



Appeal Decision

Site visit made on 4 March 2025

by **K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th April 2025

Appeal Ref: APP/B3410/W/24/3352892

Field North Of Chapel Lane, Rangemore, Burton-on-Trent DE13 9RR

- 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 on behalf of The Burton Property Trust against the decision of East Staffordshire Borough Council.
- The application Ref is P/2022/00705.
- The development proposed is erection of 9 dwellings and associated garaging and parking (including local needs housing and first homes) and construction of vehicular access and package treatment plant.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made on behalf of The Burton Property Trust against East Staffordshire Borough Council. This application will be the subject of a separate decision.

Preliminary Matter

3. The appellant has submitted a signed Unilateral Undertaking (the UU). I have addressed this in my reasoning below.
4. In my banner heading above, I have used the correct spelling and punctuation for Burton-on-Trent, as shown on the Royal Mail Post Code Finder website.

Main Issues

5. The main issues are:
 - whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area;
 - whether the proposed development would preserve or enhance the character or appearance of the Rangemore Conservation Area; and
 - whether there is a suitable mechanism to secure the mix of housing.

Reasons

Development strategy

6. The appeal site comprises one of two fields at the end of Chapel Lane. The two fields are subdivided by an existing hedge and a Public Right of Way (PROW). The appeal site is enclosed on three sides with hedges and sporadic trees and

with a post and wire fence on the fourth side. Chapel Lane comprises mixed housing either side of the road with the majority of the houses facing the road. These houses, along with those along Tatenhill Lane, form a clustered group in Rangemore near to the school, recreation field and church. The clustered group is surrounded by open fields.

7. The village is defined in the East Staffordshire Local Plan 2012-2031 (the LP) as a Tier Three - Small Village. These are described as very rural, small, and have very limited facilities and services. Tier Three Small Villages have not been given settlement boundaries in the LP and no site allocations were made. However, there is an overall development allowance for all of the Tier Three Small Villages, which would be provided through either the exceptions site policy or the Neighbourhood Plan process.
8. The appeal site lies within the area covered by the Tatenhill and Rangemore Parish Neighbourhood Development Plan 2012-2031 (the NDP). The NDP is a made neighbourhood plan which was modified in September 2019. Paragraph 2.2 of the NDP advises that the Parish contains two villages, Tatenhill and Rangemore and that there are also settlements at Rangemore Hall, Wilmore Lane and Tatenhill Common. Although some of the houses at Rangemore Hall and Wilmore Lane are shown on the inset map for Rangemore in the NDP, and also in the Rangemore Conservation Area Appraisal & Management Plan, 2013 (the CAAMP), these houses are separate to the village of Rangemore, as detailed at paragraph 2.2 of the NDP.
9. Moreover, the cluster of housing naturally forms the settlement. People would feel like they were in the settlement when in the built-up area and outside the settlement once they have passed the existing buildings. The settlement boundary is not defined in either the LP or the NDP. However, I have taken the village of Rangemore to be the cluster of houses on Chapel Lane and Tatenhill Lane as this is the natural settlement and corresponds with the description at 2.2 of the NDP.
10. Policy HE1 of the NDP sets a spatial strategy seeking approximately nine dwellings in the village. There is no upper limit on the housing numbers set within the policy and the National Planning Policy Framework (the Framework) seeks to boost housing supply. Furthermore, there is no policy preventing the development of open market housing, nor any policy requirement for such housing to be justified through viability assessments and testing.
11. Consequently, although other housing has previously been approved in Rangemore, in the wider area and in the Parish as a whole, which may also include conversion schemes, that the proposal would result in more than nine houses would not be sufficient justification, on its own, to dismiss the appeal.
12. Policy HE1.1 of the NDP, which is one of the policies set out in the reason for refusal, relates to infill residential development and supports the delivery of such development where it meets the specified criteria. However, the appeal proposal would not constitute infill development, as defined by HE1.1, as it is not bounded by built development on two or more sides. Moreover, the scheme is for more than two dwellings.
13. From the evidence before me, the previous version of Policy HE1 included additional requirements which, amongst other matters, supported infill sites and only supported sites adjacent to the village where no previously developed or infill

sites were available. The previous version also sought to restrict developments to no more than six dwellings on any one site. However, the modified version removed these requirements and, as detailed in the Examiner's Report, split the policy into five parts, therefore splitting HE1 from HE1.1 and the subsequent subsections. Consequently, compliance with Policy HE1 is not reliant on compliance with any of the subsections.

14. For these reasons, I find Policy HE1.1 of the NDP is not relevant to the appeal before me and I have assessed it against Policy HE1. The appeal site clearly lies outside, yet immediately adjacent to, the edge of the existing built-up area of the village. It, therefore, lies outside of Rangemore and would not comply with the requirement of Policy HE1, for the new housing to be in the village.
15. Thus, the proposed development would not provide a suitable location for housing, having regard to the development strategy for the area as it fails to comply with Policy HE1 of the NDP.

Conservation Area

16. The appeal site lies within the Rangemore Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
17. An understanding of the importance of the Conservation Area is supported by the CAAMP which details the historic development of the settlement and the characteristics which are of special architectural or historic interest. In so far as it is relevant to the appeal, I consider that the significance of the Conservation Area is mainly derived from the planned 19th century development of the large, imposing, civic buildings and the small to medium houses. The difference between the scale of the civic buildings and housing gives the village an imbalance which is unusual. The housing which has been added to the village at a later date has, over time, blended into this character.
18. The clear distinction between the built development and the countryside beyond, which forms the landscape setting, and the views and vistas to and from the village, also contributes positively to the character and appearance of the Conservation Area as a whole. The landscape setting of the Conservation Area is as important as its buildings and townscape. The site currently contributes positively to the significance of the Conservation Area by reason of being part of the landscape setting of the village.
19. The CAAMP notes Chapel Lane mainly comprises smaller cottage type dwellings and more modern detached houses. Forest Gate Farm, which lies at the end of Chapel Lane, on the opposite side of the road to the appeal site, occupies a prominent location and forms a bookend to the settlement and a gateway from the PROW. Views along Chapel Lane are framed by the buildings and front boundaries and there are views of the open fields at the end of the lane. These views, along with views of the settlement from the surrounding area, are identified as key views in the CAAMP and NDP and connect the settlement with its surrounding landscape.

20. Although the appeal site currently contributes positively to the character and appearance of the Conservation Area, the CAAMP does not prevent new development. It advises that new development located by the 'bookends' of the village must reinforce the gateway into the village. With regard to Chapel Lane the CAAMP advises that either Forest Gate House must retain its dominance in scale, or the new development must establish a gateway presence further along the street. The CAAMP does not seek to resist development on the edges of the village.
21. The appeal proposal is for housing development extending Chapel Lane beyond the existing built-up area and into the countryside around the settlement. Nevertheless, Chapel Lane already sticks out into the countryside and the proposal would primarily be linear in form, extending Chapel Lane with the new housing, and continuing the road frontage development that is characteristic of this area. The group of four bungalows, set around a courtyard, would not be significantly out of character with the area and would provide an interesting group in itself. The design detailing, scale, form, and density respect the existing housing on Chapel Lane and the older housing in the village.
22. The proposal would retain the existing hedge along the PROW as a green boundary and the development would not affect the route or surface of the PROW. There would be views of the development from the PROW, and from the existing end of Chapel Lane. However, there would also continue to be extensive views of the countryside from the existing end of Chapel Lane, including from the identified key view. Furthermore, Forest Gate Farm would continue to be the dominant building at the end of Chapel Lane.
23. Views from the PROW, towards the village, would include the development. Nevertheless, this would be read as an extension of Chapel Lane which respects the layout, design and form of the existing housing. It would, therefore, be materially different to the appeal at 1 Church Cottages¹ which was dismissed, in part, due to having a significant detrimental effect on key views. The development would fit in with the character and layout of the village when viewed in the wider landscape setting and as a natural extension to the existing urban edge.
24. For the above reasons, I find that the proposal would result in less than substantial harm to the character and appearance of the Conservation Area. In accordance with the Framework, the harm to the Conservation Area should be weighed against the public benefits of the proposal. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification, and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. I will return to this later in my decision.

Housing Mix

25. The appellant has submitted a signed and completed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended). The UU aims to secure the provision of three plots as housing for people aged over 55, one plot as a dwelling for a disabled person, and two first homes units. The UU also requires the appellant to submit a Construction Traffic Routing Plan to the Council for the temporary access.

¹ APP/B3410/W/18/3206129

26. The provision of affordable housing and housing for the elderly are in accordance with Policy HE2 of the NDP. As such, in respect to these matters, the UU would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF. However, I have some concerns about the document itself, its execution and thus whether the Council could rely on it to secure the contributions.
27. The obligations imposed on the Council go beyond administrative, contrary to the appellant's assertions, and involve commitments on the Council. The detail provided, even at paragraphs 4 and 5 of Part 1 of Schedule 1 of the UU and in Part 2 of Schedule 1, does not at any point indicate that the number of First Homes to be provided is two. Even though the appellant has now submitted a plan indicating which dwellings are to be First Homes and which are to be for over 55's this plan does not form part of the UU. Moreover, the layout of the plots and the size and shape of a number of the units indicated on this plan conflict with the plans that were submitted with the appeal. It would, therefore, not be appropriate to condition the provision of the units to be in accordance with this plan.
28. For the above reasons, the UU is not legally binding in relation to the requirements of Section 106 of the Town and Country Planning Act (1990), and I am not satisfied that the submitted UU would make adequate provision for affordable housing or elderly persons accommodation to comply with Policy HE2 of the NDP.

Other Matters

29. In addition to the matters addressed above, concerns have been raised regarding a number of other matters including, but not limited to, the effect of the development on the living conditions of neighbouring properties. The nearest dwellings, at the end of Chapel Lane, are a pair of semi-detached cottages which sit gable end on to the lane. These properties have ground floor and first floor windows facing towards the appeal site. However, the appeal proposal would not result in unacceptable loss of privacy as there is sufficient separation between the existing and proposed dwellings and the proposal is for single storey properties nearest to these existing houses.
30. The development would result in additional noise, disruption and disturbance, especially during the construction period. However, this would be relatively short and once completed the noise would be the same as other residential uses and not unacceptably harmful to the living conditions of the occupiers of neighbouring properties.
31. I saw at my visit that Chapel Lane is narrow due to the presence of parked cars. Nevertheless, I have no compelling evidence that the lane, even with its restricted width, or the junction with Tatenhill Lane would not be capable of accommodating the traffic associated with the proposed nine dwellings. I note that the Council Highway Officer raised no objections to this matter, and I have no reason to disagree with their findings.
32. The provision of a temporary construction access would remove construction traffic from Chapel Lane and any such access would need to be restored to its former condition once it is no longer required to ensure that the construction access would not have a long-lasting effect on the area. The position, details, and restoration of such an access can be secured through a legal agreement which would allow sufficient control over the detailed implications of this access. Such

details would not be capable of being dealt with through a condition as the temporary access is outside of the red edge of the application site.

33. I also have no compelling evidence that the infrastructure of the village is insufficient. Nevertheless, this would be a matter for the developer to resolve with the infrastructure providers. The surface water would need to be dealt with within the appeal site and ensure that there is no increase in flood risk either within the site or the wider area.
34. Even if I were to accept that there is a strong likelihood of Great Crested Newts being present in a nearby pond the evidence before me recommends reasonable avoidance measures to ensure that the development would not adversely affect statutorily protected species. Furthermore, conditions can be used to secure biodiversity benefits.
35. For the same reasons as I find that the development would cause less than substantial harm to the Conservation Area, I also find that the development would not unacceptably adversely affect the wider landscape character of the area.

Heritage and Planning Balance

36. Policy HE1 of the NDP is the most relevant policy in considering the proposal. The appeal proposal would fail to comply with Policy HE1 as the development is not in Rangemore. However, the village housing is closely clustered with spaces between dwellings provided by gardens and driveways. The NDP also includes large areas of local green space which would not be appropriate development sites. One parcel of land, between the backs of houses on Chapel Lane and the recreation field, has been the subject of a previous appeal which was dismissed partly on the basis of it being development at depth, which would have been at odds with the prevailing linear frontage development and, therefore, would have had a harmful effect on the settlement.
37. Although interested parties have suggested that there are alternative sites, I have not been provided with any compelling evidence of other sites that are available and in Rangemore. Moreover, development on part of the appeal site has previously been supported. Although this was under the previous version of the NDP, which allowed for development on the edge of the settlement, this was only where there were not sites available in the settlement. I have not been made aware of any significant changes to the availability of land or buildings within the village since that previous approval and the appellant's evidence indicates that there are no sites available within the village.
38. The NDP allows for more houses in Rangemore and Policy HE2 seeks to provide up to 3 elderly persons dwellings and up to three starter homes. From the evidence before me, for the village to grow and provide the housing allocated in the NDP, development would need to be outside the village. A site which is directly on the edge, which would respect the built form and density of the village in providing road fronting housing off Chapel Lane, one of the two built-up roads of the village, would be an appropriate location for new housing. I, therefore, give significant weight to the lack of alternative sites for the housing proposed within the NDP and consider that this outweighs the harm arising from the development not being in Rangemore.

39. The appellant contends that the Council is not able to demonstrate a five-year supply of deliverable housing sites. The development would provide nine additional dwellings. It would also have general social and economic benefits both during and post construction. It would accord with the Framework's aim to boost the supply of housing. The lack of alternative suitable sites in an area where the NDP supports new housing weighs in favour of the development. However, the weight to be given to the benefits of the provision of affordable housing and housing for the elderly is significantly reduced by the lack of a means to secure this and I only give limited weight to this benefit.
40. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification, and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. Given the issues with the UU, I give the public benefits of the proposal limited weight and, therefore, this would not outweigh the less than substantial harm to the Conservation Area and its significance, which in accordance with the Framework, is required to be attributed great weight.
41. For these reasons the adverse impacts of the development would significantly and demonstrably outweigh the benefits I have identified when assessed against the Framework, taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

42. For the reasons set out above the appeal is dismissed.

K Townend

INSPECTOR