple traditional layout of the Leech Avenue properties that set the immediate context for the site.
9. As a result, I find that the proposal would be harmful to the character and appearance of the area, and therefore would conflict with Policy CSP1 of the CSS, policies R3, R5 and R12 of the SPD, and the wider housing aims of the National Planning Policy Framework (the Framework).

Flood Risk

10. The site lies within Flood Zone 1, but has not been comprehensively modelled, and the extent of Flood Zone 3, which gives the highest risk of flooding, is shown as being approximately 30m from the boundary of the site. Historic mapping provided by the Lead Local Flood Authority (LLFA) also demonstrates the presence of culverted watercourses on the southern edge of the site boundary.
11. Policy CSP3 sets out the requirements of development to address flood risk, and states that mitigation measures should be investigated and incorporated into the development, and the onus would be on the developer to demonstrate that this is impractical or unviable.
12. Objections were raised by the LLFA at application stage, and as a result, additional information was provided. A new Flood Risk Assessment (FRA) has been submitted as part of the appellants statement, which the LLFA have maintained their objection to.
13. The LLFA have concerns that insufficient information has been submitted in relation to details of the culverted watercourses and catchments and the

associated flood risks, which it contends would influence the layout, proposed levels, and the drainage outfall. I attach significant weight to the concerns and position set out by the LLFA.

14. Without a suitable FRA being completed, I cannot be convinced that the proposed development would minimise flood risk. As a result, I find that the proposed development would fail to fully address flood risk as it would locate new housing development in an area potentially at risk of flooding, without appropriate mitigation. As a consequence, it would be contrary to Policy CSP3 of the CSS and the flood risk aspects in relation to development as set out in the Framework.

Planning Obligation

15. I have noted the history in relation to planning obligations for the site, and the subsequent viability reports produced by the District Valuer, and the appellants own consultants. There is some dispute between the parties in respect of the outcome of those reports.
16. The Council have set out their reason for refusal on the basis that no obligation has been made to make provision for the £18,900 set out by the District Valuer as being an appropriate contribution, which is disputed by the appellant, whose own report states that the development would be unviable with any form of contribution.
17. Whilst there may be evidence to back up the position of the appellant, I find that some form of review mechanism would be appropriate at a suitable trigger point of the development, given the history of the site and the high probability of a change in financial circumstances over time.
18. In the absence of any review mechanism set out by the appellant in order to address the Council's reason for refusal and examine the potential for the proposals to make financial contributions at a later point in the development, I find that the proposals are contrary to Policies CSP5 and CSP10 of the CSS, which when taken as a whole, seek developer contributions to provide funding toward public open space and other services where appropriate, in addition to the viability aspects of development as set out in the Framework.

Other Matters

19. I have noted the comments of the appellant who has stated that if the appeal is unsuccessful, it is likely that the site being left undeveloped and mothballed in its current state. However, I find that the harm that I have identified if the proposals were to go ahead outweighs the harm caused by leaving the site undeveloped, which has been the situation for a number of years.
20. In addition, the appellant has raised concerns regarding the conduct of the Council through the application process, but such matters should be raised through the complaint system of the Council, and do not form an intrinsic part of the appeal process.

Conclusion

21. Therefore, for the reasons above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR