
Appeal Decision

Hearing held on 11 February 2020

Site visit made on 11 February 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: APP/P3420/W/19/3238090

Land adjacent to Park House, Dales Green Road, Mow Cop, Newcastle Under Lyme, Staffordshire ST7 4RH

- 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 Mr Jones against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00921/OUT, dated 12 November 2018, was refused by notice dated 29 March 2019.
 - The development proposed is the erection of 6 dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. The application was submitted in outline with only access to be considered at this stage. I have determined the appeal on this basis, treating the plan that shows a potential site layout and street scene as illustrative. This plan was revised before the appeal was submitted to show 5 rather than 6 dwellings. Given that the plan is only illustrative, it was agreed that the revised plan could be considered as the basis for the appeal and so I have determined the appeal on this basis.
4. At appeal stage the Council highlighted that there was a typographical error in the second reason for refusal. The second sentence said that "the adverse impacts of the development, namely the reliance on the use of private motor vehicles would *not* significantly and demonstrably outweigh any benefits...". It was clarified that the word '*not*' was an error in the text. In my opinion it is clear from the rest of the reason for refusal that the Council did not consider the site to be a sustainable location and that any normal reading of the reason for refusal would recognise that this was a typographical error. As the appellant has addressed the sustainability of the site in detail in his appeal submissions, I do not consider his case is prejudiced by accepting that this was a typographical error and I have dealt with the appeal on this basis.

Main Issues

5. The main issues in the appeal are:

- Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the *National Planning Policy Framework* (the Framework);
- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on the character and appearance of the area; and
- If the proposal is inappropriate development, 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 it.

Reasons

Whether inappropriate development

6. The appeal site is part of a field in the open countryside that forms part of the North Staffordshire Green Belt as defined by the *Newcastle Under Lyme Local Plan 2011 (adopted October 2003)* (LP). Policy S3 of the LP sets out the forms of development that may be considered acceptable within the Green Belt.
7. Paragraphs 145 of the Framework sets out that new buildings in the Green Belt are inappropriate unless they are for one of a limited number of exceptions. These include limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). In that LP Policy S3 makes no reference to affordable housing / rural exception sites, the Council accept that it does not accord with the Framework, and that as the Framework is the most up to date policy guidance on Green Belt, it should form the basis for determining the proposal.
8. The appeal scheme would consist of up to 5 dwellings. The scheme is proposed as a rural exception site with all of the dwellings being affordable. The Framework defines rural exceptions sites as small sites used for affordable housing in perpetuity where sites would not normally be considered for housing. They should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.
9. Policy CSP6(9) of the Newcastle Under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 (adopted Oct 2009) (CSS) indicates that within the rural area, where published evidence of need highlights a local need not capable of being met through normal housing provision policy, sites may be released as rural exception sites. It goes on to state that: if such a site cannot be accommodated within an existing village then a site immediately adjoining the village may be deemed appropriate; that the scale of development should not exceed the level of need identified; that schemes should be able to be afforded by local people identified as having housing need; and that they should remain affordable in perpetuity.
10. The appellant argued that in saying that sites should be within or adjacent to villages, Policy CSP6(9) of the CSS was adding requirements not found in the

Framework. However, in giving more specific advice for rural exception sites in the borough I do not consider that this policy is inconsistent with the Framework. Furthermore, paragraph 145 of the Framework indicates that in the Green Belt, rural exception sites should accord with policies for such sites in the development plan.

11. A Housing Needs Assessment (HNA) was submitted by the appellant to show the local need for affordable housing. The study area for this was agreed with the Council and covers a number of interconnected settlements to the north of Kidsgrove. I agree that this is an appropriate area for the assessment.
12. On the basis that the population of the study area is 15.7% of the population in the Kidsgrove/Talke submarket area, the HNA states that the affordable housing need in the study area will be 15.7% of the affordable housing need identified for the sub-market area in the Strategic Housing Market Assessment. It is therefore calculated that 170 affordable housing units are required in the study area over the period 2013-2033, which is the plan period for the emerging Local Plan.
13. The appellant stated that the methodology for the HNA follows guidance set out in the *Planning Practice Guidance* (PPG). Be that as it may, the guidance referred to in the PPG is not specific guidance on how to establish the local need for rural exception sites. In my experience, such need is traditionally established by using a primary survey of the study area to identify the level of need as well as the type and tenure of affordable housing required. This has not been done in this case.
14. The Framework definition states that rural exceptions sites are to be used to address needs of the local community by accommodating households that are either current residents or who have an existing family or employment connection. It is therefore clear that rural exceptions sites are to meet a specific localised need not just a general need for affordable housing in a wider rural area. Given that the HNA simply calculates the need for affordable housing in the study area on a pro-rata basis, it does not provide any specific evidence that there is a need for affordable housing for local people who either currently live within the study area or who have a strong local connection to it.
15. Reference was also made to a Housing Needs Survey for Mow Cop and Dales Green that shows a need for affordable housing. However, this survey was undertaken in 2005 and so the data it contains is not up to date.
16. Thus, in the absence of such information, I am not satisfied that it has been established that there is a local community need for affordable housing, as is necessary to be demonstrated if the site is to meet the very specific definition of a rural exception site in the Green Belt, given in the Framework and Policy CSP6(9) of the CSS.
17. A Section 106 agreement was submitted as part of the proposal. The aim of this was to ensure the long-term affordability of the scheme. In terms of occupancy of the units it provides a cascade mechanism, which requires that in the first instance occupancy would be for people with a local connection. However, the agreement has a number of errors in that it incorrectly indicates that the Council are responsible for determining the planning application and have resolved to do so subject to the provision of such an agreement. Given that jurisdiction for the case now lies with the Secretary of State this is not the

case and irrespective of what it says in paragraph 4 of the agreement no resolution to grant permission was agreed at the hearing. Nevertheless, even if an acceptable agreement had been provided it would not have been sufficient to overcome the lack of evidence to show there is a local need. In the absence of a satisfactory Section 106 agreement there is no mechanism before me to secure the provision of affordable housing on the site.

18. Therefore, irrespective of whether or not the site could be considered to be adjacent to a village, or whether or not the site is in an accessible location, in the absence of adequate evidence to show the local community need for affordable housing and a mechanism to secure the provision of such housing, the appeal scheme would not accord with paragraph 145 (f) of the Framework. Nor would it constitute any of the other exceptions listed in paragraph 145. Consequently, I conclude that the proposal would be inappropriate development, which according to paragraph 143 of the Framework is, by definition, harmful to the Green Belt, and should only be approved in very special circumstances.

Openness and purposes

19. Openness is an essential characteristic of the Green Belt. It can be considered as the absence of buildings or development and is not just a visual consideration such as character and appearance. The appeal site is currently an open field. The development of the site for housing and the creation of an access driveway would introduce solid man-made features onto a site that is currently devoid of buildings and structures. As a result, the appeal scheme would reduce the openness of the Green Belt.
20. Moreover, the appeal scheme would result in the expansion of development into what was formerly open countryside. Consequently, it would conflict with one of the purposes of the Green Belt as set out in paragraph 134 of the Framework, which is to safeguard the countryside from encroachment.
21. Therefore, there would be a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt, in addition to that arising from the inappropriate nature of the development.

Character and appearance

22. The appeal site is located within an Area of Landscape Restoration as designated by the LP. Policy N21 of the LP indicates that in such areas development should not further erode the character or quality of the area.
23. The appeal site is located adjacent to a ribbon of residential development that runs down Dale Green Road from its junction with Mow Cop Road. As such, the appeal scheme would appear an extension to the existing development rather than an isolated incursion in the countryside. Thus, whilst it would change the character of the site, the visual impact would be limited.
24. Dwellings along the road vary significantly in age, type and design, with both houses and bungalows being evident. Although only illustrative, the site layout plans show a row of dwellings facing the road which would be consistent with the prevailing form of development. It is suggested that the dwellings would be bungalows. Given that bungalows form a significant proportion of the existing

- properties on the road, if this were to be the case, the appeal scheme would not appear an incongruous form of development.
25. Given the undulating nature of the site, the Council raised concerns regarding the potential amount of earth moving that might be necessary, and whether retaining walls would be required. However, the illustrative street scape shows the dwellings stepping down the sloping site and that the difference between the existing and proposed land levels would not be significant.
26. At present the site has a hedge along Dales Green Road, of which approximately 6m would be lost to create the vehicular access into the site. There is also a cluster of trees towards the southern boundary of the site. These are attractive features in the area that add to its rural character. An Arboricultural Impact Assessment (AIA) was submitted by the appellant. This indicated that in order to facilitate the development no trees would need to be removed and the Council have accepted that conditions can be used to ensure adequate protection is provided during the construction period.
27. Although the AIA concludes that the hedge is not an 'important hedge' as defined by the Hedgerow Regulations 1997, I agree with the Council that it does not clearly explain how it has come to this conclusion. Nevertheless, the appellant stated at the hearing that the hedge was planted in 1993. As a result, it is not 30 years old and so cannot be considered to be 'important'.
28. Landscaping is not to be determined at this stage, but the appellant indicated that hedgerows would be planted along the rear and southern boundary which would more than mitigate for the loss of the portion at the front. I am satisfied that when landscaping is considered, it would be possible to ensure that this is the case.
29. All in all, although details of the design and layout of the scheme are not to be determined at this stage, I consider it would be possible to design a scheme so that it would not be detrimental to the character and appearance of the area. Therefore, the proposal would not be contrary to Policies CSP1 and CSP4 of the CSS or Policies N17 or N21 of the LP which seek to ensure that developments have a high quality of design, that maintain and enhance natural assets and are sympathetic to the landscape character.

Other Considerations

30. The proposal would make a small contribution to the supply of housing in the area but given it is not disputed that the Council can demonstrate a 5 year housing land supply, this limits the weight I give to this benefit. The proposal would also result in economic benefits during the construction period, and spend by future occupiers would benefit the local economy, although given the scale of the scheme these benefits would be small.
31. In support of both parties' cases my attention has been drawn to a number of appeals and other applications for housing in the area. Many of these relate to issues that I have not had to consider in this appeal due to my conclusion regarding the inappropriate nature of the development. Furthermore, I do not know the full circumstances of any of these cases and so cannot be sure that they represent a direct parallel to the appeal scheme. I have in any case, reached my own conclusion on the proposal, on the basis of the evidence before me.

Conclusion

32. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, the proposal would result in further harm by causing a reduction in openness, and in being contrary to the purposes of including land within the Green Belt. According to the Framework (paragraph 144) substantial weight has to be given to any harm to the Green Belt. Whilst I have concluded that the proposal would not harm the character and appearance of the area, an absence of harm in this regard is a neutral matter.
33. Overall, despite having regard to the other considerations, I consider that the factors cited in the scheme's favour do not clearly outweigh the harm it would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with Policy S3 of the LP and the Framework.
34. Therefore, for the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kev Ryder	KDR Developments
David Proudlove	URBME
Stephen Stoney	Wardell Armstrong
A Jones	Appellant
K Jones	Dales Green Farm

FOR THE LOCAL PLANNING AUTHORITY:

Nick Bromley	Newcastle Under Lyme Borough Council
Abid Razaq	Newcastle Under Lyme Borough Council

DOCUMENTS SUBMITTED AT THE HEARING:

1. List of people appearing on behalf on the appellant submitted by the appellant.
2. Copy of part of the Proposals map showing settlement boundaries submitted by the Council.
3. Aerial Image showing the location of other applications and appeals referred to in the evidence submitted by the appellant.
4. Site Location Plan for the new agricultural building to be erected to the south of the site submitted by the appellant.