



Appeal Decision

Site visit made on 11 January 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/P3420/W/21/3280838

Land at Roeburndale, Leycett Lane, Madeley Heath CW3 9LS

- 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 Mrs S Massey against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 21/00484/OUT, dated 10 May 2021, was refused by notice dated 9 July 2021.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a detached dwelling at Land at Roeburndale, Leycett Lane, Madeley Heath CW3 9LS in accordance with the terms of the application, Ref 21/00484/OUT, dated 10 May 2021, subject to the attached schedule of conditions.

Preliminary Matters

2. The site address is different on the planning application form, decision notice and the appeal form however the appellant has confirmed that the above address is correct thus I have used it in my decision.
3. The planning application was made in outline form with all matters reserved except for access and layout. As such, I have treated details shown on the submitted drawings in respect of matters that are reserved for future approval as being for illustrative purposes only.

Main Issue

4. Whether the proposal would be inappropriate development in the Green Belt.

Reasons

5. Policy S3 of the Newcastle Under Lyme Local Plan 2011 (October 2003) (the LP) sets out forms of development which would not be inappropriate in the Green Belt. One exception is limited infilling however the policy states that this would only be allowed in the Green Belt in the village of Keele.
6. Paragraph 147 of the National Planning Policy Framework (the Framework) makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are exceptions to this general restriction and paragraph 149 (e) advises that the construction of new buildings comprising limited infilling in villages may not be inappropriate.

7. The closed list, and therefore, restrictive approach of LP Policy S3 is not wholly consistent with the approach or terminology of the exception of the Framework noted above. As such, in accordance with paragraph 219 of the Framework, I afford LP Policy S3 limited weight and have assessed the proposal primarily against Green Belt policy within the Framework.
8. The appeal site is located within a cluster of built form with properties immediately to the north, west and south of the site. Although the existing properties are set at varying distances from the highway, all are readily discernible from the public realm. Further north along Leycett Lane there is a clear visual break in the street scene where the character of the area changes from built form to more rural. However, as the appeal site has a clear relationship with the immediate built-up stretch of Leycett Lane, there is no doubt in my mind that the site is part of a built-up frontage which is within the envelope of the village.
9. The size of the appeal site and the gap within this built-up frontage is modest and the proposal is for a single dwelling whose layout respects that of the existing built form along this part of Leycett Lane. I see no reason why the proposal would not constitute limited development that complements the surrounding pattern of built form, subject to future consideration of reserved matters relating to appearance, landscaping and scale.
10. The proposal would therefore constitute limited infilling in a village and thus would not be inappropriate development within the Green Belt. Whilst the proposal would not strictly accord with Policy S3 of the LP in regard to the restriction of infilling in the village of Keele, it would accord with paragraph 149 (e) of the Framework which is the most up to date expression of national Green Belt policy.
11. As I found that the proposal would not be inappropriate development in the Green Belt, there is no requirement for a subsequent assessment of the effect of the proposed development on the openness or purposes of the Green Belt. Furthermore, it is also therefore not necessary for me to consider whether any very special circumstances exist in order to justify the development.

Other Matters

12. I acknowledge the third-party concerns regarding the effect of the proposal on highway safety, however I note that the County Council has raised no objections on highway grounds, subject to a number of conditions which I will address below. There appeared to be good levels of visibility along the highway from the appeal site and the limited scale of the proposal would also not significantly increase the amount of traffic using the highway. The development would not therefore pose a significant risk to road users, including pedestrians who may be on the carriageway due to the lack of pavements in the locality.
13. Concern has also been raised regarding the impact of the proposal on trees within the appeal site. The application is supported by a Tree Protection Plan and an Arboricultural Impact Assessment, which have been informed by an Arboricultural Report. This indicates that two trees and one group are required to be removed in order to facilitate the proposed access and the siting of the proposed dwelling. Given the poor condition and category rating of both the trees and the group I am satisfied that their removal is acceptable. I am also content that appropriate protection measures have been recommended for the

trees that would remain within the site to ensure the mature setting of the site and wider area remains. As landscaping is a reserved matter, the effect of any proposed additional landscaping is for future consideration.

14. It has been suggested that there is no need for the proposed dwelling. The Government places significant importance on the provision of new housing and, even if the Council are meeting their housing targets, these figures are set as a minimum. This would not therefore be a reason for me to dismiss the appeal.
15. It is unclear how the proposed dwelling would prevent the occupation of the adjacent bungalow. It would be sited a sufficient distance away and a good sized plot for the existing bungalow would remain. Any concerns regarding the effect of the proposal on the living conditions of neighbouring occupiers, namely through the appearance and scale of the proposed development, could be addressed at reserved matters stage.
16. There is no conclusive evidence before me to indicate that there is a reasonable prospect of a similar development being repeated nearby. Moreover, all proposals are considered on their own merits.

Conditions

17. The Council failed to provide a list of conditions they considered should be imposed if planning permission were to be granted. However, I have had regard to the suggested conditions of the Council's consultees. For clarity and precision, and to ensure compliance with the Planning Practice Guidance, I have undertaken some minor editing and rationalisation.
18. I have attached conditions relating to the time scale and detailing of the reserved matters for certainty.
19. Although the proposed site plan is marked as 'Proposed Indicative Layout', it is clear from the appellant's evidence that due consideration has been given to the layout shown on this plan, taking into consideration the location of trees within the site and the interrelationship with neighbouring properties. Accordingly, a condition specifying the proposed site plan is relevant to the matters of access and layout and is reasonable in this instance. I have also included the Arboricultural Impact Assessment and Tree Protection Plans as these directly relate to the access and layout of the proposal and are necessary in the interests of character and appearance.
20. Conditions relating to the proposed access, driveway and parking, including the requirement for an electric vehicle charging point, are necessary in the interests of highway safety and to ensure that adequate and useable means of access and parking are provided, to ensure the proposed materials facilitate adequate drainage, to encourage sustainable travel and to reduce the impact of vehicular emissions.
21. A condition relating to the investigation of ground gas is necessary in the interests of residential amenity. To ensure satisfactory drainage, avoid local pollution and manage flood risk, a condition is required to control foul and surface water drainage of the site.

Conclusion

22. For the above reasons, the proposed development would comply with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be allowed.

H Ellison

INSPECTOR

Schedule of Conditions

- 1) Details of appearance, landscaping 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site Plan, Drawing Ref: 1741-01; Arboricultural Impact Assessment, Drawing Number THL-0959-2 and Tree Protection Plan, Drawing Number THL-0959-3.
- 5) The development hereby permitted shall not commence until details of visibility splays at the site access have been first submitted to and approved in writing by the local planning authority. The visibility splays shall be provided in accordance with the approved details prior to first occupation of the dwelling and thereafter retained and kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.
- 6) The development hereby permitted shall not commence until details of the surfacing materials and means of surface water drainage for the access, parking and turning areas have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to first occupation of the dwelling and retained thereafter.
- 7) The development hereby permitted shall not be occupied until a fully operational electric vehicle charging point with a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit) has been installed and retained thereafter.
- 8) The development hereby permitted shall not be occupied until an assessment of the risks posed by ground gas, along with details and a scheme of appropriate mitigation measures (if necessary), has been submitted to and approved in writing by the local planning authority. The assessment and mitigation measures shall be carried out in accordance

with BS 8576: Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds and BS 8485: Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings.

Any mitigation measures required shall be carried out and inspected in accordance with the approved scheme, and a report to confirm the satisfactory installation of the gas protection measures shall be submitted to and approved in writing by the local planning authority prior to first occupation of the dwelling hereby permitted.

- 9) Any gates to be installed shall be set back 6m from the carriageway edge and open inwards away from the highway.
- 10) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved tree protection plan, Ref: Tree Protection Plan, Drawing Number THL-0959-3. The level of the land within the fenced areas shall not be altered without the prior written consent of the local planning authority.
- 11) The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way, in accordance with the surface water drainage hierarchy identified in the Planning Practice Guidance.

End of schedule