



Appeal Decision

Site visit made on 30 January 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/B3438/W/23/3324543

Land rear of the Royal Oak, High Street, Dilhorne, Staffordshire ST10 2PE

- 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 Cunningham against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2022/0658, dated 16 December 2022, was refused by notice dated 19 May 2023.
 - The development proposed is erection of a detached dwellinghouse.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a detached dwellinghouse at land rear of the Royal Oak, High Street, Dilhorne, Staffordshire ST10 2PE in accordance with the terms of the application Ref SMD/2022/0658 dated 16 December 2022 subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The application was in outline form only, with matters of access and layout to be determined at that time.

Main Issue(s)

3. The main issues in this appeal are:-
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy.
 - The effect of the proposal on the openness of the Green Belt
 - The effect of the proposal on the living conditions of an adjacent residential dwelling (Briardale)
 - If the development is inappropriate, whether the harm by reason of inappropriateness or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development with the Green Belt.

Reasons

Inappropriate development

4. The appeal site is located to the rear of the Royal Oak Public House. Over time the area to the rear has been part car parking area, and part beer garden, the precise location of both appear to have "shuffled" over time.
5. The appeal site is located on part of what is the beer garden. Access would be taken off New Lane at the same point as the vehicle access to the rear of the Public House.
6. The site is located within the Green Belt, and there is some disagreement between the parties as to whether the proposal constitutes "infilling" as per the exceptions in the Green Belt as set out in the National Planning Policy Framework (the Framework). This term is not defined within the Framework.
7. The site effectively has development to two sides; the public house, and residential property, leaving open views across one side and the access point and limited screening to the others.
8. Since the application was determined, I was made aware that a subsequent application was made for tourism accommodation along the open view side. Five units will be built and this now represents the furthest projection on that edge into the Green Belt, which was a major thrust of the Council's objection. This was recommended for refusal at Committee, but subsequently overturned by Members.
9. I requested details of the application in order to take this into account for my decision, and consider that the approved scheme would run along the open side and effectively close in this appeal proposal to three sides.
10. Overall, the appeal site is a small parcel of land that will be contained by buildings in the locality. As such I consider that it would be infill development within the context of its location.
11. I therefore find, that on this issue, the proposal would accord with the exception for infill development as set out in the Framework. As such it does not conflict with the Framework or Policy SS10 of the Staffordshire Moorlands Local Plan (2020) (the LP)

Openness

12. The Framework is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence. Openness is an essential quality of the Green Belt. It has a visual dimension as well as a spatial aspect.
13. The appeal proposal would see the introduction of a single dwelling and indicates the position of the building on the site. As stated previously this is a single plot, on a site identified as "infill" and I consider that, given the level of development that will surround it, the appeal proposal would not be highly visible within its context. There would be some domestic paraphernalia but these would not be large or visually dominant.
14. I therefore consider that this proposal would not have a harmful effect on openness and the function and purpose of the Green Belt in this location.

Living Conditions

15. The Council have concerns with regard to the effect on the living conditions of the occupiers of Briardale, the dwelling adjacent the site. The key consideration is that of an intrusive and overbearing form of development given the distance between the proposal and the existing dwelling.
16. The Council's Space about Dwelling standards seek to obtain a minimum of fourteen metres between dwellings, which could reduce to eleven metres in the case of a single storey dwelling. The proposal is single/double storey but appears to have been located in a position fourteen metres from the existing dwelling, and any principal windows on Briardale are located on oblique angles from the proposal, so as not to directly face the proposed dwelling which therefore does not lead to material harm to the living conditions of that dwelling (Briardale).
17. I find that this combination of factors means that I cannot find conflict with policy DC1 of the LP and the design guidance set out in the Framework.

Other Considerations

18. As I do not find that the proposed development would be inappropriate, there is no requirement to question whether very special circumstances are generated in this instance.

Other Matters

19. I have noted the comments of interested parties, but I have identified the appeal site as being an infill development, which is listed as one of the exceptions to inappropriate development in the Green Belt, and I have found in favour accordingly.

Conditions

20. I have taken into consideration the conditions prepared by the Council, and find them fair and reasonable, and have also noted that the appellant raises no objection to these, and therefore, subject to some minor rewording, I have included them below.
21. Conditions 1 to 3 and 5 are standard conditions and in the interests of proper planning, condition 6 relates to the provision of a correct drainage scheme.
22. Conditions 7, 8, 11, 13 and 14 relate to the completion of correct site investigations. Conditions 4, 9 and 10 relate to the protections of amenities,, whilst condition 6 relates to highway safety.

Conclusion

23. Subject to the imposition of conditions, there are no material considerations that indicate that the application should be determined other than in accordance with the development plan, of which the relevant policies attract full weight. For the reasons given above, I therefore conclude that the appeal should be allowed.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. The approval of the Local Planning Authority shall be obtained in writing with respect to the plans and particulars of the following reserved matters (hereinafter called "the reserved matters") before any development is commenced:
 - Scale
 - Appearance
 - Landscaping
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) AA, A, B, C and E shall be carried out without express planning permission first being obtained from the Local Planning Authority.
5. Before the commencement of works, details of all facing and roofing Finishing materials in terms of their type, colour and texture shall be Submitted to and approved in writing by the Local Planning Authority and the approved materials shall be used in the construction of the development.
6. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details before the Development is first brought into use.
7. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development should not continue further until an initial investigation and risk assessment have been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not re-commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority.

8. No top soil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development, a suitable methodology for testing this material should be submitted to and agreed by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validity evidence submitted to and approved in writing to by the Local Planning Authority.
9. The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation. Details of all artificial lighting to be installed under this permission should be submitted to and approved by the Local Planning Authority prior to development commencing.
10. Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations:
08:00 - 18:00 hours (Monday to Friday);
08:00 - 13:00 hours (Saturday)
No working is permitted on Sundays or Bank Holidays.
In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.
11. The development shall be carried out in accordance with the following measures:
 - i. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the Local Planning Authority;
 - ii. No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely affect adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape.
There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority
12. The development hereby permitted shall not be brought into use until the parking and turning area for the proposed dwelling has been provided in accordance with the approved plans Drg. No. AL(0) 01 Rev D. The parking and turning areas for the existing and proposed dwellings shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

13. No development shall commence until;
- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

14. Prior to the occupation of the development, a signed statement or declaration prepared by a suitably qualified person confirming that the site is, or has been made, safe and stable for the approved development, shall be submitted to the Local Planning Authority for approval in writing. 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.

END OF SCHEDULE