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## Appeal Decision

Site visit made on 23 October 2014

**by P G Horridge BSc(Hons) DipTP FRICS MRTPI**

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

**Decision date: 5 November 2014**

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**Appeal Ref: APP/B3438/A/14/2223254**

**Land at Bridge End, Macclesfield Road, Leek ST13 8LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Planter Green Ltd against the decision of Staffordshire Moorlands District Council.
  - The application Ref SMD/2013/1099 was refused by notice dated 10 February 2014.
  - The development proposed is the erection of 11 no. dwellings.
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### Preliminary Matters

1. The application was in outline with all matters reserved for subsequent approval.
2. The decision notice refers to Policy B13 of the Staffordshire Moorlands Local Plan (adopted 1998). Since the decision was taken, the Local Development Framework Core Strategy (CS) has been formally adopted, and Policy B13 is no longer extant.
3. A unilateral undertaking has been executed on behalf of the owners of the site. This contains planning obligations providing for the payment of contributions towards the provision of off-site affordable housing (£90,000) and education facilities (£22,062). These contributions are the subject of agreement between the applicants and the council. The affordable housing contribution is in place of the 33% provision of affordable housing that would normally be sought on qualifying sites under CS Policy H2. It is unclear whether the development is one to which the policy would apply, being for less than 15 dwellings, but in any event the policy allows for commuted sum payments in lieu of on-site provision in exceptional cases, which the council considers applies here. The education contribution is to deliver two first school places.
4. Regulation 122 of the Community Infrastructure Levy Regulations requires that planning obligations should be: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development. Although the representations contain little detailed justification for the actual level of contributions, I am satisfied that the obligations meet these tests.
5. Little weight can however be attached to clause 6 and the Second Schedule of the undertaking, which purport to contain covenants on behalf of the council, since the council is not a party to the undertaking.

## Decision

6. The appeal is allowed and planning permission is granted for the erection of 11 dwellings on land at Bridge End, Macclesfield Road, Leek in accordance with the terms of the application, Ref SMD/2013/1099, dated 5 November 2013, and the plans submitted with it, subject to the conditions in the attached schedule.

## Main issue

7. At issue is the effect of the proposal on the appearance of the area, having regard to the need for additional housing in the district.

## Reasons

8. The appeal site consists of part of an enclosed area of land containing two redundant reservoirs which formerly served a nearby dye works. These take the form of indentations into the land covered with black butyl linings. Immediately to the south, and at a lower level, are houses in Bridge End and a chemical works situated on the outskirts of the town of Leek, the main settlement in the District. To the north-west is the Leek Cricket Club.
9. The proposed 11 houses would be restricted to the western part of the enclosure, covering the area occupied by one reservoir and part of the other. The remaining eastern part of the enclosure would be reserved for tree planting a pond and open space. Vehicular access to the site would be taken from Bridge End along what is at present a private track. While some local residents express concerns about the adequacy of this means of access, there is no objection from the highway authority, subject to the imposition of conditions.
10. The site occupies an elevated position and houses on it would be seen from a number of vantage points in the town of Leek. However the restriction of development on the site to the western part, allowing the eastern part to be landscaped, would enable planting to soften this visual impact. The site lies close to services and facilities in the town of Leek and its development would in this respect represent a sustainable form of development. Indeed the application was recommended for approval by the authority's officers and the local authority's statement of case acknowledges that the redevelopment of the site is supported from a policy point of view, given that it involves the use of previously developed land in a sustainable location close to the town of Leek<sup>1</sup>. What is at issue is whether the development would be unduly prominent and thereby not result in a high quality design, contrary to CS Policy DC1.
11. The National Planning Policy Framework (NPPF) places great emphasis on sustainable development, and seeks particularly to boost the supply of housing. Paragraph 49 says that "*housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*" It is common ground that there is only a 2.5 year supply of such sites in the District.
12. Paragraph 14 of the NPPF additionally notes that, where relevant policies are out-of-date, as is the case where a 5 year supply of housing is not available,

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<sup>1</sup> Indeed, it is said to be within the development boundary for Leek in the 'adopted Local Plan', although whether this still applies following the adoption of the Core Strategy is not made clear in the representations.

planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate development should be restricted. There are no such specific policies which indicate that this development should be restricted, so the question is whether the adverse impacts do significantly and demonstrably outweigh the benefits.

13. Notwithstanding the proposals for screening, which may take some time to mature, it is clear that housing on the site will be visible from some vantage points around the town. It would also adjoin a Landscape Character Area, albeit it lies outside this area and it is not clear how many of the viewpoints from which the site can be seen identified by either the appellants or objectors are within this area<sup>2</sup>. However, once the trees and shrubs have matured, the visual impact of development on the site will be mitigated. Indeed, development on the top of hills is a feature of the town of Leek, whose town centre itself occupies such a location. As such it would be neither unusual nor detrimental for further development to occur in such a location. The application is in outline with matters of design and layout for approval at reserved matters stage, when the authority can exercise further control to ensure that a high quality of design results, consistent with CS Policy DC1 and with the objectives of the NPPF. As a consequence the adverse impacts of this development are of a low order of magnitude.
14. Set against these are the benefits from making productive use of redundant previously-developed land, contributing to the remediation of the significant shortfall in housing land supply in the district<sup>3</sup>, the provision of homes in a sustainable location close to jobs, services and facilities in the main town of the district, and contributing towards the provision of affordable housing and education. The limited adverse impacts do not significantly and demonstrably outweigh these significant benefits, and therefore the presumption in favour of granting planning permission for sustainable development set out in paragraph 14 of the NPPF applies. Planning permission is therefore granted.
15. The council has suggested the imposition of a number of conditions. In most cases these suggestions have been adopted, although some conditions have been combined to prevent duplication, or their wording has been amended in the interests of clarity and to accord with good practice as exemplified in the Planning Practice Guidance. Several conditions are justified in the interests of securing a satisfactory appearance to the completed development (conditions 7, 13 and 14), in the interests of highway safety (conditions 6, 9, 15 and 19) or to prevent pollution or nuisance to neighbouring uses (conditions 8, 11, 12 and 15 (again) to 18). Condition 4 listing the approved plans is necessary for the avoidance of doubt and to simplify the procedures involved in making any minor amendments to the scheme. Condition 5 is imposed in the interests of nature conservation. Given the proximity of industrial uses, condition 10 is justified to protect the living conditions of future occupiers.

<sup>2</sup> The reason for refusal refers to the adjoining land being designated a 'Special Landscape Area' but it appears that this designation was one in the erstwhile Staffordshire Moorlands Local Plan. The Landscape Character Area appears to be a revised designation in the now-adopted Core Strategy.

<sup>3</sup> Local residents allege that the scheme would provide four bedroom units, when the local need is said to be for two bedroom units. However, the representations note only that the local need for *affordable housing* is for two bedroom units. In any event, the application does not specify how many bedrooms each house would have, and the size of the properties is a matter for determination at reserved matters stage.

*Peter Horridge*

INSPECTOR

Richborough Estates

**Appeal Ref: APP/B3438/A/14/2223254**

**Land at Bridge End, Macclesfield Road, Leek ST13 8LG**

**SCHEDULE OF CONDITIONS**

1. Details of the access, 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 permitted shall be carried out in accordance with the following approved plans: ABL01A, ABL02 (1 of 2), ABL02 (2 of 2), ABL03 and ABL04.
5. The detailed scheme shall incorporate the steps necessary to implement the recommendations of the Ecological Assessment (May 2012).
6. The vehicular access to the site shall have a minimum width of 5m.
7. No development shall commence until details of existing and proposed site levels and finished floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
8. No development shall commence until details of the proposed means of dealing with surface water drainage along the roads into and within the site have been submitted to and approved in writing by the local planning authority. The drainage works shall be constructed in accordance with the approved details prior to the first occupation of any of the houses.
9. No development shall commence until details of the provision of roads, parking, turning and servicing within the site, the surfacing materials involved, and any associated street lighting, have been submitted to and approved in writing by the local planning authority. The works shall be constructed in accordance with the approved details prior to the first occupation of any of the houses.
10. No development shall commence until a scheme has been submitted to and approved by the local planning authority which demonstrates that the dwellings on site have been designed to achieve noise levels of less than 35dB LAeq in bedrooms, less than 40 dB LAeq in living areas and less than 55 dB LAeq in outdoor living areas. The development shall be constructed in accordance with the approved scheme.
11. No development shall commence until an initial investigation and risk assessment to assess the presence of any contamination on site has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the investigation shall be made available to the local planning authority before any development begins. If the initial investigation identifies any risk of contamination, a report specifying the measures to be

taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

12. No development shall commence until a construction method statement and management plan, including measures for the mitigation of nuisance caused by dust, noise and vibration, has been submitted to and approved in writing by the local planning authority. The construction method statement and management plan shall be implemented in all construction work on site.
13. No development shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
14. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
15. Prior to the commencement of development, wheel cleaning/washing facilities shall be provided within the site in accordance with details that have been submitted to and approved in writing by the local planning authority. The approved facility shall be used by all vehicles leaving the site.
16. No construction activities generating noise audible at the site boundary shall be carried out other than within the hours of 0800 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays.
17. Transportation of soil or other potentially dusty fill materials on and off the site shall only be carried out in closed tankers or sheeted vehicles.
18. No top soil or fill material shall be imported into the site until it has been tested for contamination and assessed for its suitability in accordance with a methodology submitted to and agreed by the local planning authority prior to the commencement of development.
19. No house shall be occupied until the vehicular access from the A523 to the site has been reconstructed in accordance with details that have been submitted to and approved in writing by the local planning authority.