



Appeal Decision

Site visit made on 23 February 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2021

Appeal Ref: APP/Y3425/W/20/3260637

Land east of Castle Street, Eccleshall, Stafford, ST21 6EZ

- 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 St Philips against the decision of Stafford Borough Council.
 - The application Ref 19/31613/OUT, dated 11 December 2019, was refused by notice dated 8 April 2020.
 - The development proposed is described as *"the development of up to 37 residential dwellings (Use Class C3), with means of site access from A519, Castle Street; earthworks to facilitate surface water drainage; and all other ancillary and enabling works. All other matters such as layout, scale, appearance and landscaping are reserved for subsequent approval"*.
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Decision

1. The appeal is allowed and planning permission is granted for the development of up to 37 residential dwellings (Use Class C3), with means of site access from A519, Castle Street; earthworks to facilitate surface water drainage; and all other ancillary and enabling works at land east of Castle Street, Eccleshall, Stafford, ST21 6EZ in accordance with the terms of the application, Ref 19/31613/OUT, dated 11 December 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application is in outline with all matters reserved for future consideration except for the means of access. Whilst drawings showing an indicative layout of the development were submitted with the application, I have regarded these as being illustrative only.
3. The description of development given in my formal decision omits some of the text from the description provided on the planning application form. The omitted text simply lists the matters that are reserved, and as such it does not describe acts of development.

Application for Costs

4. An application for costs was made by St Philips against Stafford Borough Council. This application is the subject of a separate decision.

Main Issues

5. The main issues are:

- (a) Whether the position of the proposed attenuation area would be contrary to the locational requirements of development plan policy; and
- (b) The effect of the development on the settings of the Eccleshall Conservation Area and the Grade II listed Eccleshall Castle.

Reasons

Locational requirements of development plan policy

- 6. The appeal site consists of part of an open field on the northern edge of Eccleshall. The majority of the site is within the settlement boundary where residential development is acceptable in principle under Policy SP7 of the Plan for Stafford Borough (2014) and Policy 1 of the Eccleshall Parish Neighbourhood Plan (2016). However, a roughly triangular area of land at the north eastern corner of the site falls outside of the settlement boundary and is therefore in the countryside for planning purposes. The illustrative layout indicates that this part of the site would be used as an attenuation area.
- 7. Policies SP7 and C5 of the Plan for Stafford Borough seek to strictly control new development in the countryside. A number of exceptions are listed in these policies, none of which would apply to the appeal proposal. In this regard, the attenuation area forms part of the drainage strategy for the proposed dwellings. It is therefore an intrinsic part of the development of the site for housing and is not a separate entity.
- 8. Layout and landscaping are reserved matters and so the design of the attenuation area does not fall to be considered at this stage. However, it is large enough to incorporate significant areas of planting around any pond feature, as is shown in the submitted Illustrative Landscape Scheme drawing (Ref 27696 002). This would allow for any hard landscaped features to be screened in views from within the development and from the public footpath to the north. In my view, this area is capable, in principle, of being a feature that would be visually compatible with the surrounding countryside. Full details of this could be secured at reserved matters stage.
- 9. Notwithstanding this, the development would be contrary to the locational requirements of the development plan, including Policies SP7 and C5 of the Plan for Stafford Borough. I return to this matter in my Overall Balance and Conclusion, below.

Settings of designated heritage assets

- 10. The western edge of the appeal site adjoins the Eccleshall Conservation Area, which encompasses the historic core of the settlement, Eccleshall Castle, and surrounding areas of open land. The significance of the conservation area stems from its large number of well-preserved buildings and spaces that reflect the historic development of the settlement as an ecclesiastical centre and a market town.
- 11. Eccleshall Castle is a Scheduled Monument and a Grade II* listed building and was at one time the principle seat of the Bishop of Lichfield. Some elements of the original 14th century structure remain, albeit the castle was extensively

rebuilt after the English Civil War, and subsequently refashioned in the 18th century. The sense of separation between the castle and the town is an important aspect of its setting, and parts of this buffer are preserved within the conservation area.

12. The western spur of the appeal site adjoins Castle Street, which is the main approach road into the conservation area from the north. This part of the site is also within the historic buffer of open land between Eccleshall Castle and the town. The introduction of new houses onto this part of the site would extend the settlement outwards along Castle Street to the north. This would have a suburbanising effect that would harmfully erode the traditional rural approach to the conservation area and the buffer between the castle and the town. I further note that Historic England have expressed concerns in this regard. However, the vast majority of the appeal site is away from Castle Street and is positioned between existing peninsulas of development along Castle Street and The Burbage. This part of the site is already fringed by modern housing development on 3 sides and could be developed with little or no harm to the settings of the conservation area and Eccleshall Castle.
13. Layout is a reserved matter and so the way in which buildings, routes and open spaces within the development are provided does not fall to be considered at this stage. I further note that the site is relatively generous in size and that significant areas of open space are indicated on the illustrative masterplan. There are also examples of higher density housing types in the vicinity, including semi-detached and terraced properties. Accordingly, I am satisfied that a development of up to 37 dwellings could be achieved without significantly encroaching to the north of the existing properties fronting Castle Street. Instead, this area could be used to accommodate landscaping or open space alongside the proposed access road.
14. Whilst the point of access onto Castle Street and the new access route would have some effect on the rural setting to the conservation area and the undeveloped gap between the castle and the town, this harm would be relatively minor in my view. It would be towards the lower end of 'less than substantial' harm in the context of Paragraphs 195-196 of the National Planning Policy Framework ('the Framework') and would be outweighed by the public benefits of the scheme in this case. These benefits include the provision of up to 37 dwellings, 40% of which would comprise affordable housing, associated economic benefits, and contributions towards primary and secondary education, open space provision, and sports facilities.
15. The development would therefore accord with guidance in the Framework relating to designated heritage assets.

Other Matters

Planning obligation

16. A signed and dated planning obligation has been submitted that relates to onsite affordable housing provision, open space provision, and contributions towards primary and secondary education, and sports and recreation facilities. With regard to affordable housing, this is clearly necessary in order to meet local need and to comply with Policy C2 of the Plan for Stafford Borough. Separately, the financial contributions towards education provision would contribute towards the proposed expansion of Bishop Lonsdale CE Primary

School, and the construction of a new secondary school in Stafford. These contributions are necessary as there is projected to be an insufficient number of school places in the local area. There is also detailed evidence before me that these sums directly relate to the impact of the development. I therefore consider that the education provision is necessary, directly related, and fairly and reasonably related in scale and kind to the development.

17. The proposed onsite open space provision is clearly necessary in order to provide open space for future occupiers in accordance with Policy C7 of the Plan for Stafford Borough. The contribution to sports and recreation facilities is also necessary to accord with Policy C7 and to meet identified deficiencies in the area. It is based on the current Sport England Facilities calculator and I am satisfied that it is directly related and fairly and reasonably related in scale and kind to the development.

Other considerations

18. The appeal site is within Flood Zone 1 on the Environment Agency's Flood Map for Planning, and so is at low risk of fluvial flooding. The vast majority of the site is also indicated to be at low risk of surface water flooding. However, the area has a high water table and an attenuation pond is therefore required to discharge surface water rather than infiltration into the ground. Based on the evidence before me, the site is capable of being safely developed for housing without increasing flood risk elsewhere. I further note that neither the Environment Agency nor the Lead Local Flood Risk Authority have objected to the development on flood risk grounds.
19. A Transport Assessment¹ has been submitted which demonstrates that the development of up to 37 dwellings would not have severe residual cumulative impacts on the local road network. Moreover, adequate visibility splays can be achieved in both directions from the proposed access point. I further note that the Highway Authority has not objected to the development on these grounds.
20. Severn Trent has confirmed that its network has adequate capacity to receive the additional foul water flows associated with the appeal proposal.
21. An Ecological Appraisal² has been submitted which confirms that features of ecological value within the site, such as hedgerows and a wet ditch, can be incorporated into the development. Other ecological enhancements could also be secured. I further note that neither Natural England nor the Council's Biodiversity Officer have objected to the development on ecological grounds.
22. It is asserted that the development of greenfield land is unnecessary given the availability of previously developed sites in nearby towns. However, there is no detailed evidence before me to substantiate this. In any case, the vast majority of the appeal site is located within the settlement boundary for Eccleshall where new housing development is acceptable in principle.
23. The appeal site is in an accessible location in walking distance of shops, services, and facilities in Eccleshall town centre. A bus stop is also positioned nearby on Castle Street close to the proposed access point.

¹ PJA (October 2019)

² FPCR (October 2019)

Conditions

24. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard outline conditions, I have imposed conditions requiring the submission and approval of a Construction Method Statement, a Tree Protection Plan, and an Arboricultural Method Statement. These are necessary in order to protect the living conditions of neighbouring occupiers, and retained trees, during the construction phase. Conditions relating to surface water drainage, contamination, and archaeology are also necessary in order to ensure that the site is adequately drained and remediated, and that any archaeological remains are appropriately documented. These conditions are pre-commencement in nature as any construction work could disturb contaminants or archaeological remains in the ground. The Construction Method Statement, tree protection measures, and drainage arrangements will also affect all aspects of the construction process.
25. I have also imposed conditions relating to the proposed visibility splays and offsite road improvements, which are necessary in the interests of highway safety. A condition requiring the development to accord with the approved plans insofar as they relate to access is also necessary in the interests of certainty. Finally, conditions relating to ecology, the proposed attenuation area, and building heights, are necessary to secure biodiversity enhancements, to ensure that new dwellings are not located outside of the settlement boundary, and to protect the setting of the Eccleshall Conservation Area.
26. The Council also suggested conditions that would have required the submission and approval of boundary treatments, details of the layout of buildings, and the proposed surfacing materials. However, these conditions relate to layout, appearance, and landscaping, which are reserved matters that do not fall to be considered at this stage. Another suggested condition requiring the submission and approval of a Construction Environmental Management Plan is unnecessary as these matters will be adequately addressed by the Construction Method Statement.

Overall Balance and Conclusion

27. As set out above, part of the development would be located outside of the settlement boundary and would therefore be contrary to Policies SP7 and C5 of the Plan for Stafford Borough. It would also result in less than substantial harm to the settings of the Eccleshall Conservation Area and the Grade II listed Eccleshall Castle, albeit this could be minimised through an appropriate layout at reserved matters stage.
28. Set against this, the development would provide up to 37 new dwellings, 40% of which would comprise affordable housing, in an accessible location close to services, facilities, and public transport connections. It would also generate economic benefits through the creation of employment and the purchasing of materials and furnishings. In addition, the planning obligation would provide contributions towards primary and secondary education, open space provision, and sports facilities.
29. Overall, whilst there is some conflict with the locational requirements of the development plan, the harm associated with the development would be limited. Moreover, a number of significant benefits would be delivered. In these

circumstances, the conflict with the development plan would therefore be outweighed by other material considerations.

30. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

Reserved matters

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Pre-commencement conditions

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) delivery, demolition, and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

- 6) No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved scheme.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model

Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 30 days of the report being completed and approved in writing by the Local Planning Authority.

- 8) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Pre-occupation conditions

- 9) Prior to the first occupation of the development, details of the proposed road widening, pedestrian footway and crossing, and street lighting, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development.
- 10) Prior to the first occupation of the development, the visibility splays shown on plan Ref 02998-0105B shall be provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

Other conditions

- 11) The development hereby permitted shall be carried out in accordance with the following approved plans: 9005B; 02908-0105B.
- 12) The details of landscaping submitted at reserved matters stage shall be informed by the enhancement proposals set out in Section 4.44 of the

submitted Ecological Appraisal (FPCR, October 2019) and shall include details of the location, design, and intensity of all external lighting.

- 13) The details of layout submitted at reserved matters stage shall propose an attenuation area and landscaping only on the part of the site that is located outside of the settlement boundary.
- 14) The details of appearance at reserved matters stage shall propose dwellings that do not exceed 2 stories in height.