
Appeal Decision

Site visit made on 31 October 2016

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th November 2016

Appeal Ref: APP/R0660/W/16/3156493

Land adjacent to 23 Sandbach Road, Church Lawton, Stoke-On-Trent, ST7 3DW

- 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 Anthony Chadwick against the decision of Cheshire East Council.
 - The application Ref 15/5508C, dated 5 December 2015, was refused by notice dated 30 March 2016.
 - The development proposed is two dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for two dwellings at land adjacent to 23 Sandbach Road, Church Lawton, Stoke-On-Trent, ST7 3DW in accordance with application Ref 15/5508C, dated 5 December 2015 and the plans submitted with it and subject to the following conditions:
 - 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby approved shall be carried out in total accordance with the approved Location Plan, received by the Local Planning Authority on the 7th December 2015 and the Proposed Indicative Site Layout Plan (access arrangements only), numbered 2015/TC/SR/08(A), received by the Local Planning Authority on the 9th March 2016.
 - 5) The visibility shown on plan 2015/TC/SR/08(A) should be cleared of any obstructions before first occupation and retained clear from obstruction in perpetuity.
 - 6) The reserved matters application shall be supported by a comprehensive package of arboricultural information following BS 5837:2012 guidelines
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which shall provide details of all trees and hedgerows on site and measures for their protection. The development shall be implemented in accordance with any mitigation proposed.

- 7) Prior to any works taking place that involve the loss of any hedgerow, tree or shrub between 1st March and 31st August in any year, a detailed survey shall be undertaken to check for the existence of nesting birds. Where nests are found, a 4m exclusion zone shall be created around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any works involving the removal of the hedgerow, tree or shrub take place.
- 8) Prior to the commencement of development, the applicant shall submit a piling method statement, to be approved by the Local Planning Authority. The piling work shall be undertaken in accordance with the approved method statement: The method statement shall include the following details:
 - Details of the method of piling
 - Days / hours of work
 - Duration of the pile driving operations (expected starting date and completion date)
 - Prior notification to the occupiers of potentially affected properties
 - Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
- 9) No development shall take place until a scheme to minimise dust emissions arising from groundworks and construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The groundwork / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the construction.
- 10) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Procedural Matters

2. The parties have confirmed that the application seeks outline permission with details of access. Notwithstanding the details on the submitted plans the matters of appearance, landscaping, layout, and scale are reserved for later approval.
3. The parties have confirmed that the application was determined on the basis of amended plan ref 2015/TC/SR/08(A). I have therefore determined the appeal on the same basis.

Main Issue

4. The main issue for the appeal is whether the proposal is inappropriate development in the Green Belt having regard to the *National Planning Policy Framework* (the Framework) and development plan policy.

Reasons

Inappropriate Development

5. Policies PS6 and PS7 of the *Congleton Borough Local Plan First Review 2005* (Local Plan) outline circumstances in which the construction of new buildings in the Green Belt can be considered acceptable. Policy PS6 allows for limited infilling in the Green Belt within a designated infill boundary line. These policies predate the *National Planning Policy Framework* (The Framework) which states that new buildings are inappropriate within the Green Belt unless they comprise one of the exceptions outlined in paragraph 89. These include limited infilling within villages. The terms "limited" and "infilling" are not defined in the Framework.
6. The site lies outside the infill boundary lines of Lawton Gate and Lawton Heath as shown in the Local Plan. However, in this case I consider the location of the site and its juxtaposition with existing development to be more relevant. I am mindful of recent case law¹ which advises that the physical circumstances of a site and its relationship to a settlement are more relevant than a designated village boundary in determining whether a site can be considered to be infill development. In this case the site comprises an open field which lies between two residential dwellings. These face the strip of continuous development along Sandbach Road which lies within the boundary lines of the settlement. The plots would adjoin open land to the rear but would not extend beyond the residential curtilages of development on either side. I note that development on the western side of the road is more sporadic than that on the eastern side, nevertheless, the proposed plots would be commensurate in size with the dwellings either side, and would sit comfortably within the gap in the frontage, reflecting the established pattern of development.
7. I therefore consider that having regard to the position and nature of the site, the proposal can be considered to be physically and visually related to the existing settlement and to comprise limited infilling. Although the proposal would conflict with policies PS6 and PS7 of the Local Plan, these are not consistent with the Framework, insofar as they rely on settlement boundaries, and this significantly reduces the weight which can be attached to them. The construction of 2 infill dwellings in this location should not be considered to constitute inappropriate development in the Green Belt and the proposal would not conflict with guidance within the Framework.
8. The appellant has put forward various matters which he considers to amount to the very special circumstances needed to outweigh Green Belt harm. The Council dispute these. However, as I have not found that Green Belt harm would arise in this case, I do not consider it necessary to consider these particular matters in further detail.

¹ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin).

Other Matters

9. Although not referred to in the decision, the Council consider that the proposal would conflict with the requirement within policy H6 of the Local Plan for new development in the Green Belt to be appropriate to the local character in terms of its use, intensity, scale and appearance. I am satisfied that the site is suitable for the number of dwellings proposed and so, subject to conditions to ensure that the form of development is appropriate for its context, and takes account of the physical nature of the site, including any changes in land level, I find no conflict with policy H6.
10. I note concerns that the proposal would give rise to an undesirable precedent for other similar development. As the proposal would not conflict with guidance in the Framework, it would not cause harm to the Green Belt. It follows that it would not set a precedent for developments which would be harmful. I therefore attribute no weight to the matter.
11. Local residents have expressed concerns in relation to the impact of the proposal on highway safety. I noted on site that the sites lie within a 40mph zone and at the time of my visit, which was mid morning on a weekday, had low levels of passing traffic. I take into account that traffic levels would be higher at peak times. Nevertheless, the road is straight and offers good visibility in both directions. The proposal would also result in a very small increase in local traffic. I therefore concur with the views of the local highways authority, who had no objections to the proposal. They have advised that subject to the provision of acceptable visibility splays at the access, the proposal would not be harmful to highway safety.
12. I also take into account concerns relating to the impact of the proposal on living conditions. Having regard to the proximity of adjoining occupiers and the extent of the site, I am satisfied that an appropriate layout could be provided which would not lead to harm by way of noise or loss of privacy. I am also satisfied that concerns in relation to flooding could be adequately mitigated by conditions relating to the surface water drainage of the site, and that conditions requiring the protection of trees would be an acceptable means of ameliorating any potential harm in this regard. Lastly, I take into account concerns relating to the impact of the development on local ecology. I have been provided with no substantive evidence of harm in this regard. Nevertheless I am satisfied that the potential impact on nesting birds could be mitigated by a condition aimed at controlling invasive work during the breeding season.

Conclusion

13. The proposal would not be inappropriate development within the Green Belt and accordingly would not cause harm to the Green Belt. I have taken into account the concerns raised by local residents and I am satisfied that none would lead to material harm. Accordingly, the appeal is allowed.
14. In addition to conditions relating to commencement, reserved matters and clarification of the approved plans, in order to protect the living conditions of nearby residential occupiers it is reasonable and necessary to require details of piling and measures to control dust emissions during construction. In the interests of highway safety it is necessary to require details of visibility splays

at the proposed access. In order to ensure the protection of trees and hedgerows and to allow for their enhancement it is also necessary to impose conditions relating to tree and hedgerow protection. Finally, a condition relating to surface water drainage is necessary in order to ensure existing and future occupiers are not put at risk from flooding as a result of the development.

Anne Jordan

INSPECTOR