



Appeal Decision

Site visit made on 4 December 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2025

Appeal Ref: APP/B3410/W/24/3349026

Vacant land to the rear of Glebe School, Stanton Road, Stapenhill, Burton-on-Trent, East Staffordshire DE15 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by The Bampton Property Group Ltd against the decision of East Staffordshire Borough Council.
 - The application Ref is P/2024/00029.
 - The development proposed is the erection of 3no. three-bedroom dwellings and 1 no. five-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address and description of development in the banner differs from that given on the application form. The amended address is more precise about the location of the appeal site, which the appellants agent has confirmed is appropriate. The description of development has been amended to include reference to dwelling/s, in the interests of clarity and to omit reference to its location, which is unnecessary. No party would be prejudiced by the changes.
3. An updated version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and so, I have had regard to this in reaching my decision. Insofar as matters directly relevant to the appeal, there are no substantive changes. No views were sought from the main parties on this and, no parties would be prejudiced by it.
4. There have been previous planning proposals for residential development on the appeal site, including application ref P/2021/00622, which was dismissed on appeal ref APP/B3410/W/22/3304380 for the erection of 2No, three-storey semi-detached buildings to form 4 dwellings. While I have had regard to this, I have determined the appeal proposal having regard to its individual merits.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposal on the living conditions of the occupants of Nos 4, 6, 8 and 10 Holme Farm Avenue, with particular regard to outlook and loss of light;
 - whether the proposed development would provide acceptable living conditions for the future occupants of the dwellings, in particular regard to

- privacy of plots 1,2 and 3, and the provision of suitable refuse facilities for the proposed development; and,
- the effect of the proposed development on highway safety, in regard vehicular and pedestrian movement.

Reasons

Character and appearance

6. The appeal site is principally vacant land which lies within a mixed use, urban area, with residential, community buildings and commercial properties surrounding it. There is a variety of design, scale, and form of buildings, which have evolved over time, surrounding the appeal site. As the site is located to the rear of buildings which front onto Stanton Road, Woods Lane, and Holme Farm Avenue, it does not have particular presence within the street scene. At the time of my site visit, much of the site was overgrown and there were some trees at the southern end of the site that appeared to be self-set.
7. While there is variety in the scale and character of surrounding residential properties in the local area, typically dwellings nearby are two-storey and front onto a road, having direct presence within the street scene.
8. Although, the proposed development would utilise vacant land in an effective way, and there would be space for private gardens and landscaped areas, the proposal would include an extensive area of permeable resin hardstanding in front of the proposed houses. Despite that the proposal would include a narrow area of landscaping between the front of plots 1-3 and their parking spaces, that the bin and cycle store would have a planter on top and, that there would be a small garden area to the front of plot 4. This would not significantly lessen the extent of hardstanding and as a result, the proposed residential development would be uncharacteristically dominated by the extensive area of hardstanding. This would not provide a high quality form of residential development, nor contribute to the visual qualities of the surrounding area.
9. In view of the above, the proposed development would have a harmful effect on the character and appearance of the surrounding area, in conflict with Strategic Policies SP1 and SP24 and Detailed Policies DP1 and DP3 of the East Staffordshire Borough Council Local Plan 2012-2031 (October 2015) (LP) which, amongst other matters, seek high quality design that has regard to the surrounding character and context of an area.

Living conditions- existing neighbours

10. The existing neighbouring dwellings in Holme Farm Avenue have modest sized rear gardens containing outbuildings and enclosed by fences of various heights. They are two storey dwellings with rear windows at ground and first floor facing the appeal site. The proposed new dwellings would principally be to the rear of 4, 6 and 8 Holme Farm Avenue, with proposed plots 1-3 being 1.5 stories high with rooms in the roof, served by rooflights and, plot 4 would have a lower ridge height, although also have rooms in the roof served by rooflights.
11. The proposed site plans show that there would be a separation distance between the rear elevations of properties in Holme Farm Avenue and plots 1 and 3 of approximately 20.3m and 20.37m respectively. Notwithstanding the dispute of whether or not the new dwellings on plots 1-3 should be considered as 2 or 3 stories high, the proposed separation distance would not achieve the

required minimum distance separation of 21 metres between dwellings, as set out in the Councils' Separation Distances and Amenity Supplementary Planning Document (SPD) (October 2019) for dwellings of the same number of storeys.

12. This is only marginally below the required standard. Also, as asserted by the appellants, the rear gardens of the proposed dwellings would achieve more than the 10 metres minimum garden depth for new dwellings, as required by the SPD and, is greater than the 12 metres mentioned in the Council's pre-application advice. However, even though, as set out by the appellants, the Framework advocates a flexible and pragmatic approach, I find that in view of the proposed plots 1-3 being taller than standard 2 storey dwellings, the modest size of the neighbouring properties' gardens and having viewed the site context from one of the neighbouring gardens during my site visit, it would be important to at least meet the minimum separation distances, in order to ensure there would be no overbearing impact caused to the occupants of 4, 6 and 8 Holme Farm Avenue.
13. Although, 10 Holme Farm Avenue (No 10) would not be directly behind one of the proposed new dwellings. Rather, it would be set more at an angle to the rear elevation of Plot 4 and in view of the fact that plot 4 would have a lower overall height compared to Plots 1-3, the proposed development would not have an overbearing impact on the outlook from No 10.
14. With regard to the effect on light to the occupants of neighbouring dwellings, the proposed development would be sited to the west of the aforementioned properties in Holme Farm Avenue. In view of such, and that the proposed dwellings would be located more than 10 metres away from the rear garden boundary of these neighbouring dwellings, the new dwellings, despite their height, would not likely cause undue overshadowing, nor any significant loss of direct sunlight or daylight to the adjacent properties in Holme Farm Avenue, so as to cause undue detriment to the enjoyment of such properties by their occupants in regard to loss of light.
15. In view of the above, while I find there would be no harmful loss of light caused to the occupants of neighbouring properties, the proposal would have a harmful effect on the living conditions of the occupants of Nos 4, 6, and 8 Holme Farm Avenue, with regard to outlook. Therefore, in respect of outlook, there would be conflict with Policies SP1, SP24, DP1, and DP3 of the LP and the guidance contained in the Council's SPD, which amongst other matters, require developments to be designed to establish good relationships between buildings and acceptable standards of amenity. Also, Policy DP3 of the LP sets out, amongst other things, that new residential development should not have an unacceptably overbearing impact on adjacent dwellings.
16. Although, as I have not found harm in relation to loss of light to the occupants of neighbouring dwellings, there would be no direct conflict with Policy DP7 of the LP, which sets out that development proposal would only be granted where they will not give rise to unacceptable level of pollution in respect of noise or light, or contamination of ground, air or water.

Living conditions- future occupants

17. The proposed front elevation and windows therein on plots 1-3 would face toward the rear of the community hall at a distance separation of over 18 metres. The community hall is a tall building with several large first floor

windows on its rear elevation and, at the time of my visit, it was apparent that the rooms in the community hall were in active use.

18. The appellants assert that the minimum required separation distance window to window, as set out in the Council's SPD, applies to residential properties and not community buildings and that, the proposed distance separation in this instance is greater than the width of most residential streets. Although, no examples of such have been provided. The SPD sets out that new housing developments should ensure a layout and design that provides high standards of privacy and outlook, it does not differentiate per se between uses and, in any case, it would still be important to protect the privacy of the future occupants of the new dwellings.
19. In view of the fact that the separation distance proposed between the large first floor windows of the community hall and the first and second floor windows in plots 1-3 falls below the minimum 21m required distance separation set out in the SPD, there would be unacceptable overlooking. Consequently, this would cause undue loss of privacy to the future occupants of these new dwellings. Furthermore, that the site has particular constraints, including a need to maintain adequate distance separation to opposing sides of it, does not justify such harmful impact on the amenity of future occupants of the development.
20. In terms of bin provision, a communal bin store facility is proposed to store the wheelie bins for the new dwellings, which is to be located adjacent to the rear boundary of the community hall. While the bin store would be of a suitable size, in accordance with the requirements of the Council's Waste Storage and Collection Guidance for New Development, Supplementary Planning Document (April 2012) (WSC SPD) to accommodate the wheelie bin provision for the new dwellings, it would not be conveniently co-located to the dwellings to allow ease of access by occupants of the new dwellings. It would be a distance away from the new dwellings, accessible around proposed landscaping, and across the parking and manoeuvring area for the proposed dwellings. This would likely result in future occupants of the new dwellings choosing to keep their wheelie bins closer to their front doors for ease of access.
21. Additionally, while it is asserted by the appellants that there would be enough space within the appeal site to allow access and turning of refuse vehicles within the site and collect refuse from the proposed shared bin store. The emergency vehicle tracking shows that there would be a need to use a small piece of land outside the appeal site, at the rear of the Tanning Shop or, as asserted by the appellant, the area in front of the proposed disabled parking space could be utilised to accommodate the turning of refuse vehicles. Either scenario proposed would not be ideal and has not been suitably demonstrated to be possible and/or easily achievable within the confines of the appeal site in the evidence provided.
22. Notwithstanding the above, I have not been provided with substantive evidence that bin lorries would be permitted to use the private driveway access to collect bins from the communal refuse store, even if, there would be room to manoeuvre bin lorries within the appeal site. If this were the case, the occupants of the new dwellings would have to drag their bins a significant distance along the shared access driveway to the nearest public highway on collection days. Additionally, I have no evidence to show that in such scenario

there would be adequate space to present bins close to the public highway, where it would not impede pedestrian or vehicular movement.

23. Therefore, having regard to the evidence before me and the guidance contained in the WSC SPD, I am not convinced that the occupants of the new dwellings would have suitable bin storage and collection facilities.
24. Having regard to the above, the proposed development would not provide acceptable living conditions for the future occupants of the dwellings in particular regard to privacy for plots 1, 2 and 3 and, the provision of suitable refuse facilities for the proposed development. Therefore, the proposal conflicts with Policies SP1, SP24, DP1 and DP3 of the LP which jointly seek, amongst other matters, to establish good relationships between buildings and the provision of a good standard of amenity. Also, as the standards and guidance set out in the SPD and WSC SPD would not be fully met, the proposal would conflict with such.
25. While referred to in the reasons for refusal, I find no conflict with Policy DP7 of the LP in regard to this main issue, as this policy more specifically relates to pollution and contamination, rather than general amenity, including privacy and layout considerations.

Highway safety

26. The proposed access to the development would be from Stanton Road, which I observed at the time of my visit is a busy main road, on a bus route. Additionally, the proposed access driveway to serve the proposed dwellings would be shared with the vehicular access to the parking areas associated with and located at the front and rear of the adjacent Tanning Shop, which I observed was in regular use during my site visit.
27. Within the main part of the appeal site, adequate vehicular and cycle parking would be provided for the proposed dwellings and there would be sufficient space for vehicles to manoeuvre, so vehicles could leave the site in forward gear. Also, it is proposed to include electric vehicle charging points for the new dwellings, which, as asserted by the appellant, together with the proposed cycle parking provision, would encourage use of active and sustainable transport modes for the new development and may help mitigate some environmental impacts caused by the development.
28. However, the access driveway leading to the parking and main part of the site is long and narrow and would not allow for the passing of vehicles along its length within the appeal site. Furthermore, I observed that existing solid boundary treatments along the access driveway, particularly where the boundary on the side of the community hall juts out, creates a narrow pinch point, where it would particularly restrict views of vehicles exiting and entering the main part of the site. Also, as referenced by the Council, the TRICS database figures indicate that the development could generate between 32 and 40 vehicle movements per day, which is not insignificant.
29. In addition, the same access driveway would be used by cyclists and pedestrians and by traffic associated with the adjacent Tanning Shop, which could lead to further conflict of use and danger to users of the access driveway, particularly, but not limited to, pedestrians and cyclists using the access driveway.

30. In view of the fact that Stanton Road is a busy road, it would not be safe for vehicles to give way by reversing back onto the road, to allow oncoming vehicles to exit the site. While signs could be erected to suggest that priority is given to vehicles entering the site from the main road, this would not prevent driver choice or omit problems if a vehicle were already part way down the access driveway. Such vehicles would need to reverse back, in order to give right of way to vehicles entering the site, which could cause some traffic congestion and conflict, particularly in view of the level of traffic that could be generated by the proposed development, together with the traffic associated with the adjacent Tanning Shop.
31. The appellants' Access Appraisal (March 2024) proposes that vehicles could utilise the parking area in front of the Tanning Shop to allow the waiting and turning space for vehicles entering the site from Stanton Road, while oncoming vehicles leaving the site pass, to prevent any vehicles reversing back onto the Stanton Road. However, this would rely on land which is outside the red line of the application site, and which has not been shown to be within the control of the appellants based on the evidence before me. Therefore, even if this were an acceptable solution, I have no assurance this would be possible and sustainable in the long term, to serve the access requirements of the proposed development appropriately and safely.
32. In view of the above, it has not been demonstrated the proposed development would not have a harmful effect on highway safety in regard vehicular and pedestrian movement. Therefore, there would be conflict with Policies SP1 and SP35 of the LP, which require, amongst other matters, that development proposals do not cause highway safety issues or impacts.

Other Matters

33. The proposal would deliver additional dwellings on underutilised, brownfield land in a sustainable urban area. This would consequently provide some economic benefits. Also, additional landscaping and mature trees within the appeal site could provide some visual improvements. However, such benefits would not be sufficient enough to outweigh the harms I have found above, in regard to the character and appearance of the surrounding area, the living conditions of existing and future occupants, and highway safety.

Conclusion

34. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
35. Accordingly, the appeal should be dismissed.

C Billings

INSPECTOR