The Planning Inspectorate

Appeal Decision

Site visit made on 14 June 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2022

Appeal Ref: APP/B3438/W/22/3292144
Land adjacent to Baptist Chapel, Fowlers Lane, Baddeley Edge, Stoke-on-Trent ST2 7NB

- 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 & Mrs D Harvey against the decision of City of Stoke-on-Trent Council.
- The application Ref 66244, dated 22 January 2021, was refused by notice dated 12 October 2021.
- The development proposed is described as "Outline application for residential development".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above is taken from the application form. The appellants indicate on the appeal form they did not agree to the Council changing the description to include access. However, it is clear from the application form that 'Access' is a matter for which approval is sought as part of this outline application. Matters of Appearance, Landscaping, Layout and Scale are reserved for later consideration. The Council determined the proposal on the basis that access was included and so shall I, notwithstanding the description above.

3. In their Planning, Design and Access Statement (the 'PDA Statement') submitted with the application the appellants make reference to the revised 2019 version of the National Planning Policy Framework (the 'Framework') which was in use at the time, but quote paragraph numbers from a previous version of the Framework[1]. The Framework was revised again in July 2021 and paragraphs re-numbered again. Whilst there have been amendments to the Green Belt sections of the Framework overall, any policies that are material to this decision have not fundamentally changed. I am therefore satisfied that no party has been prejudiced. I have had regard to the latest 2021 version of the Framework in reaching my decision.

[1] The Framework was first published in March 2012, revised 24 July 2018, subsequently updated 19 February 2019 and revised again 20 July 2021.

Main Issues

4. As the site is within the Green Belt the main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of proposed vehicle movements on pedestrian and highway safety;
- Whether sufficient information has been provided regarding the effect of the proposed development on biodiversity, and
- If the proposed development constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

5. The Government attaches great importance to Green Belts. Paragraph 137 of the Framework identifies that the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 147 states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions.

6. The Council has determined the proposal against Framework exception paragraph 149e) as "limited infilling in villages" and refused the development against saved Policy GP1 of the City of Stoke-on-Trent Local Plan (the 'Local Plan'). This has a presumption against development in the Green Belt subject to a number of exceptions. The Policy pre-dates the Framework and was 'saved' in 2007. It is not fully consistent with it. In terms of limited infilling in villages the Framework does not require there to be a particular local need or that the site makes a material contribution to the amenity of the locality. Therefore I attach, greater weight to the Framework, as indeed do the Council, as it is current national policy.

7. The Framework does not define or specify what type of villages can have limited infilling, nor does Policy GP1. On my visit I saw that the site lies on the eastern side of Fowlers Lane within an established ribbon of residential development on both sides of Fowlers Lane, which extends for a substantial distance in either direction, meeting Bagnall Lane to the south east. Despite there being few services and facilities in the immediate area, from what I saw on my visit the site is clearly located within a village.

8. There is no definition in the Framework as to what constitutes 'limited' or 'infilling'. Local Plan Policy GP1 provides some assistance referring to a "gap within an otherwise built-up frontage". On my visit I saw that the site was

vacant and formed a gap between the Baptist Chapel and the large garden belonging to a bungalow 'Fairoaks'. Either side of these properties housing development continues in a broadly linear alignment, despite differences in character. Although the site tapers and extends beyond the rear garden boundaries of nearby properties, I am satisfised that the appeal site sits within a built-up frontage and constitutes an infill site.

9. The application is in outline. The description of the development does not specify the number of dwellings and there is no illustrative site layout. However, the appellants' PDA Statement refers to the amount of proposed development as not exceeding two dwellings. In response to concerns from the Highway Authority the appellants later suggest reducing the development to a single dwelling.

10. The proposed access point is shown midway along the site frontage and the plot could be divided to provide two plots that would be of a size broadly commensurate with others in the village. A single dwelling would occupy a larger plot, but one dwelling is less than 2. I am satisfied that, within the context of the village and its surroundings, 1 or 2 dwellings would represent 'limited' development.

11. In view of the above, and having regard to an on-the-ground assessment I conclude that the proposed development would constitute limited infilling within the village. Consequently, it would fall within the exception category paragraph 149e) of the Framework and therefore would not be inappropriate development in the Green Belt for the purposes of Local Plan Policy GP1 and the Framework.

12. As the proposed development is not inappropriate there is no need for me to consider whether or not there are other considerations amounting to very special circumstances to justify the new development.

Openness

13. The Council refers to the loss of openness to the Green Belt. Case law[2] has established that the impact on openness is implicitly taken into account in some of the exceptions in the Framework unless there is a specific requirement to consider the actual effects on openness. Consequently, if development is found to be not inappropriate, it should not be regarded as harmful either to openness or to the purposes of including land in the Green Belt. Hence, in this instance in relation to Framework exception 149e) there is no need for me to consider the effect of the proposed residential development on the openness of the Green Belt.

Highways

14. The site is in a semi-rural location. With no public transport through the village, future occupiers would likely be car-dependant. A new residential development of 2 dwellings would see a modest increase in vehicle movements in and out of the site and using Fowlers Lane in either direction. A single dwelling would likely see even fewer vehicle movements.

15. I observed that Fowlers Lane was narrow and windy in places, as were some of the approach roads, and care was needed to pass vehicles coming in the opposite direction. It had limited street lighting and little in the way of footpath

[2] *Lee Valley Regional Park Authority, R v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

provision. This is reinforced by the comments from the Highway Authority, who also advise that highway routes in the area are rural and substandard, as are many junctions.

16. Many property boundaries and driveways adjoin Fowlers Lane, although some properties including the appeal site have a grass or hard surfaced verge in front adjacent to the lane. Nonetheless, there was no uniform presence of verges or any significant continuation of them to provide any meaningful form of pedestrian footpath on either side of Fowlers Lane. During my visit I saw a number of pedestrians walking through the village in the road.

17. The site is located on the inside of a gentle curve and at this point Fowlers Lane widens. Drivers would then need to use the surrounding narrow substandard roads and junctions to access connecting roads to Stoke and other destinations.

18. However, I have not been presented with any substantive evidence to demonstrate how the additional modest increase in traffic movements from 1 or 2 dwellings would cause significant harm to highway users and safety. Furthermore, the Highway Authority has not advanced any technical reasons or evidence towards the access itself to indicate it would be in an unacceptable location, or have inadequate visibility, or would be badly designed, for example, as to cause danger to other highway users.

19. I note the appellants have submitted a revised plan showing the provision of a 2 metre wide pavement in front of the site and a 3.5 metre wide access. I agree with the Council that these measures would not reduce the number of vehicle movements arising from the development. Whilst the section of pavement would provide a place for pedestrians to wait to cross in front of the access, it would not be physically connected to any other footpath on this side of Fowlers Lane and would not significantly improve overall pedestrian provision or safety along Fowlers Lane or through the village as a whole, where dwellings and driveways already exist without a footpath in front of them.

20. To ease conditions along Fowlers Lane and reduce on-street parking, the appellants have offered to provide parking on the appeal site for users of the adjacent Chapel building, which I understand is also used for various other community uses. My visit did not coincide with any activities at the Chapel. Although my visit was a snap-shot in time, I was the only car parked on Fowlers Lane in the vicinity of the site. Nonetheless, it was evident to me that there is little dedicated parking provision for users of the Chapel building who would come by car and park on the road. However, apart from third party comments that parking on the road can be troublesome at times, I have not been presented with any substantive evidence to indicate that on-street parking along Fowlers Lane is causing significant highway safety issues that 1-2 dwellings would materially exacerbate.

21. Moreover, there are no illustrative plans to show how or where such parking for the Chapel building would be sited and only one access is proposed onto the site. Whilst providing additional parking may help address periodic local parking issues, it could equally encourage greater car usage and hence increase traffic movements through the village more than the proposed housing development would.

22. In the absence of substantial evidence to the contrary I do not regard the likely increase in traffic movements resulting from 1 or 2 dwellings would have a material effect on the safety of drivers and pedestrians or to the local road network. Accordingly, the proposal would not conflict with Policies CSP1 and SP3 of the Newcastle-under-Lyme & Stoke-on-Trent Core Spatial Strategy (the 'Core Strategy'). These are broad brush polciies that seek, amongst other things, to increase the safety of travel, deliver infrastructure improvements, and that developments are easy to get to and move through. I also find no conflict with the Newcastle-under-Lyme & Stoke-on-Trent Urban Design Supplementary Planning Document.

23. I am satisfied that allowing the proposed small-scale housing development would not set a precedent or make it difficult for the Council to resist other schemes that might come forward on other sites in the village. Each proposal has to be considered on its own merits within the context of the particular site, the proposal and facts of the case, and the advice and policy framework in place at the time.

Biodiversity

24. No ecological appraisal or information was submitted with the application or the appeal. As the application was subject to highway concerns the appellants were unwilling to commit to the additional expense of commissioning the necessary technical ecology reports at the outline stage. Should planning permission be forthcoming the appellants are willing to undertake the necessary ecological assessment and consider this can be secured through the provision of a suitably worded condition.

25. The Framework advises that planning permission should be refused if any significant harm to biodiversity cannot be avoided, mitigated against or as a last resort compensated for. Without any ecological appraisal or information the Council was unable to make an assessment of the impact of the development on any biodiversity of the site. Paragraph 99 of Circular 06/2005[3] advises that "*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances…*".

26. The appellants' unwillingness to pay for the necessary appraisals does not amount to exceptional circumstances. Therefore, in the absence of any information to demonstrate full compliance with relevant statutory protections or to demonstrate that appropriate mitigation or safeguarding measures can be put in place, I am unable to determine whether any biodiversity or protected species would be adversely affected by the proposed scheme. Moreover, described above I am unable to impose a condition requiring the necessary ecological assessments are undertaken.

27. Accordingly, the proposal would be contrary to Core Strategy Policy CSP4 and Strategic Aim 15, which collectively seek to avoid and mitigate adverse impacts and improve the diversity of wildlife and habitats.

[3] Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system. Published by the Office for the Deputy Prime Minister 16 August 2005

Conclusion

28. Whilst I have found the proposed development would not be inappropriate development in the Green Belt and there would not be significant harm to highway safety, the development would be unacceptable as there is insufficient information to be able to determine whether any biodiversity or protected species would be adversely affected.

29. For the reasons given above I therefore conclude that the appeal should be dismissed.

K Stephens
INSPECTOR