



Appeal Decision

Site visit made on 18 June 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal Ref: APP/P3420/W/19/3221341

Land off Watermills Road, Chesterton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Carden of Carden Developments Ltd against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00017/REM, dated 8 January 2018, sought approval of details pursuant to conditions No 1 of planning permission Ref APP/P3420/A/14/2227311 granted on 20 January 2015.
 - The application was refused by notice dated 17 August 2018.
 - The development proposed is residential development of up to 65 dwellings including means of access.
 - The details for which approval is sought are: layout, appearance, landscaping and scale.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development on the decision notice I have taken the description of development from the application form.
3. The appellant has submitted a number of revised plans with the appeal, following the Council's refusal of permission on 17 August 2018. The appellant asserts that, given the site's brownfield constraints, viability is an important factor and that due to the timing of reserved matters submission, it would not be possible to resubmit a further reserved matters application and that a full application would need to be submitted along with the relevant fee.
4. Whilst comments on the revised scheme have been provided by an interested party during the appeal, I am not aware that the necessary consultation has been carried out on the amendments and am not persuaded that all those who should have been consulted on the proposed changes have been given the opportunity of such consultation.
5. The matters which have been changed are material, in particular the increase in number of dwellings from 60 to 63, the repositioning of dwellings closer to the highway, the removal of the bund and the relocation of the Coppice Walk. Although the amended scheme is within parameters set by the outline consent and is similar to previous iterations of plans submitted to the Council, I have no substantive evidence that the necessary consultation was conducted on these previous iterations.

6. Within this context I am mindful of the Wheatcroft Principles derived from *Bernard Wheatcroft Ltd v SSE (1982)* which are further explained in the Procedural Guide: Planning Appeals - England¹. It is my firm view, in the interests of fairness, that this appeal must be determined on the basis of the plans submitted to the Council and upon which it based its decision, which have been subject to consultation and not the suggested amendments. To do otherwise could prejudice unacceptably the interests of interested people and/or consultees who would not have been consulted on the amended plans and who may have observations to make.

Application for costs

7. An application for costs was made by Carden Developments Ltd against Newcastle-Under-Lyme Borough Council. A claim for costs was also made by Newcastle-Under-Lyme Borough Council against Carden Developments Ltd. These applications are the subject of separate Decisions.

Main Issues

8. The main issues of the appeal are:
- The effect of the proposal on the character and appearance of the area; and
 - Whether the proposed footpath would result in actual or perceived opportunities for antisocial behaviour.

Reasons

Character and appearance

9. The appeal site comprises a substantial plot of land located on the outskirts of Chesterton. Outline planning permission was granted in 2015, on appeal, for the development of up to 65 dwellings, including means of access. The site is located off Watermills Road which serves a number of industrial uses, including the Istock Brickworks which is opposite the appeal site.
10. The appeal scheme would comprise 60 dwellings, including a mixture of detached, semi-detached and terraced properties, a coppice walk, a village green, and bunds with an acoustic fence on top. The bunds would be located along the frontage of the site along Watermills Road and would be approximately 2m in height with acoustic fencing of approximately 2m in height on top.
11. Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026 states that development should contribute positively to an areas identity and heritage (both natural and built) in terms of scale, density and layout, amongst other things. The Newcastle-under-Lyme and Stoke-on-Trent Residential Design Guidance Supplementary Planning Document (SPD)(2010) states that new housing must relate well to its surroundings and advises that development should face outwards wherever possible, to address its surrounding, rather than turning its back on the wider area.

¹ Procedural Guide: Planning appeals – England (2019)

12. The National Planning Policy Framework (the Framework)(2019) sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Decisions should ensure that developments establish or maintain a strong sense of place, using the arrangement of streets, places, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
13. A number of dwellings would back onto Watermills Road and would therefore fail to relate to its surroundings, contrary to the SPD. Furthermore, the bunds, as a result of their height and prominent location, would create a sense of enclosure, making the development appear and feel separate from the surrounding area. The bunds would appear a dominant feature, particularly to the south of the access road, and would harm the character and appearance of the area.
14. Thus, the development would fail to contribute positively towards the area the appeal scheme and would harm the character and appearance of the area, contrary to Policy CSP1 of the CSS, the SPD and the Framework.

Footpath

15. Policy CSP1 of the CSS states that development should be, amongst other things, safe. The Council points out that its SPD states that promoting good design and layout in new development is one of the most important ways in which the Council can address crime issues. Paragraph 127 of the Framework states that decisions should create places where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience.
16. The proposed Coppice Walk, which would provide a pedestrianised route from dwellings to the village green, would be located to the rear and side of dwellings and, as a result, would be enclosed by fences and would not be overlooked. This would result in a route which would not appear to be safe and would be unattractive to users being likely to be prone to anti-social behaviour. Consequently, the proposed footpath would result in actual or perceived opportunities for antisocial behaviour, contrary to Policy CSP1 of the CSS, the SPD and the Framework.

Other Matters

17. Concern has been raised regarding the adequacy of noise mitigation proposed and the likelihood that the nearby Istock works would have unreasonable restrictions placed on them as a result of the appeal scheme. However, since the appeal has failed for other reasons it has not been necessary for me to consider this matter further.
18. I acknowledge that the appeal site is close to the urban area and that the Council has indicated that it does not object to the amended scheme. However, for the reasons given above I have considered the appeal on the basis of the plans submitted to the Council and upon which it based its decision.
19. I am advised that the Council released an updated Housing Land Supply Statement following refusal of the application which demonstrates that it can now meet its housing needs. However, since the appeal scheme sought approval of details pursuant to condition No 1 of planning permission Ref APP/P3420/A/14/2227311 this has not been determinative in my decision.

Conclusion

20. For the reasons given above, I conclude that the appeal should be dismissed.

M Savage

INSPECTOR

Richborough Estates