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## Appeal Decision

Hearing held on 15 July 2015

Site visit made on 15 July 2015

**by Anthony Lyman BSc (Hons) DipTP MRTPI**

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

**Decision date: 7 September 2015**

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**Appeal Ref: APP/B3438/W/15/3005173**

**The Cumberlands, Leek Road, Staffordshire, ST3 5BD**

- 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 James Carnall against the decision of Staffordshire Moorlands District Council.
  - The application Ref SMD/2014/0230 was refused by notice dated 18/08/2014.
  - The development proposed is 40 affordable homes of mixed type and tenure.
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### Preliminary Matters

1. The copy of the application form submitted to the Planning Inspectorate with the appeal papers by the appellant is headed '*Application for Outline Planning Permission with Some Matters Reserved*'. The form indicates that 'access' was a matter for which approval was being sought. However, the officer's committee report on the application (SMD/2014/0230) states that '*This is an outline application with all matters reserved*'. The Council's appeal statement deals with the case on the same basis.
2. I sought clarification on this discrepancy at the start of the Hearing, and was shown the Council's file in which the application had been submitted on the form headed '*Application for Outline Planning Permission with All Matters Reserved*'. The Council confirmed that consultation on the application had been undertaken on that basis. Neither the Design and Access Statement nor the appellant's Appeal Statement refer to the nature of the application or confirm that access is to be determined.
3. In the Appeal Statement the appellant quotes sections from the officer's committee report and offers detailed comments on relevant paragraphs. However, there is no observation on the opening paragraph of the officer's report which clearly sets out the Council's understanding of the nature of the application, as an outline with all matters reserved.
4. Furthermore, there is a discrepancy between the red line plan on which the Council had consulted and determined the application, and the plan submitted with the appeal papers. The latter plan includes an adjacent field proposed for landscaping to screen the development. The Council stated that they were not aware of the inclusion of this additional land.
5. After discussing these discrepancies, the parties agreed that the Hearing should proceed on the basis of the description and plans on which the Council had

determined the application. I have therefore determined the appeal on the basis of an application for outline planning permission with all matters reserved and on the basis of the site plan seen by the Council, excluding the adjacent field. This accords with Annexe M.2.1 of the 'Procedure Guide – Planning Appeals – England' which states that *'if an appeal is to be made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'*.

## **Decision**

6. The appeal is dismissed.

## **Main Issues**

7. The main issues are, i) whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework), any relevant development plan policies, and the effect on the openness of the Green Belt, ii) the effect on the character and appearance of the area, iii) whether the loss of employment land would be appropriate having regard to development plan policies, iv) the effect on highway safety, v) if inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations including the provision of affordable housing, so as to amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Background*

8. The appeal site comprises the appellant's bungalow and its domestic gardens and outbuildings, and a largely disused builder's yard with an assortment of mostly single storey buildings that are in a poor state of repair. The site fronts on to the A520, Leek Road, adjacent to its junction with Winterfield Lane which runs along the western boundary of the site.
9. The proposal is to demolish all the buildings on the site, including the bungalow, and to erect up to 40 affordable homes. Although the application is in outline, submitted indicative plans illustrate a potential layout of two and three bedroom houses and a block of one bedroom flats. All of the proposed buildings would be two storey. The indicative plans show the access to the site from Winterfield Lane, making use of the existing access to the builder's yard.

### *Development in the Green Belt*

10. The appeal site is in the open countryside that is designated Green Belt. The Framework at paragraph 89 states that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the proposal falls into one of a number of exceptions criteria. Limited affordable housing for local community needs under policies set out in the Local Plan is one exception. Another is the partial or complete redevelopment of previously developed sites whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it, than the existing development. The appellant referred to both of these

exceptions in arguing that the proposal would not be inappropriate development in the Green Belt.

11. Policy H2 of the Staffordshire Moorlands Core Strategy – March 2014 (the Core Strategy), amongst other things, permits small schemes of 100% affordable housing on suitable rural exception sites which are well related to services and facilities and where a demonstrable need exists within the local area. A survey of housing needs in Werrington parish identified a need for 54 affordable units to be delivered over a five year period, although the appellant argued that the survey had considerably underestimated the total requirement of affordable homes in the parish. Nevertheless, there is clearly a demonstrable local affordable housing need which the proposal would potentially help to address.
12. However, the appeal site is over 1km away from the small settlement of Hulme, and approximately 2km away from the larger village of Werrington with a range of services including a school. There are no public transport services from the site and although the appellant submitted letters from local bus companies expressing interest in providing a new route, little weight can be attached to these hypothetical proposals. Some facilities are available in the nearby settlement of Weston Coney, but again there are no public transport services available and pedestrian access is along the grass verge adjacent to the busy A520. The relatively isolated appeal site is not in a sustainable location and cannot be considered to be well related to local services and facilities in order to satisfy the objectives of Policy H2.
13. Furthermore, the Framework does not define 'limited affordable housing' and Policy H2 does not explain what would constitute a 'small scheme of 100% affordable housing'. The scale of the proposed development of up to 40 affordable homes, which the indicative plan illustrates in a relatively tight knit urban form, would not, I consider, accord with the 'limited' criteria of the Framework or the objectives of Core Strategy Policy H2. Therefore, I conclude that the proposal would not accord with the Framework's exception criterion relating to affordable housing in the Green Belt.
14. With regard to the second exception criterion of the Framework referred to above, the proposal would involve the complete redevelopment of the site. However, the development would fail to satisfy this criterion for two reasons. First, the appeal site is not all previously developed land, particularly the relatively substantial garden area associated with the dwelling. Second, the proposal would involve a substantial increase in built development. The indicative scheme would have a total ground floor area of 2830sq.m. At the Hearing, the appellant agreed that this would be substantially in excess of the footprint of the existing buildings on the site including the bungalow and its outbuildings.
15. Furthermore, the proposed buildings would have far greater mass, being all two storey, compared to the majority of single storey structures currently on the site. The increased mass and scale of the proposal would have a significantly greater harmful impact on openness which the Framework states is one of the essential characteristics of Green Belts that should be preserved. I attach substantial weight to the harm arising from the reduction in openness that would be occasioned by the proposal. The development would, thereby, fail to satisfy the exception criterion set out in the sixth bullet point of paragraph 89 of the Framework.

16. For the reasons set out above, the proposal would be inappropriate development in the Green Belt and would conflict with the purposes of including land in the Green Belt. The Framework confirms that inappropriate development is, by definition, harmful to the Green Belt, and that that harm carries substantial weight.

#### *Character and appearance*

17. The site is generally well screened by hedgerows and trees along Winterfield Lane and the builder's compound is set back behind the existing bungalow and its gardens which front onto Leek Road. Nevertheless, given the dilapidated state of many of the commercial buildings and the general state of dereliction, the builder's compound has a negative impact on the character and appearance of the surrounding countryside.
18. The indicative proposal would be likely to involve the felling of some trees and would position rows of terraced houses in a highly visible location close to the main road. The illustrative layout has a relatively dense urban grain and provides little opportunity for on-site landscaping or areas of open space. The proposal would be seen as an intrusive urban development in the open countryside and would be particularly prominent during winter months when any screening provided by retained deciduous trees and hedgerows would be diminished. The illumination from street lights, lit windows from forty dwellings and associated car headlights would further highlight the incongruous urban development in a rural setting, detached from any nearby settlement. The character and appearance of the area and the visual amenity of the Green Belt would be significantly harmed, contrary to the objectives of Policies DC1 and DC3 of the Core Strategy which, amongst other things, promote high quality design and seek to protect and enhance the character of the local landscape.

#### *Employment land*

19. The Council stated that the proposal would result in the loss of employment land at a time when there is a shortfall in the supply of such sites affecting the economic wellbeing of the area. The appellant identified 52 vacant employment sites available within five miles of the appeal site and argued that supply exceeded demand. Furthermore, the appellant claimed that the site had no economic future given the state of the buildings and the lack of modern facilities. I agree with the appellant that in their current state the commercial building would be unlikely to find alternative uses. However, only a limited marketing exercise has been carried out and I have no robust evidence before me to demonstrate that the site as a whole would not be attractive to alternative employment uses.
20. The Framework encourages economic growth and the creation of employment opportunities, especially in rural areas. Core Strategy Policy E2 seeks to safeguard existing employment sites. Although the Policy relates to Use Classes B1, B2 and B8, I conclude that, on the evidence before me, the loss of this employment site has not been adequately justified by the appellant and would be contrary to the Framework and the objectives of Policy E2.

#### *Highway safety*

21. The Council's sixth reason for refusal stated that the proposal would be contrary to the interests of highway safety as the visibility splays at the

proposed access on to Winterfield Lane would be inadequate. Although the indicative plan shows the proposed access, the preliminary matters set out above explain that access is a reserved matter for future determination. Nonetheless, the highway authority raised no objection to the proposed scheme subject to conditions to secure the required visibility splays. Although the extent of the visibility splays may have an impact on the indicative layout, these are not matters before me and I attach little weight to this issue.

#### *Other considerations*

22. There was no dispute between the parties that the Council cannot demonstrate a five year supply of housing land. The supply of housing land and the delivery of affordable housing fall well short of requirements. The proposal would make a valuable contribution to increasing the supply of affordable housing and this carries significant weight in its favour.
23. Given the lack of a five year supply of housing land, the Council's relevant Policies for the supply of housing should not be considered up-to-date in accordance with paragraph 49 of the Framework. The appellant argued, therefore, that paragraph 14 of the Framework which promotes a presumption in favour of sustainable development is engaged.
24. However, I am not persuaded that the proposal would generate the economic, social and environmental benefits set out in the Framework, necessary for the development to be considered as sustainable. The development would generate economic investment in the local economy during construction, and the affordable housing would be a significant and valuable social benefit. Although the partial use of a previously developed land would be some environmental gain, this would be substantially offset by the detrimental impact on the character and appearance of the local natural environment and the harm caused by the reduction in openness of the Green Belt. Furthermore, given the relatively remote location of the appeal site from services and the lack of public transport, it is highly likely that future occupants of the development would be dependent on the use of private cars. The proposal would not represent sustainable development and, therefore, the presumption in favour set out in paragraph 14 of the Framework would not apply.
25. In support of the proposal the appellant referred to other residential developments approved in the locality, and argued that the Council had been inconsistent in its approach to these developments compared to the appeal proposal. I viewed the completed 'Hope and Anchor' development and noted that although the housing was visible in the landscape, it appeared to be in a more sustainable location in relation to the settlement and, unlike the appeal proposal, was within walking distance along lit footways to services and facilities. These other approved housing developments do not attract significant weight in favour of the appeal proposal which must be considered having regard to its own particular circumstances.

#### *Other matters*

26. After the close of the Hearing, the appellant submitted a s106 Unilateral Undertaking dated 4 August 2015. The Undertaking relates to the provision of the affordable housing, a contribution towards the playing pitches and facilities at Meigh Road Playing Fields in Werrington to mitigate the impact of the

development, and the provision of a footway link from the site to Weston Coney.

**Conclusion**

27. I find that the other considerations in this case set out above, including the valuable contribution that the proposal would make towards meeting the local need for affordable houses, do not clearly outweigh the substantial harm that I have identified. Consequently, the very special circumstances necessary to justify the inappropriate development in the Green Belt do not exist.
28. Therefore, for the reasons given, the appeal is dismissed. There is no need for me to consider further the provisions of the Unilateral Undertaking.

*Anthony Lyman*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE APPELLANT:

David Taylor  
James Carnall

Oligra Town Planning  
Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Rachel Simpkin

Senior Planning Officer – Staffordshire Moorlands  
District Council (SMDC)

David Plant

Highways Officer -Staffordshire County Council

Michelle Costello

Housing Strategy Officer - SMDC

Steve Massey

Trees and Woodlands Officer – SMDC

## DOCUMENTS

1. List of suggested conditions
2. Extract on Affordable Housing Requirements taken from the *Strategic Housing Market Assessment and Housing Needs – Final Report*
3. Plan showing the location of new housing development in Werrington
4. Section 106 Unilateral Undertaking dated 4 August 2015 (Submitted after the close of the Hearing)