



Appeal Decision

Inquiry held on 9, 10, 11 and 19 October 2012

Site visit made on 11 October 2012

by Julia Gregory BSc (Hons) BTP MRTPI MCMI

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

Decision date: 19 December 2012

Appeal Ref: APP/Y3425/A/12/2172968

Former Castleworks, Castle Street, Stafford ST16 2ET

- 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 St Modwen Developments Ltd against the decision of Stafford Borough Council.
 - The application Ref 11/15998/OUT, dated 18 August 2011, was refused by notice dated 16 February 2012.
 - The development proposed is residential development, public open space, access, parking and landscaping (outline with all matters reserved except access).
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Preliminary matters

1. The appeal site comprises some 2.8ha of vacant industrial land and buildings located towards the dead end of Castle Street. The buildings are falling into a state of dereliction. The appellant also controls undeveloped land adjacent to the site to the south west. The development would comprise up to 80 new homes. Only the access is to be considered at this stage, with all other matters reserved for future determination.
2. At the Inquiry an engrossed S106 agreement dated 19 October 2012 was submitted. This would ensure the provision of affordable housing, a payment for primary education facilities, a payment for off-site open space and its maintenance, the provision and maintenance of on-site open space, the provision of a travel plan and the provision for a residents parking scheme.
3. All of the provisions of the S106 agreement were discussed at the Inquiry. I have considered these against Community Infrastructure Levy Regulation 122. Affordable housing provision is required by the development plan. There would be a need to increase capacity at Doxey Primary school as a result of these proposals. The open space contributions are based on the Council's open space strategy and are linked to the cost of provision to cope with increased population in the area.
4. The travel plan provisions are justified in the interests of securing sustainable development. The residents parking scheme provisions are justified in the interests of future residents living conditions. I am satisfied from all of the information provided that the provisions are necessary, directly related to and fairly and reasonably related to the development proposed. I have taken this agreement into account in my determination of the appeal.

Decision

5. The appeal is allowed and planning permission is granted for residential development, public open space, access, parking and landscaping (outline with all matters reserved except access) at Former Castleworks, Castle Street, Stafford

ST16 2ET in accordance with the terms of the application, Ref 11/15998/OUT, dated 18 August 2011, subject to the conditions in annex A.

Main Issues

6. Having considered all the evidence, the main issues are whether the development would comply with local and national planning policy in respect of housing land supply and the effect on Cannock Chase Special Area of Conservation.

Reasons

Housing land supply

7. The development plan comprises the Regional Spatial Strategy for the West Midlands (RSS), the Staffordshire and Stoke on Trent Structure Plan (SP) and the Stafford Borough Local Plan 2001(LP).
8. The dwellings would be sited on land outside the Residential Development Boundary (RDB) set in the LP. LP policy HOU3 specifies that outside the RDB new residential development will not be acceptable.
9. The LP advises that the RDB may perform different functions, but their principle function is to indicate where residential development will and will not be acceptable. In Stafford, the boundary serves to define predominantly residential areas, to exclude predominantly industrial areas and those significantly undeveloped areas which it is intended should be retained as part of the "Green network".
10. The character of the area is previously developed and urban. Whilst the site is edge of settlement, it is not rural or countryside in character, having been developed as a factory many years ago. The policy also has to be considered in the context of LP policy EMP1 which seeks to protect and retain employment uses. The text accompanying that policy identifies that in some instances an environmental benefit may accrue if a particular industrial or commercial use ceases to operate. In such cases, an alternative use may be more appropriate.
11. The Council has not sought to protect the employment land for its own sake and has not argued that the development should be opposed under policy EMP1. The buildings are in a poor condition and there is some local support for their demolition because they have fallen into disrepair.
12. The Council officers had recommended planning permission for redevelopment of another industrial site, the Areva, Fairway site that is also outside the RDB. The West Midlands Regional Assembly had not opposed the housing proposals in principle.
13. The National Planning Policy Framework (the Framework) encourages the re-use of brownfield land. It is common ground that in principle there is no practical impediment and that the site could be developed for housing, subject to control by planning conditions and a legal agreement. It is also agreed that a significant number of new homes, including up to 19 affordable homes would be provided within a sustainable urban location.
14. The Council is considering allocating the site for housing as part of a wider "Western Stafford" housing land allocation in a forthcoming Local Plan. That plan is at an early stage and cannot be attributed any significant weight. Although it is an indication that the Council may in time allocate the site for housing, the boundaries of the Western Stafford policy area and the nature of policies that

- might apply to the appeal site are by no means settled. The area allocated is also divided into several areas which have their own individual characters.
15. The site is not integral to the delivery of other land for future housing and it could be delivered as a stand alone site. The site would not represent piecemeal development as it would be an estate of significant size that could have its own character. Nevertheless, it would not be so substantial that its development would prejudice the overall strategy of an emerging plan. There are no credible proposals for alternative uses on the site that would preclude the housing proposal.
 16. The site is not well related to the other land parcels within the proposed allocation. To the north is railway sidings and railway line. Land to the south is in the appellants control and its development is constrained by flooding issues. It is well separated from other parts of the proposed allocation.
 17. It was argued that the grant of planning permission would prejudice the release of other areas of land. However, the appeal has not drawn objections from promoters of other land within the Western Stafford area who would have likely been aware of the proposal via a working group, as it was noted at one of their meetings.
 18. The access is not opposed by the Highway Authority because the housing would have less impact on the highway network locally than the lawful use, because there would be less heavy goods vehicle movements. The western distributor road does not pass through the site and its implementation or otherwise would not have implications for the layout or access to the proposed development. Another part of the Western development area, in Doxey has already been granted planning permission for housing.
 19. Although the Council may introduce specific developer contributions relevant to the development of all of the policy area, this again is not settled. *The Planning System: General Planning Principles* indicates that there may be circumstances where it is justifiable to refuse planning permission on the grounds of prematurity. However the LP has no early prospect of submission for examination. There are outstanding objections in relation to the proposed Core Policy 5. For these reasons, it would not be justified to oppose the development on prematurity grounds as it would delay determining the future use of land.
 20. Given these findings about the status of the appeal in relation to housing provision, the 5 year housing land supply position is not pivotal to my decision. Nevertheless, I have considered all the evidence put to me. The housing land supply situation was a matter of dispute between the parties. The RSS sets housing targets 2001 to 2021 of 5602 dwellings. Against this the Council has performed well and would have a five year housing land supply including a 5% buffer as set by the Framework.
 21. However, the Council has conceded that an over supply of housing would not prevent housing being granted planning permission in the urban area. The Council has allowed the redevelopment of another industrial site for housing where it was outside the RDB as detailed above.
 22. The Government considers it to be highly desirable that local planning authorities should have an up to date plan in place. Furthermore, the Framework identifies that Councils should use their evidence base to ensure that their local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area.

23. Both the LP and SP plan periods for housing provision expired in 2011. They are therefore not up to date. The RSS is based on 1996 household projections, some 16 years old. It was accepted by the Council that the proposed local plan housing allocations would not be based on the RSS figures, because there were more recent relevant housing projections. The implications of the Framework paragraph 214 is that in respect of policies of both the RSS and LP, that due weight should be given to their degree of consistency with the Framework. I give significant weight to the fact that the RSS is not based on up to date evidence.
24. The Phase II revision of the RSS does not form part of the development plan because it has not been approved and will not progress further. Nevertheless, it has been examined and has been the subject of a panel report submitted to the Secretary of State in 2009. These are the most recent objectively assessed figures available. It specifies that Stafford would be one of several *settlements of significant development* where development should be concentrated *in and adjacent to towns which are capable of balanced and sustained growth*. For Stafford it identifies a requirement 2006 to 2026 of 11,000 dwellings.
25. As the housing figures have been properly examined and the Government seeks to boost significantly the supply of housing, they are of significant weight in consideration of housing land supply.
26. The Council has also not used the 2008 based sub-national household projections covering the period 2008 to 2033. These suggest an increase of some 12,000 households 2008 to 2033 or 480 homes per annum. Instead, the Council itself identified a housing need expressed in the Council's Option 1 submission to the RSS of some 10,100 2006 to 2026.
27. The Council are proposing 500 dwellings per annum for the period 2011 to 2031 in its forthcoming plan that is being drafted and is not sticking with the RSS figure. The Council will not be using the RSS figure for its Annual Monitoring Report from next year. These factors indicate that the RSS figures should not be used and that the Phase II revision would be more robust at this time, in advance of any up to date examined and adopted local plan.
28. Using these figures would give a requirement of 550 dwellings per year. In the 6 years since 2006, an accumulated shortfall would have been created of some 914 dwellings. To be consistent with *Planning for Growth* and paragraph 47 of the Framework, I consider that it would not be reasonable to ignore any shortfall already created.
29. Also it would be preferable to meet the shortfall sooner rather than later, by adding it to the 5 year requirement, giving a 5 year requirement of 3664. The Council has not demonstrated that this could be achieved, even if their supply figures were adopted, over which there is some question as to their robustness, and therefore even without the addition of buffers, the Council does not have a five year land supply.
30. I acknowledge and have sympathy with the Council's position that the phase II RSS was not examined until 2009 and will never be adopted by the Government. It is therefore not part of the development plan. Nevertheless, its contents are based on Government housing projections and are the best examined figures that they have for housing. In only one of the last six years have completions exceeded the 550 dwellings per annum figure set in that document.
31. This therefore represents persistent under delivery as set out in paragraph 47 of the Framework. A 20% buffer in the five year housing land supply would therefore

be required. The Council has not demonstrated that they can deliver 4397 new homes within the five year period.

32. In respect of the housing land requirement and supply, the approach that I have taken is broadly consistent with that taken by Inspectors elsewhere in the other recent appeals presented to the Inquiry. In addition, the development would make provision for affordable housing in accordance with the Council's standard requirements against a background of under delivery against the 2007 Strategic Housing Market Assessment. All these matters add substantial weight to the argument that planning permission should be granted for housing on the appeal site.

Cannock Chase SAC

33. At the Inquiry it became apparent that the Council had failed to notify Natural England (NE) on either the planning application or on the appeal. Notification was necessary because of the proximity of the site to Cannock Chase which is a Special Area of Conservation (SAC). At its nearest it would be some 6.2km distant.
34. The appellant became aware of this oversight whilst preparing for the appeal and provided a report in respect of the implications of the development in that regard. This, along with the application details were supplied to NE.
35. The particular issue is whether provision should be made for Suitable Accessible Natural Greenspace (SANG) to relieve any pressure on Cannock Chase from visitors. Road traffic emissions would not be significant enough to require action in that regard. NE refers in their response to an unpublished study, but the advice of NE is that residential development over 50 dwellings would have an impact on Cannock Chase that would need to be mitigated.
36. NE are considering the location of four SANGS close to the SAC to which contributions would be sought. It is clear to me that evidence is evolving. Nevertheless, NE has recommended that the 2ha of SANG should be made available and that a suitable ecological management plan should be provided for its future maintenance.
37. Although they do not consider that it is justified, the appellants would be willing to provide the 2ha area of SANG adjacent to the dwellings on land within their control. This would amount to some 10.5ha per 1000 population which would be more than the 8ha per 1000 used elsewhere in England, but less than the 16ha per 1000 that NE may seek to adopt locally.
38. There is a public footpath running through the site which the mowing of a suggested circular route for dog walking along with appropriate signage would augment. Since there is already public access to this land, the value of the mown path would be less significant.
39. Nevertheless, I consider that it would provide a benefit for residents of the new dwellings. It would help to encourage the better use and management of local greenspace, and to minimise any increase in the use of Cannock Chase. It would contribute to conserving and enhancing the natural environment in accordance with the core planning principles in the Framework. Given the relatively close proximity to Cannock Chase, and in the absence of any detailed proposals for alternative SANGS, I consider the provision would be justified on a precautionary basis. I consider the proposed provision would be proportionate to the scale of the development and the current circumstances.

Conclusions

40. Given my earlier reasoning, the test in the Framework to be applied to the consideration of this case is that which applies where the development plan is absent, silent or relevant policies are out of date. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Having carried out that balancing exercise, I am satisfied, for the reasons given above, that the appeal should be allowed.

Conditions

41. I have considered the list of conditions that have been submitted by the main parties at the Inquiry against the tests in Circular 11/95, *The Use of Conditions in Planning Permissions*. Development should be in accordance with the approved plans in the interests of the proper planning of the area and for the avoidance of doubt.
42. Details of reserved matters are to be submitted within the standard time period, and the development is to be implemented according to the standard time period. The details submitted should reflect the design and access statement as this has been used to support the application, and the highway details that were part of the application. Additional highway construction details are required in the interests of highway safety.
43. As the site has been used for industrial purposes, contamination should be properly investigated to ensure adequate remediation. Details of slab levels should be provided to control the effect on the character and appearance of the area.
44. A construction method statement is required to protect the living conditions of nearby residents during construction. All of the buildings need to be demolished before the development is commenced in order to protect the living conditions of future residents. A noise mitigation scheme and boundary treatment to prevent access to the railway is necessary to protect the living conditions of future residents.
45. Conditions are necessary to ensure adequate and sustainable surface water drainage, and to comply with the flood risk assessment. Compliance with badger mitigation measures is required to ensure their protection. Provision of suitably managed SANG is necessary to mitigate possible impact on Cannock Chase. The buildings are to be recorded because of their industrial significance.

Julia Gregory

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Wayne Beglan	Of Counsel
He called	
Alex Yendole BA (Hons)	Planning Policy Manager, Stafford Borough Council
Dip TP MRTPI	
Mark Alford MSc (Hons)	Planning Policy Manager, Stafford Borough Council
MRTPI	
Andrew Marsden PGDip	County Commissioner for Access for Learning, Staffordshire County Council

FOR THE APPELLANT:

Christopher Young	
He called	
Jason Tait BA (Hons), Dip	Planning Prospects Ltd
TP, MRTPI	
Timothy J Goodwin BSc	Ecology Solutions Ltd
(Hons) MSc, MEnvSc,	
MIEEM, MIALE	

INTERESTED PERSONS:

Rod Bristow	Castlefields Residents Association
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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Notification of inquiry letter dated 31 May 2012
- 2 Notification of inquiry letter dated 17 September 2012
- 3 Opening by Mr Beglan
- 4 List of Council witnesses
- 5 Statement of common ground
- 6 Report in respect of ecology and nature conservation by Timothy J Goodwin, Ecology Solutions Ltd
- 7 Plans and appendices to Document 6
- 8 Proof of evidence of Andrew Marsden
- 9 Rebuttal proof of evidence of Mark Nettleton, Phil Jones Associates Ltd
- 10 Rebuttal note from Halcrow dated 4 October 2012
- 11 Amendment to Jason Tait's appendix 22
- 12 Draft S106 agreement
- 13 Statement of five year supply of housing land as at 31 March 2012
- 14 Adopted Staffordshire and Stoke on Trent Structure Plan 1996-2011 policy E2
- 15 Amendment to Jason Tait's appendix 23
- 16 Housing sites pending S106 agreements
- 17 Details of additional housing permissions
- 18 Details of recent permissions for 131 homes
- 19 Details of housing completions for post April 2012 permissions
- 20 Further details of recent completions of those homes granted planning permission 2011-2012
- 21 Extract from the Town and Country Planning (Development Management Procedure) (England) Order 2010

- 22 Agreed list of conditions
- 23 Map showing public footpath on adjacent land
- 24 Email from Natural England to Karl Goodburn and Mark Alford dated 11 October 2012
- 25 S106 agreement dated 5 October 2012
- 26 S106 agreement dated 19 October 2012
- 27 Letter from Natural England to Inspector dated 19 October 2012
- 28 Closing Statement on behalf of the Council
- 29 Closing submissions on behalf of the appellant

Richborough Estates

ANNEX A - CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: CWS/010, 13741OGL Rev 0, CWS/020, and PSBCWS 013 Rev B.
- 2) 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.
- 3) Applications for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 5) Applications for the approval of reserved matters shall be in accordance with the principles and parameters broadly described and illustratively indicated in the submitted "Design and Access Statement". Any reserved matter application shall include a statement providing an explanation as to how the design of the development responds to the Design and Access Statement.
- 6) The development shall not commence until the site has been subject to a detailed scheme for investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings including proposals and a programme for the remediation of any contaminated areas and protective measures to be incorporated into the buildings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals for the disposal of surface water during remediation. The remediation works shall be carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. If during the course of the development further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures, approved in writing by the Local Planning Authority, have been implemented.
- 7) No development shall be carried out unless and until details of existing and proposed ground levels on the site and of ground floor slab levels of buildings have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall only be constructed in accordance with the approved details.
- 8) The development hereby permitted shall only be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy Version 2.0 dated 23/05/11 and its submitted Addendum Revision B dated 24/11/11 including the mitigation measure that finished ground floor levels will be set at a minimum of 76.12m AOD.
- 9) No development shall be commenced unless and until a surface water drainage scheme for the site based on sustainable drainage (SUDS) principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the Local Planning Authority. It shall include a limited surface water

discharge from the site of 5L/s/ha; a minimum of two SUDS treatment trains; and details to show that all surface water generated on the site will remain within the proposed drainage system for all events up to and including the 100 year event plus a 30% allowance for climate change. Thereafter, the approved scheme shall be implemented or constructed before any dwelling is first occupied and it shall be retained.

- 10) The proposed new access junction onto Castle Street and associated highway works shall be constructed in accordance with drawing no. PS BCWS-013 Rev B before any dwelling is first occupied.
- 11) No development shall be commenced unless and until details of the road layout, vehicle parking and turning space and their drainage and construction phasing; road construction including longitudinal sections; and street lighting have been submitted to and approved in writing by the Local Planning Authority. Thereafter no dwelling shall be occupied until these works have been carried out and completed in accordance with the approved details.
- 12) No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from construction works.
- 13) Notwithstanding any information in the application, no development shall commence unless and until a programme for the carrying out of the badger habitat mitigation measures, as detailed in the submitted Halcrow Ecological Appraisal and Protected Species Surveys report dated May 2011, in relation to the construction of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall only be carried out in accordance with the approved programme.
- 14) No development shall be commenced until the existing buildings have been demolished.
- 15) No development shall commence until a noise mitigation scheme designed to minimise the impact from railway traffic such that the noise levels within the dwellings do not exceed the recommendations set out in BS8223:1999 Sound Insulation and Noise Reduction for Buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 16) The development shall not commence until drainage plans and information for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

- 17) The development shall not commence until details of the boundary treatment to the site, including the boundary with the railway line, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 18) The development shall not be commenced until such time as a scheme for the provision of suitable alternative natural greenspace (SANG) generally in accordance with plan ECO3, and an ecological management plan for that area has been submitted to and has been approved in writing by the local planning authority. The development shall only be carried out in accordance with such a scheme of SANG which shall be provided before any dwelling is occupied and thereafter maintained for public access in accordance with the scheme.
- 19) No development shall take place until the applicant has secured an archaeological desk-based assessment and building recording survey of the buildings on the site which shall be submitted to the local planning authority.

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