



Appeal Decision

Site Visit made on 18 March 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/K3415/W/20/3263751

Overton Farm, Overton Lane, Hammerwich, Burntwood, WS7 0LJ

- 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 J Cooper (Tame Homes Limited) against the decision of Lichfield District Council.
 - The application Ref 19/01452/FUL, dated 9 October 2019, was refused by notice dated 16 June 2020.
 - The development proposed is the demolition of existing buildings (Use Class B2/B8) and erection of 9 no. dwellings, garaging, access and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council considers that the proposed development would represent a redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. In such a case, the proposal would not be inappropriate development in the Green Belt. Having considered the information that is before me in this respect and from my own observations during my site visit, I have no reason to take a different view.
3. The appeal site is within the zone of influence of the Cannock Chase Special Area of Conservation. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects. I will return to this matter later in my decision.
4. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement is therefore not required.

Main Issues

5. The main issues are (i) whether the proposal would constitute an acceptable form of development with particular regard to the provisions of local policy in respect of the location of development and (ii) the effect of the proposed development on the Cannock Chase Special Area of Conservation (SAC).

Reasons

Location

6. Core Policies 1 and 6 and Policies Rural 1 and 2 of the Local Plan Strategy 2015 (LPS) set out the strategic objectives for the delivery of new development in the district.
7. Whilst Core Policy 1 sets out a number of aims including making efficient use of land and prioritising the use of previously developed land, its fundamental purpose is to ensure that growth is located at the most accessible and sustainable locations in accordance with the settlement hierarchy. Core Policy 6 sets out that in the remaining rural areas not listed within the policy, only residential development which falls in to one of the defined categories will be permitted. As new build market housing, the proposal does not fall within any of these categories.
8. Policy Rural 1 is concerned with the delivery of new housing in rural areas but refers specifically to key rural settlements, village boundaries and their limited expansion, the conversion of existing buildings and rural exception sites. Policy Rural 2 provides support to rural settlements wishing to provide small scale development to meet local needs. Neither Policy Rural 1 or 2 are directly relevant to the circumstances of the appeal case.
9. The proposal would meet with some of the aims of Core Policies 1 and 6, in particular where they refer to making efficient use of land, the reuse of previously developed land and achieving high quality design. However, the location of the appeal site means that the proposed development would not accord with the strategic objective of either policy, which is to ensure that new development is sustainably located. For this reason, I conclude that the proposal would fail to accord with Core Policies 1 and 6 of the LPS.

Cannock Chase Special Area of Conservation

10. The appeal site is located within the 0-8km zone of influence for the Cannock Chase SAC. A Habitat Regulations Screening Matrix and Appropriate Assessment Statement has been provided and this concludes that an adverse, in combination, effect on the integrity of the SAC would be likely to result due to an increase in recreational disturbance as a result of the proposed development. However, it is found that these effects can be avoided or mitigated through the provision of a financial contribution per net residential dwelling towards the measures outlined in the Strategic Access Management and Monitoring Measures. Natural England concurs with the finding of the AA, and I have no reason to come to a different conclusion on this matter.
11. A completed unilateral undertaking (UU) has been submitted with the appeal which would provide a financial contribution of £1607.40 to address the adverse effect of recreational activities on the integrity of the SAC. However, section 6 of the UU states that the planning obligations contained within it shall not be enforceable until the grant of planning permission by the Council. If the appeal were to be allowed, planning permission would not have been granted by the Council. It is therefore uncertain that the UU would have effect in such a scenario, and whether the necessary planning obligation would be secured.
12. As it seems likely that there could be an adverse effect on the integrity of the SAC and I am not certain that the necessary avoidance and mitigation

measures would be forthcoming, I must take a precautionary approach with respect to this matter and proceed on the basis that the necessary measures to avoid and mitigate the impact on the SAC would not be secured.

Other Considerations

13. The appeal site is close to Burntwood which is a settlement that offers services and facilities which would meet the day to day needs of the residents of the proposed dwellings. However, it is accessed via Coppy Nook Lane, which is an unlit rural road with no pavements. As a result, it would not be an attractive proposition for pedestrian access to Burntwood and therefore walking is not likely to be an often-used mode of transport to the services and facilities it provides. There would however be a greater prospect of access via bicycle, as the distance between the urban area and the appeal site would not be significant or onerous to traverse using this mode of transport.
14. I have not been made aware that the appeal site would benefit from access to public transport and, overall, it would seem that the future residents would have a heavy reliance on private motor vehicles to access day to day services and facilities. However, this must be considered in the context of the existing use of the site and the fact that its current use can generate substantial numbers of vehicle movements, as evidenced by the Transport Statement (TS). The TS further suggests that there would be a significant reduction in movements to the site as a result of the proposal and that vehicle sizes would be reduced. Overall, this would be a benefit of the proposed development and would offset the fact that future residents of the proposed dwellings would be reliant on motor vehicles. This consideration offers substantial weight in favour of the proposed development.
15. The existing buildings have a dominant visual impact on the surrounding area and landscape by reason of their size, overall height and poor visual appearance. Their use as employment buildings within use classes B2 and B8 brings with it associated use of the external areas that are closest to Overton Lane and Coppy Nook Lane, with a number of vehicles in various states of repair currently being visible within the street scene. There is limited landscaping present and there does not appear to be great potential for ecological interests to prosper. In contrast the proposal would reduce the built form and greatly improve the visual appearance of the site as a whole. This too offers substantial weight in its favour.
16. It is suggested that the existing use is non-conforming and unrestricted in planning terms in areas such as its hours of use and storage of materials. Whilst there are two dwellings immediately adjacent to the appeal site, there is nothing before me to evidence the harmful effect that the use of the site has on these properties. That said, it is reasonable to surmise that there is potential for disturbance to occur which would not be caused by a housing development. Furthermore, the existing buildings and the use are incongruous features in this rural location, not just in terms of their visual impact but in terms of their impact on the ambience of the countryside. These considerations offer moderate weight in support of the proposed development.
17. The proposal would provide a mix of homes and result in economic benefits through the creation of jobs during the construction phase and through the New Homes Bonus. It is also the Government's objective to boost the supply of new housing. However, such benefits offer only limited weight, due to the

number of dwellings that are proposed and the supply of deliverable sites that exists in the district.

18. The proposal would result in the loss of rural employment land, but I have not been provided with any substantive evidence to suggest that this would result in harm or that alternative provision could not be secured in another location. Furthermore, I have identified that there would be benefits arising in removing a non-conforming use. Therefore, the fact that rural employment land would be lost carries only limited weight against the proposal.

Planning Balance and Conclusion

19. There are a number of relevant policies in the LPS to which my attention has been drawn. I have found that the proposal would fail to accord with Core Policies 1 and 6 which seek to guide the location of new development in the district to sustainable locations and that the loss of rural employment land should carry limited weight against the proposal. Conversely, there would be compliance with such policies that aim to regulate new development in the Green Belt, and to promote good design and the ecological enhancement of sites. Nonetheless, the failure to accord with Core Policies 1 and 6 means that the proposal would not accord with the development plan, taken as a whole.
20. There are a number of material considerations which offer support to the proposal. Those relating to the reduction in movements from the site and the visual improvements that would arise carry substantial weight in favour of the proposed development. Benefits relating to the loss of a non-conforming use offers moderate support whilst the provision of new housing and economic benefits offer limited weight in support. Taken together, these considerations outweigh the failure of the proposal to accord with the development plan in respect of the location of development, and the loss of rural employment land, that would occur in this instance.
21. However, for the reasons I have outlined I must take a precautionary approach with regard to the impact upon the Cannock Chase SAC. In this respect I have considered the use of a planning condition to address this matter but I find that to do so would not accord with the guidance set out in Paragraph: 010 Reference ID: 21a-010-20190723 of the Planning Practice Guidance, as there is nothing before me to suggest that this is an exceptional circumstance where there is clear evidence that the delivery of the development would otherwise be at risk.
22. In light of the uncertainty that the necessary SAC avoidance and mitigation measures would be secured, the appeal should be dismissed.

Graham Wraight

INSPECTOR