



Appeal Decision

Site visit made on 1 November 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/M3455/W/22/3299359

168 Endon Road, Norton Green ST6 8NQ

- 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 Alan and Mrs Ann Sherratt against the decision of Stoke-on-Trent City Council.
 - The application Ref 66799, dated 1 June 2021, was refused by notice dated 17 March 2022.
 - The development proposed is the erection of 3 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 dwellings at 168 Endon Road, Norton Green ST6 8NQ in accordance with the terms of the application, Ref 66799, dated 1 June 2021, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Alan and Mrs Ann Sherratt against Stoke-on-Trent City Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal before me has been made in outline with all matters reserved, namely access, layout, appearance, landscape and scale, reserved for a subsequent application. I understand from the appellant's case that the submitted drawings are for illustrative purposes only and I have considered them as such

Main Issue

4. The main issue in this case is whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

Whether Inappropriate Development

5. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

6. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include limited infilling in villages, the replacement of buildings, and the limited infilling or redevelopment of previously developed land. The Council's reason for refusal and associated case does not refer to any green belt policies, as such I have relied upon the Framework. As the main parties have focused on limited infilling in villages in their cases, I have started with this exception below.
7. The appeal site is a spacious plot containing a detached dwelling, perpendicular to the road, and a small number of outbuildings. The site is closely set between residential development to the front and two sides of the site. To the rear, the site opens out on to a field which is bounded by further development on two sides. Overall, the appeal site takes a fairly central location within Norton Green, a settlement characterised by groups of relatively dense development.
8. Given the appeal site's location in close relationship to development surrounding the site, and its fairly central location within the settlement, I consider the proposal to be infilling for the purposes of the above exception. Moreover, given that the proposal would result in three new dwellings, I find that it would be limited development in this case, especially in regard to the level of development surrounding it.
9. Norton Green is located between Norton-in-the-Moors and Brown Edge which together form a string of loosely connected settlements at the edge of Stoke-on-Trent. The main parties disagree as to whether Norton Green is a village, with the Council considering that Norton Green should either be described as a hamlet or part of the urban fringe of Stoke-on-Trent.
10. Although connected to Stoke-on-Trent by a continuous ribbon of development the level of development reduces between Norton Green and Norton-in-the-Moors, creating the sense of a visual and physical separation between the two settlements, and therefore also between Norton Green and Stoke-on-Trent. I have also not been provided with any substantive evidence to demonstrate that Norton Green has been incorporated in to either Norton-in-the-Moors or Stoke-on-Trent. As such I find that Norton Green is not an extension of the urban fringe associated with Stoke-on-Trent.
11. I understand from the submissions before me that, although once containing a church, Norton Green is now no longer served by one as it has been converted to a dwelling. I am mindful of the Council's view of what constitutes a village, and in particular the requirement for a church to be present. I have not however, been provided with any of the documents that the Council have used to support this. I am also mindful that some of the evidence submitted by the appellant is circumstantial and historical in nature, relating more to the way in which residents and historians talk about the settlement than the situation on the ground. The Framework does not define what it considers to be a village.
12. As noted above, Norton Green is characterised by a somewhat dense level of development. It is also of a fair size, covering a large portion of the area between Norton-in-the-Moor and Brown Edge. I find that its size and the level of residential development present is significantly greater than what would

typically be considered a hamlet. During my observations on site, I noted that the settlement contained a public house, hairdressers and care home.

13. Lacking any definitive definition for the purposes of planning, I find that a village would be a small settlement that, in size, sits between a hamlet and town, and would provide some access to services or facilities, such as a church. To this end I have made a judgement based on the situation on the ground. Given its scale and the presence of commercial uses, I find that whilst Norton Green is no longer served by a church, this is more likely a result of social change amongst its residents than a diminishing of the settlement's importance. Consequently, in my mind it would be more accurate, for the purposes of this Green Belt assessment, to consider the settlement as a village.
14. Although the Council have referred to an appeal¹ where the status of a settlement was in question, I have not been provided with sufficient details of this case to be certain of its context or relevance to the case before me. Therefore, this example has had only very limited weight in my consideration.
15. As I have found the proposal to comply with this exception and consequently that the development would not be inappropriate development within the Green Belt, it is not necessary for me to consider the other two exceptions noted above. It is also deemed that, as the relevant exception does not separately require that consideration of openness be made, that this is intrinsic in the consideration of whether the proposal complies with the exception. I have not, therefore, considered this further.
16. In light of the above, the proposal would not be inappropriate development in the Green Belt as it would be limited infilling in a village. The proposal would therefore comply with Section 13 of the Framework, and in particular Paragraphs 147 to 149 as outlined above.

Other Matters

17. A number of concerns have been raised regarding the potential impact of the proposal on character and appearance and the living conditions of neighbouring occupiers, namely overshadowing and overlooking. However, these issues cover matters, appearance, layout and scale, that are reserved for later consideration and have not been determinative in my consideration of this appeal.
18. Further concerns have been raised regarding potential risks related to biodiversity on site and surface water runoff. The intensification of development on the appeal site is likely to result in an increase in water runoff and a decrease in natural habitats on site. However, I find that both matters could be dealt with by way of suitably worded conditions.
19. The proposal would also increase the number of dwellings and therefore, likely, increase the number of vehicles related to the site. However, the likely increase in the number of vehicle movements at the site would be relatively limited given the context of the existing street which serves a primarily residential area. As access is a reserved matter, the safety of any proposed vehicular access would be for consideration at the reserved matters stage.

¹ APP/B3438/W/18/3211000

Conditions

20. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interest of clarity and enforceability, I have made some changes to the wording.
21. For certainty, I have set out the reserved matters as well as timescales for their submission and the commencement of works. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plan.
22. The erection of three dwellings is likely to result in the loss of some permeable surfaces and consequently an increase in surface water runoff, I therefore find a condition would be necessary requiring a surface water drainage scheme in order to prevent any unacceptable risk from surface water runoff or flooding resulting from the site.
23. The Council have raised that the appeal site is within an area of historic coal mining works and that there is a risk the appeal site may be affected by such works. As such it would be necessary for a condition requiring an investigation to be carried out to ensure that any risks are known and are suitably dealt with.
24. In order to ensure that no unacceptable harm to the trees on site will occur, and as the protections required will depend upon details submitted at the reserved matters stage, it is necessary to impose a condition requiring that a further arboricultural survey is undertaken.
25. The appellant's Ecological Impact Assessment demonstrates that there is the potential for a limited level of harm to occur to protected species or their habitats. Therefore, in order to minimise and mitigate any such harm, a condition would be necessary requiring the development is carried out in accordance with the assessment and its enhancement recommendations.
26. At this stage it is not necessary to secure details of the external materials, boundary treatments, finished floor levels, landscaping or refuse and recycling storage. These matters are specifically linked to the matters reserved for future consideration and should be dealt with at that point.
27. A condition requiring a construction environmental management plan has been requested. However, given the limited scale of the development, and controls to building works outside of the planning system, I find that any disturbance related to the construction works would be very limited and short-lived. Therefore, such a condition would be unnecessary in this instance.
28. It has not been demonstrated that the appeal site is at any risk of contamination from its current or previous uses. I therefore find that the conditions requiring investigations, method statements and remediation works would be unnecessary.
29. The Council have also recommended the removal of a number of permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015. These include those under Schedule 2, Part 1, Classes A, B, C, D and E, as well as Schedule 2, Part 2, Class A. These relate to various works incorporating alterations, extensions,

outbuildings and boundary treatments. Paragraph 54 of the Framework requires that planning conditions do not restrict these rights unless there is clear justification to do so. Although I note the Council's desire to ensure the appearance of the completed development is satisfactory, I do not find that this is a clear or sufficient justification for a broad removal of permitted development rights at the appeal site.

Conclusion

30. There are no material considerations that indicate that the application should be determined other than in accordance with the Framework. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

Schedule of Conditions

- 1) Details of the access, 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 the 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 the 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 plan: Location Plan SHER 01
- 5) Prior to the commencement of development (excluding demolition), a suitable scheme for drainage works, based upon the SUDS hierarchy, shall be submitted to and approved in writing by the local planning authority. Thereafter, the drainage system shall be retained, managed and maintained in accordance with the approved details.
- 6) The development hereby permitted shall not commence (excluding the demolition of the existing structures) until; (a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and (b) any remediation works and/or mitigation measures to address land instability arising from the coal mining legacy, as may be necessary, have been implemented on site in full. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
- 7) Prior to the first occupation of the development hereby permitted, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

- 8) The development hereby permitted shall be carried out in accordance with an updated tree survey and arboricultural impact assessment that shall have first been submitted to and approved in writing by the local planning authority. This document shall include a scheme of protection measures that will be implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works, and only removed once the development is complete and all machinery and works material removed from the site.
- 9) The development hereby permitted shall be carried out in accordance with the recommendations set out within the Ecological Impact Assessment under Section 5. Prior to its first occupation, details of the biodiversity enhancement measures, to be installed at the site, including details of the time scale for their installation, shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall then be installed in accordance with the agreed time scales and thereafter permanently retained.