



Appeal Decision

Hearing held on 17 December 2024

Site visit made on 17 December 2024

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Appeal Ref: APP/Y3425/W/24/3353463

Land between Ashflats Lane and Moss Pit, Stafford ST18 9BP

- 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 Mrs Caroline Roberts against the decision of Stafford Borough Council.
 - The application Ref is 23/38029/FUL.
 - The development proposed is erection of 16 new bespoke 2 and 3 bedroomed bungalows (four affordable) of four detailed designs, landscaping scheme, open space provision, new habitat provision, principles of drainage, and the creation of a new access from Ashflats Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the determination of the appeal, the government adopted an amended National Planning Policy Framework (the 'Framework'). At the hearing the parties were given an opportunity to comment on the effects of the amended Framework on the proposal and these comments have been taken into account.

Main Issues

3. The fourth and fifth reasons for refusal relate to the lack of a planning obligation to mitigate for the effect of the proposal on the Cannock Chase Special Area of Conservation (SAC); to provide financial contributions towards educational facilities and leisure provision; and to secure the proposed affordable housing on site. During the appeal a completed Unilateral Undertaking (UU) has been provided which the Council state addresses their concerns in these regards. The remaining main issues therefore are:
 - i) whether the site is suitable for the development having regard to the Council's spatial strategy;
 - ii) the effect of the development on surface water flooding;
 - iii) the effect on highway safety; and
 - iv) the effect on the character and appearance of the area.

Reasons

Spatial strategy

4. The parties are agreed that the site lies outside, but adjacent to the settlement boundary of Stafford. It is therefore in open countryside for the purposes of planning policy.

5. Spatial principles 3 and 7, as set out in the Part 1 Plan for Stafford 2011 - 2031 (2014) supports development within settlement boundaries and, particularly relevant to this appeal, within Stafford as the largest town in the Borough with the highest level of services and facilities. Spatial principle 7 and policy C5 of the Part 1 Plan set out criteria for development outside the settlements. It has not been suggested that the proposal would meet any of the criteria. The development would therefore conflict with all these principles and policies.
6. In November 2022 the Council carried out consultation under Regulation 18 on a preferred options version of their emerging Local Plan. This document allocates a large parcel of land, which includes the appeal site, for 268 houses. I understand a later version of the Plan on which a consultation under Regulation 19 would have taken place was withdrawn. The Council advise that an updated timetable for the continued progression of the emerging plan would be published in spring 2025.
7. Clearly the emerging Local Plan is at a very early stage. The fact that over two years has passed since the latest published version and that there have been a number of changes to national policy in that time, indicates there may be some significant differences between the published version and the next version. Nonetheless, I consider some weight, albeit very limited, can be given to it and the proposed allocation.

Flooding

8. There would be an increase in surface water run-off as a result of the increased built form on the site. The submitted Flood Risk Assessment (FRA) and the proposed site plan shows that this surface water would be attenuated by underground storage which would then discharge at an appropriate rate to the sewer on Gravel Lane. The Lead Local Flood Authority comment that there are no details of the invert level of that sewer so it is unknown if this could be gravity fed. Moreover, they also suggest the methodology to calculate the size of the attenuation is flawed by using rainfall data from the 1975 Flood Studies Report, instead of data in the 2022 Flood Estimation Handbook. These are fundamental errors which means I have little confidence that an acceptable surface water drainage scheme could be developed. It would not be appropriate to defer this fundamental matter to a planning condition.
9. The FRA shows that the site is in flood zone 1, but that there is a surface water flow route through the site from Ashflats Lane to the northwest, in a southeast direction, and which would broadly follow the route of the proposed access road. It is understood that the surface water drainage scheme should not have to attenuate surface water run off from Ashflats Road. However, a flow route should be maintained so that it can pass through the site and would not endanger the occupiers of the proposed dwellings. The FRA provides no details as to how this flow route would be achieved. Even if the proposed access road were not adopted and so could be constructed of permeable materials, it is not clear that this would sufficiently manage surface water from the flow route, and no other mitigation measures are shown on the plans.
10. Overall it has not been satisfactorily demonstrated that surface water could be appropriately managed such that flood risk would not be increased. As such the development would fail to accord with Part 1 Plan policy N2 which seeks to ensure

that development ensures protection from, and does not worsen, the potential for flooding.

Highway safety

11. The proposal includes the provision of a new pavement on the west side of Ashflats Lane from the appeal site to the junction of Barn Bank Lane from where it can link to the existing pavement north of that road. However there are no details of this, and from my site visit it seems unlikely that it would be possible to create a two metre wide footway, as suggested, without narrowing the effective width of the carriageway in some places.
12. The UU purports to secure £149,000 for works to provide the footway, along with any other measures to mitigate the impact of the development on Barn Bank Lane. However, as set out at the hearing by the Highways Authority, it is not known how this figure was achieved. Indeed there was no clarity as to whether this fee would include funds to be directed towards improving nearby bus stops. In any case, until more detail of the footway is provided, such as details of any structure or services that may need to be relocated, it is not known if this figure would be sufficient. Moreover, the UU places no obligation on the County Council to use the funds as the appellant intends.
13. The plans also show that a footpath would be created from the eastern corner of the site to connect to the public highway at Moss Pit. This would cross an area of hardstanding between Lawford Cottages and Lawford House. It appears that this land is in third party ownership but that there is a right of access over it to the field, as evidenced by the presence of the access gate at the field edge here. Given that matters of land ownership and access rights are not planning matters, I see no reason why the proposed footpath could not practicably be provided. It would also provide convenient access to the bus stops at the junction with Barn Bank Lane
14. This access is used as the main vehicular access to Lawford House and to some of the houses at Lawford Cottages. However given the limited number of dwellings this serves, the slow moving nature of any vehicles and the modest amount of pedestrian traffic the development is likely to generate, I would consider it unlikely that there would be an unacceptable risk of pedestrian/vehicle conflicts.
15. Nonetheless, without any certainty regarding the provision of the footway on Ashflats Lane, it is apparent that any pedestrians using Ashflats Lane would need to walk in the road for a distance of around 120 metres. Though the road is not busy, this is a substantial distance, and there would be a risk to the safety of pedestrians, particularly those with reduced mobility, using this route. As a result the proposal would fail to accord with Part 1 Plan policy T1 which seeks to encourage cycling and walking and to improve road safety.

Character and appearance

16. The appeal site currently comprises part of a field which falls gently from northwest to southeast. It is bounded to its north and west by houses which are mostly bungalows. There is also a detached dwelling adjacent to part of its east boundary. Although these adjacent dwellings provide the site with a degree of enclosure and inform its character, the site is firmly part of the open and undeveloped countryside.

17. When seen from positions along the footpath to the south, the development would be seen against the backdrop of these neighbouring houses. Indeed, although the development would represent an intrusion into the countryside, the existing view of bungalows in the distance separated from fields in the foreground by hedging, would be replicated by the proposal. Furthermore, from many positions along this footpath the bungalows would be substantially hidden by the numerous hedges in between.
18. When seen from positions east and west of the site on Ashflats Lane and Moss Pit, the extension of built form into the countryside would be apparent. However from Moss Pit the view would be limited by the vegetation on the back edge of the pavement allowing only a brief view between Lawford Cottages and Lawford House. From Ashflats Lane, the view would be limited by the vegetation along the south boundary of the appeal site as well as the existing houses and their garden planting.
19. The density of the development may be slightly greater than the surrounding development on Ashflats Lane and Barn Bank Lane, but not significantly so. It would be more akin to the density of development in Ash Rise and Gravel Lane on the opposite sides of Ashflats Lane and Moss Pit respectively. As such, in this regard, the proposal would not be incongruous.
20. The Council raise concern in respect of the lack of soft landscaping, hedges and trees in the proposal, which are commonly found locally. However whilst the front gardens of the individual plots are not shown to be blessed with extensive amounts of landscaping, the communal open space in the centre of the development, along with landscaped areas between plots 9 and 10 and adjacent to plot 16, would provide reasonable amounts of space for landscaping. Moreover, it would be similar to the layout of the development in Ash Rise. A detailed landscaping scheme showing additional trees and hedgerows could be secured by a planning condition.
21. The landscaped areas to the sides of the dwellings at plots 10 and 16 would be clearly surveilled from the proposed road and could provide pedestrian links into any further development on the neighbouring land, were that to materialise.
22. Much of the landscaped area to the side of the dwelling at plot 9, and the footpath that would cross this area and link the site to Moss Pit, would not be directly overlooked by windows in the houses in the development. Nonetheless, there would be some views over it from the first floor rear window at Lawford House, the first floor windows in the rear of the terraced houses at Lawford Cottages and there would be a view from the bedroom window in the bungalow at plot 9 of that part of the space that is forward of that house. The development would therefore represent a safe design.
23. Overall, it is not considered that the development would unacceptably harm the character and appearance of the area. It therefore would accord with Part 1 Plan policies N1 and N8 which together require developments to have regard to the local context, respect the character of the landscape, and be safe and secure.

Other Matters

Housing land supply

24. The Council state that they can currently demonstrate a housing land supply of eight years as set out in their Statement of Five Year Housing Land Supply (as at March 2024). This is based on the local housing need of 358 dwellings per year as calculated by the standard method at that time. However the parties agree that the annual housing requirement would now be 751 houses using the current standard method.
25. From the details in the March 2024 Statement, the Council have a supply of 2878. Were this figure to be used against the revised need of 751 homes per year plus the appropriate buffer, the Council would no longer have a 5 year supply. However the Council advise they would not review this until next March, at which point they would take account of any new permissions and completions in the previous 12 months.
26. Even if the Council can no longer demonstrate a 5 year supply of housing, the shortfall against that would not be significant. Nonetheless the provisions of paragraph 11d of the Framework would apply. Part i) of this paragraph states that development should be approved except where policies in the Framework that protect assets of particular importance provide a strong reason for refusing the development. Such policies include those relating to areas at risk of flooding.
27. Paragraphs 181 and 182 of the Framework set out that development should not increase the risk of flooding elsewhere, is appropriately flood resilient, and incorporates sustainable drainage systems. In view of my conclusions on flood risk above, it is clear that the policies in the Framework relating to flooding give a strong reason for refusing the development.
28. I was also directed to the Land for New Homes document, but was advised that this shows likely completions up to the end of the plan period, i.e. beyond the next five years, so is of little direct bearing to this issue.

Type of housing

29. The development would be wholly comprised of bungalows. Policy C1 of the Part 1 Plan requires that housing developments are comprised of a mix of housing types, but specifies no particular proportions, and indeed there are no policies that specifically refers to the provision of bungalows.
30. The Economic and Housing Development Needs Assessment 2020 (EHDNA) identifies that the population of over 65 year olds in the borough is expected to be the fastest growing age group between 2020 and 2040 and therefore it recommends that 10% of new homes should be built to M4(2) standards¹. The Council advise the EHDNA will be considered as part of the evidence base informing the emerging local plan.
31. The appellant provided figures that shows that over the past 10 years only 200 bungalows had been constructed in the borough, which represents 3% growth

¹ Building Regulations which relate to dwellings that incorporate features suitable for occupants including older people, those with reduced mobility and some wheelchair users.

compared to 12% growth in housing overall. The appellant accepted however that the data may not be wholly accurate.

32. Overall I am satisfied that there is a growing demand for accessible housing and a supply that is most likely failing to meet that. Indeed, the appellant advises that the scheme is only financially viable because of the high demand for bungalows. However, although I accept that, in light of the above, the most likely occupants of the proposed bungalows would be older people, there is no mechanism to ensure that. This tempers the weight that can be given to this.
33. The development would include provision of four affordable units. This is in line with the 30% requirement set out in Part 1 Plan policy C2. It adds weight in favour of the proposal by providing housing for a people with specific housing requirements.

UU

34. The submitted UU purports to ensure four of the dwellings are affordable. I consider this obligation meets the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I have therefore taken it into account. This is a positive benefit of the scheme, as is the provision of bungalows generally.
35. The other obligations relating to financial contributions towards educational facilities, open space provision, a swimming pool, sports halls, artificial turf pitches and Cannock Chase SAC would all be to mitigate the effects of the development. They are therefore neutral factors and could not count positively in favour of the scheme. As such, and as I am dismissing the appeal for other reasons, I need not consider them further as they could have no determinative effect on my decision.

Conclusion

36. As well as the benefits of the modest provision of four affordable units, and bungalows for which there is a need, the development would also provide some proportionate economic benefits. Overall these benefits are of moderate weight.
37. However, the development would not be suitably located, would fail to provide a safe pedestrian access and it has not been demonstrated that it would be safe from flooding. Although there would be no harm to the character and appearance of the area, the proposal would conflict with the development plan taken as a whole.
38. There are no other considerations, including the application of policies in the Framework and the benefits of the scheme, that indicate a decision other than in accordance with the development plan. Therefore the appeal is dismissed.

A Owen

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Hugh Lufton	Lufton & Associates Planning Consultants
Paul Henderson	Evolve Architectural Design

FOR THE LOCAL PLANNING AUTHORITY

Ed Handley	Senior Planning Officer
Richard Wood	Development Lead
Alex Yendole	Senior Planning Policy Officer
Henry Wood	Lead Local Flood Authority
Jim Long	Staffordshire County Council (Highways Authority)

OTHER INTERESTED PARTIES

Cllr Anne Hobbs	Local Ward Councillor
Cllr Angela Loughran	Local Ward Councillor
Kenneth Moore	Local Resident
Paul Windmill	Resident

DOCUMENTS PROVIDED AFTER THE HEARING

Economic and Housing Development Needs Assessment 2020

Council's Statement of Five Year Housing Land Supply (at 31 March 2024)