
Appeal Decision

Site visit made on 9 September 2024

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/K3415/W/24/3344879

**The Woodlands, Drayton Lane, Drayton Bassett, Tamworth,
Staffordshire B78 3TS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr M Kenny (Lavinium Holdings Ltd) against the decision of Lichfield District Council.
- The application Ref is 23/01310/OUT.
- The development proposed is for the erection of 2no. dwellings with all matters reserved except for access.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal is for outline planning permission for 2 dwellings with all matters reserved except for access. Indicative plans have been provided and I have had regard to them so far as necessary.

Background and Main Issues

3. The site is in the Green Belt. Both the Council and appellant agree that the proposal would be limited infilling in villages, based on the findings from a previous Appeal Decision¹. I agree. This would meet the exception criteria in paragraph 154 of the National Planning Policy Framework (the Framework) and the development would not be inappropriate development. Thus, the main issues are:
 - a) the effect of the proposal on biodiversity, with specific regard to protected species; and,
 - b) whether the proposal would be in a suitable location having regard to the development plan policies and access to services and facilities.

¹ APP/K3415/W/22/3313314

Reasons

Biodiversity

4. The site is open undeveloped land, with agricultural land to the south east and a golf club to the north west. Thus, there are areas nearby, and indeed the site itself, that could support habitats for protected or priority species.
5. Whilst the previous planning application² did not require any habitat surveys, the Council's ecologist requested a Preliminary Ecological Assessment and an Ecological Enhancement Plan for this proposal. I do not understand why there was a change in the approach, nor has this been adequately explained by the Council. Nevertheless, species such as great crested newts, badgers and bats, are protected by law and their presence on site, even if of low potential, is a material consideration.
6. There is no evidence before me that evaluates the presence of any species, and although the appellant suggests a condition could be imposed, Circular 06/2005 advises that surveys should only be required by condition in exceptional circumstances. I do not see any exceptional circumstances here that would justify requiring the surveys by condition.
7. Additionally, whilst the site is likely to be large enough to deliver net gains in biodiversity, no landscaping details are presented. I accept the proposal is outline, but this would be *the* planning permission, and it has not been demonstrated biodiversity net gains could be achieved. Moreover, I note that the comments from the ecologist on both planning applications³ set out that further information must be provided in respect of landscaping proposals and enhancement to biodiversity value prior to any planning decision being made.
8. Therefore, I must apply the precautionary principle and find that the proposal could result in harm to protected species and biodiversity. This would be contrary to CP13 and Policy NR3 of the Lichfield Local Plan Strategy 2008 - 2029 (February 2015) (the LPS), which seek to safeguard ecological networks; protect, enhance, restore and implement appropriate conservation management of the biodiversity value of land, and deliver a net gain in biodiversity. It would also be contrary to the requirements in the Framework that seek to protect and enhance biodiversity, and the legal obligations placed upon me as the Competent Authority. There would also be conflict with the Biodiversity and Development Supplementary Planning Document, which seeks to protect and enhance existing nature conservation features, following best practice guidance and the mitigation hierarchy.

Location

9. Located on a quiet rural lane, the site lies just outside the settlement boundary of Drayton Bassett. It is within a stretch of ribbon development heading north west towards Fazeley, a key rural settlement. Drayton Bassett is a small village, and contains some services, such as a school, church and

² 22/01176/OUT

³ Appendices 8 and 10 of the Appellant's Statement of Grounds of Appeal

village club, and the proposal would be of a scale and nature appropriate to the locality. Fazeley is around 2km away, and contains many local services and facilities, of which future residents are likely to access by a private car, public transport or cycling.

10. Whilst there is no footpath from the site into the village centre, it is a very short walk, vehicle speeds appeared to be low, and it felt safe walking on Drayton Lane, despite there being no street lighting. Given this, future residents are likely to walk into Drayton Bassett, to access services, for example, taking children to school. This is also supported by the findings in the appellant's Accessibility Appraisal⁴ that indicates lower than speed limit vehicle speeds and low traffic flows, along with no recorded personal injury accidents in the last 5 years.
11. Drayton Lane is an 'advisory cycle route' through the village of Drayton Bassett to the A4091, and Figure 2 of the Accessibility Appraisal highlights nearby cycle routes or facilities on the A4091. The area is not of particularly challenging terrain, and the area and roads are suitable and conducive to cycling, particularly given the relatively short distance to Fazeley, being much less than the advocated 5km cycling upper limit. Thus, if there is a propensity to cycle, future residents would be likely to cycle to access day to day services and facilities, and employment in the key rural settlement. This is even considering inclement weather and street lighting.
12. There is also a bus stop within 300m, an accepted walking distance to access public transport. Whilst the bus service is relatively infrequent, there is a railway station at Wilnecote around 3km away, offering services to Nottingham, Birmingham New Street and Cardiff Central. This could be accessed by car, and would still represent sustainable travel as a multi modal trip, or alternatively by cycling, taking around 15 minutes. This would facilitate access to larger settlements in a sustainable way.
13. Nevertheless, even with all these measures, the location of development is still likely to result in some future residents relying on a private car for journeys, especially considering the lack of bus service at the weekends and in the evening. However, sustainable transport solutions will vary between urban and rural areas. Moreover, Building Regulations now requires dwellings to be fitted with electrical vehicle charging points. This means that future owners would be encouraged to own ultra low and zero emission vehicles, which also represents a sustainable transport mode in the Framework.
14. In this instance, services are not a long distance away such that the proposal would support services in other areas nearby, as advocated by the Framework. Notably, the Accessibility Assessment, and my visit, also confirmed that sustainable modes of travel could be optimised and overall, I consider that the site would be in a suitable location having regard to access to services and facilities. I accept that these are different findings to the previous Inspector, however, there is different evidence before me.

⁴ Prepared by David Tucker Associates, dated 14th November 2023

15. Notwithstanding, the site would be outside the settlement boundary, and this would conflict with Policy (CP) 6 of the LPS. CP6 sets out how housing delivery will take place in the district. This focuses on key urban and rural settlements, and seeks to limit residential development in rural areas to certain exception criteria, which the proposal would not meet.
16. However, the thrust of the policy seeks to contribute towards the achievement of sustainable communities, concentrating growth in and around the most sustainable settlements. This is echoed in CP1 and CP3, which seek to deliver sustainable development. CP1 details that new rural housing will be directed mainly towards key rural settlements, such as Fazeley, and smaller villages will accommodate housing to meet local needs, mainly within identified village boundaries.
17. Given my findings above, the proposal would accord with the intentions of these policies, assisting in delivering housing in suitable and sustainable locations. Additionally, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and CP3 seeks to reduce the overall need to travel, whilst optimising the choice of sustainable modes of travel, particularly walking, cycling and public transport. The proposal would do this.
18. Moreover, the proposal is supported by the Framework, being infill development in villages and is not inappropriate development in the Green Belt. I consider that the in principle conflict with CP6 would be outweighed by its appropriate and sustainable location, and that the strategic aims of CP1 and CP3 would be satisfied.
19. Consequently, on balance, the proposal would be in a suitable location having regard to the development plan policies and access to services and facilities.

Other Matters

20. The Council's first reason for refusal also details there being insufficient information provided regarding access, parking and turning areas. Parking and turning areas would be part of the layout in the reserved matters. The plots are large, and there appears to be ample space for parking and turning.
21. Additionally, the plans⁵ before me detail the access proposals onto Drayton Lane, with sightlines drawn to meet Manual for Streets guidelines based on the speed and traffic surveys. Whilst there are no comments from the Council's Highway Team, they were consulted at planning application stage and appeal stage. The new accesses appear to be akin to the access to The Woodlands, and the lack of any comments suggests to me that there are no objections. In any event, nothing turns upon this given the appeal is being dismissed for other reasons outlined below.

⁵ Drawing no 20024-P-122

Planning balance and Conclusion

22. The proposal would be in a suitable location having regard to the development plan policies and access to services and facilities. There would also be social, environmental and economic benefits to boosting housing numbers, even if there is no housing shortfall in the area.
23. However, the lack of ecological evidence means that the proposal could result in harm to protected species and it has not been demonstrated biodiversity net gains could be achieved. The legal obligations relating to protected species would outweigh all other matters and provide a clear reason for refusing the development proposed.
24. For the reasons set out above, the appeal is dismissed.

Katie McDonald

INSPECTOR