



Appeal Decision

Site visit made on 17 June 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/P3420/W/19/3225154

Croft Farm, Stone Road, Hill Chorlton, Newcastle Under Lyme ST5 5DR

- 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 Andrew and Stuart Hodgkinson on behalf of David James Developments Ltd against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00507/OUT, dated 1 July 2018, was refused by notice dated 1 March 2019.
 - The development proposed is the demolition of existing buildings, 1 replacement farmhouse, the erection of 11 bungalows, access, parking and amenity space. A total of 12 dwellings is proposed.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing buildings, 1 replacement farmhouse, the erection of 11 bungalows, access, parking and amenity space at Croft Farm, Stone Road, Hill Chorlton, Newcastle Under Lyme ST5 5DR in accordance with the terms of the application, Ref 18/00507/OUT, dated 1 July 2018, subject to the conditions contained within the Schedule attached to this Decision.

Application for costs

2. An application for costs was made by Mr Andrew and Stuart Hodgkinson on behalf of David James Developments Ltd against Newcastle-Under-Lyme Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline with details regarding appearance, landscaping and layout reserved for future consideration. I have determined the appeal on that basis.
4. A signed and dated planning obligation, dated 30 July 2019, made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. The agreement relates to the provision of affordable housing and I shall refer to this later in my decision.

Main Issues

5. The main issues are whether the appeal site represents a suitable location for housing, having regard to local and national policy; the effect of the development on the character and appearance of the area; the effect of the development on the provision of affordable housing in the area; and, whether

there are material considerations sufficient to outweigh any conflict with the development plan and any other harm arising from the development

Reasons

Suitable Location

6. Policy SP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS) primarily directs new housing towards sites within the Inner Urban Core, including the City Centre; Newcastle Town Centre; Neighbourhoods within General Renewal Areas and Areas of Major Intervention and other Areas of Housing Intervention identified by RENEW North Staffordshire, and within the identified significant urban centres.
7. Policy ASP6 of the CSS allows for dwellings of high design quality primarily located on sustainable brownfield land within key rural service centres to meet identified local requirements. It sets out a maximum target of 900 houses.
8. Policy H1 of the Newcastle under Lyme Local Plan 2011 (LP) focuses development towards the urban areas of Newcastle or Kidsgrove or one of the village envelopes.
9. The appeal site lies outside any of the areas identified for new open market housing as set out in the development plan. Therefore, the proposal would conflict with Policies SP1 and ASP6 of the CSS and Policy H1 of the LP.

Character and Appearance

10. Hill Chorlton is a linear development comprising a scattering of farmsteads and dwellings which generally line either side of the A51. The surrounding landscape is pastoral farmland with sporadic development. The appeal site comprises a large, detached dwelling set within extensive grounds. The site slopes down significantly from the A51 and much of it is hidden from public view due to the properties either side of the site fronting the road. The low density of the small group of dwellings that the site falls within makes a positive contribution to the openness and spaciousness of this rural setting.
11. The Council contend that the development would be set back from the road and therefore would not follow the general surrounding linear pattern of development. Whilst the existing pattern of development is linear, given that there are only a small number of neighbouring properties within the immediate vicinity, I do not consider that this is a strong defining character of the area. Due to the lower site levels and the likely lower profiles of the proposed dwellings compared to the surrounding two-storey properties, in addition to the screening effect of hedgerows, the proposal would only be readily visible from localised views. The linearity of the surrounding development is only discernible when traveling along the A51, from which the site would only be visible through glimpsed views.
12. Furthermore, the density of the development would be low, which would reflect the surrounding development and sympathise with its rural setting.
13. The Landscape and Visual Impact Assessment carried out by Elite Ecology, dated May 2018, concludes that subject to mitigation measures, including tree planting and external materials to be used, the overall impact of the

proposal on the landscape and visual amenity is considered to be not significant. Based on the evidence before me and the observations I made on site, I find no reasons to conclude otherwise.

14. I find therefore that the proposal would not significantly harm the character or appearance of the area. As such, it would comply with Policies CSP1 and CSP4 of the CSS, which, amongst other matters, seek to ensure that development is well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, its rural setting and the settlement pattern created by the hierarchy of centres; and, that the location, scale, and nature of all development should avoid and mitigate adverse impacts on the area's distinctive natural assets and landscape character. It would also comply with Policies N17 and N21 of the LP, which ensure that development should be informed by and be sympathetic to landscape character and quality and within Areas of Landscape Regeneration the Council will support proposals that would generate the landscape appropriate to its rural location. In addition, it would comply with the advice contained in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document. Furthermore, it would accord with the design objectives of the National Planning Policy Framework (the Framework).

Affordable Housing

15. Consideration of planning obligations is to be undertaken having regard to paragraph 56 of the Framework and the statutory requirements contained in Regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations, 2010. The completed signed and dated planning obligation under Section 106 of the Town and Country Planning Act, 1990 (as amended) contains two options; the provision of 25% affordable housing (3 units) on site or the provision of 1 unit on site and a financial contribution of £12,000 towards off site affordable housing provision.
16. The Newcastle-under-Lyme Borough Council Supplementary Planning Document for Developer Contributions (SPD) 2007 states that the presumption is that affordable housing will be provided on the application site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off site provision in lieu of on-site provision may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area.
17. The Council confirm that the most recent Housing Needs Assessment for the Neighbourhood Plan area (June 2016) indicates that demand for affordable housing is relatively low and therefore the hybrid approach, a mixture of on-site provision and financial contribution, is appropriate in this instance. Based on the evidence before me I find no reason to conclude otherwise. The Council confirm that the viability appraisal carried out by the District Valuer states that the hybrid approach is viable. I therefore find that the provision of 1 affordable dwelling on site and a financial contribution of £12,000 towards off site provision to be the most appropriate obligation.
18. The s106 agreement would be necessary to make the development acceptable in planning terms, be directly related to the proposal and fairly related to it in scale and kind. I conclude therefore that it meets the three tests in Regulation 122(2) of the CIL Regulations 2010 and Paragraph 56 of Framework.

Furthermore, it would accord with Policies CSP6 and CSP10 of the CSS and Policy IM1 of the LP, which seek to ensure that development contributes towards affordable housing provision.

Other Considerations

Paragraph 11d) of the Framework

19. Following two recent appeal decisions¹, the Council states that Policy ASP6 of the CS and Policy H1 of the LP are out of date and the Inspectors in both of these decisions attributed these policies limited weight. However, the Council assert that in a more recent appeal decision² the Inspector found that the general thrust of these policies, which is to locate new development towards settlements with a range of facilities and access to public transport, generally accords with the Framework and therefore attributed them significant weight. Based on the evidence before me, I concur with this view.
20. The Council state that they can demonstrate a five year supply of deliverable housing land. The appellants dispute this on the basis that there has been a consistent under delivery between 2011 – 2017, with the exception of 2016 whereby the figures have not been produced. Furthermore, the Council's Five Year Housing Land Supply Statement 2018-2023 relies heavily on student accommodation freeing up market housing. The appellants refer to a previous appeal decision³ where by the Inspector concluded that student accommodation should not be included as part of the housing land supply as there is no evidence to indicate that it would release market housing. The Council does not dispute this. There is no evidence before to indicate that students would migrate from houses to purpose built student accommodation, particularly to the extent that the Council seem so heavily reliant upon. Based on the evidence before me, given the consistent under delivery of housing and that the Council rely so heavily on student housing, I find that the Council cannot demonstrate a five year supply of housing land.
21. Given that there is not a demonstrable five year supply of housing land and that the most important policies for determining the proposal (Policies ASP6 of the CSS and H1 of the LP) are out of date, paragraph 11 d) of the Framework is engaged.

Accessibility

22. Within 500m of the site are two restaurants, a public house, a hotel, a bowling green and multiple craft shops. Baldwins Gate is located to the north of the site where there are further shops, services and facilities, including a post office, a butchers and general stores, doctor's surgery and primary school. These are within reasonable walking distance, approximately a 10-15 min walk via a public footpath. Whilst the footpath is accessed via an unlit lane with no footway, it is a very lightly trafficked lane that only serves a small number of properties. The footpath is well maintained and is likely to be usable even in inclement weather, although I acknowledge the comments raised that the route to Baldwins Gate is sometimes flooded. Due to it being unlit, the lane would not be attractive during the hours of darkness. However, this is not uncommon for many public footpaths in rural areas. During daylight hours, I consider that

¹ Appeal Refs: APP/P3420/W/18/3199376, APP/P3420/W/16/3149399

² Appeal Ref: APP/P3420/W/18/3215969

³ Appeal Ref: APP/Y1110/A/14/2215771

it would be a realistic and attractive walking route for the occupants of the proposed development to utilise.

23. The Council have referred me to previous appeal decisions⁴ whereby the Inspector found that the walking and cycling route to Baldwins Gate was undesirable. However, these routes were not along the aforementioned public footpath. The route for these appeal schemes was along busy roads. Furthermore, the Inspector for the Maerfield Gate Farm appeal was not presented with details of super markets, doctor's surgeries or schools. The proposal would be within reasonable walking distance of the doctor's surgery, albeit of limited service, and school in Baldwins Gate. There is no evidence before me of the nearest supermarket, and therefore it is likely that occupants of the proposed dwellings would use the private car to carry out a weekly food shop. However, this is not uncommon in rural areas.
24. There is a bus stop on Woodside, within reasonable walking distance of the site, which provides a bus service to and from Market Drayton, Ashley, Newcastle and Hanley, where there is a wider range of services, facilities and employment opportunities. There is a frequent service in the mornings, Monday to Saturday, which reduces to an hourly service from mid-morning onwards. There is no evidence that there is a service on Sundays. I acknowledge the Inspectors' conclusion on the limitations of the bus service for both of the previous appeals and given that there are no material changes to the service, I concur that the bus service is not likely to be utilised by commuters. However, there is a reasonable likelihood that it would be used for accessing various services and facilities in the wider area.
25. I find therefore that whilst occupants of the proposed development would likely use the private car for some needs, they would have good access to alternative forms of transport to access many everyday needs. I attribute this significant weight in favour of the proposal.

Previously Developed Land

26. The appeal site is no longer used commercially as a farm and has not been for some time. A large part of the site is considered to be part of the garden to the existing farmhouse. As the site is not in a built-up area, this private garden can be considered to be previously developed land. Paragraph 84 of the Framework supports the re-use of previously developed land that is physically well-related to existing settlements. Therefore, the reuse of this previously developed land weighs in favour of the proposal. However, given that this only covers part of the site, I attribute it only limited weight.

Economic Benefits

27. The proposal would provide some economic benefit during the construction of the development, through the use of local merchants and the creation of construction employment opportunities. Furthermore, the occupants of the dwellings would likely utilise local shops and facilities, thus contributing to the local economy. However, given the scale of the development, I attribute this moderate weight in favour of the proposal.

⁴ Appeal Refs APP/P3420/W/16/3163358 and APP/P3420/W/15/3022963

Social Benefits

28. The appellant has provided evidence that there was a significant growth in the older population between the 2001 and 2011 census, with a 27.8% growth in those aged 65-85 in the Neighbourhood Plan area. The proposal is for bungalows that would be for occupants aged 55 and over and therefore would make a positive contribution to meeting this identified need, to which I attribute moderate weight in its favour. The proposal would also provide a pond that would be accessible for all of the community. Whilst this would have only limited benefit to the community, it nevertheless weighs in its favour.
29. Furthermore, the contribution the proposal would make to the provision of affordable housing in the area would be a benefit that weighs in favour of the proposal.

Other Matters

30. Concerns have been raised regarding the drainage of the site, however, there is no substantive evidence that the proposal would have any significantly harmful effect on flooding.
31. Furthermore, whilst I acknowledge that the A51 is a busy road, there is no substantive evidence that the proposal would have any unacceptable adverse effect on highway safety. I note that the local highway authority raised no objection to the proposal, subject to conditions, which is a significant material consideration.

Planning Balance

32. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.
33. I have found conflict with the development plan, notably Policies SP1 and ASP6 of the CSS and Policy H1 of the LP. However, the policies of most importance in determining the application, Policy ASP6 of the CSS and Policy H1 of the LP are out of date. Furthermore, I have found that the Council cannot demonstrate a five-year supply of deliverable housing land. In such circumstances, the Framework states that 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. The Framework is an important material consideration.
34. The proposal would be located in an accessible location that would provide alternative forms of transport to the private car. Furthermore, it would provide 11 additional dwellings, which would contribute to an identified need in the local community and make a contribution towards affordable housing provision in the area. Moreover, there would be economic benefits and there would not be any significant harm the character or appearance of the area.
35. Overall, whilst the proposal would conflict with the development plan, the adverse impacts of doing so would not significantly and demonstrably outweigh the social and economic benefits of the appeal scheme, when assessed against the policies of the Framework as a whole. Consequently, the proposal would represent sustainable development as defined in the Framework. Taking account of the Framework and the benefits of the development, I find that

material considerations indicate that planning permission should be granted for the development, despite the conflict with the development plan.

Conditions

36. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
37. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
38. In the interests of highway safety, conditions are necessary regarding the completion of the access, roadway and footways, the provision of the visibility splays and a Construction Vehicle Management Plan (CVMP). For the same reason, a condition is necessary regarding parking, turning and servicing, means of surface water drainage, road construction details and the diversion or protection of the existing surface water drain crossing the site. It is essential that a condition regarding parking, turning, servicing, drainage, street lighting and the protection of the existing surface water drain is a precommencement condition in order to ensure that any works do not prejudice these matters. Furthermore, it is essential that the condition regarding the CVMP is a precommencement condition to ensure that satisfactory mitigation measures are in place prior to any works commencing.
39. In the interests of safeguarding residential amenity, a condition is necessary restricted the hours of construction.
40. In the interests of safeguarding the living conditions of future residents, a condition is necessary regarding a noise assessment.
41. In the interests of improving air quality, a condition regarding the provision of electric vehicle charging points is necessary.
42. In the interests of flood prevention, a condition is necessary regarding foul and surface water drainage details.
43. In the interests of the character and appearance of the area a condition is necessary regarding a Tree Protection Plan. It is essential that this is a precommencement condition to ensure that trees to be protected are not damaged at any time during the construction works.
44. A condition is necessary to ensure that the development is only occupied by persons aged over 55, in accordance with the proposed development.
45. Landscaping is one of the reserved matters and therefore it is not necessary to include a condition requiring a landscaping scheme to be submitted.

Conclusion

46. For the reasons given above, the appeal is allowed.

Alexander Walker

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 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 drawings: DJD/CF/2017/2 Rev. A Block and Location Plan; DJD001 – Rev. 3 Proposed Visibility Splays; and, 9851a Topographical Survey.
- 5) Prior to the first occupation of the development the site access indicated on Drawing No. DJD001 Rev 3 shall be provided and completed within the limits of the public highway.
- 6) Prior to first occupation of the proposed development the 2.4 x 90m vehicle visibility splays indicated on Drawing No. DJD001 Rev 3 shall be provided and thereafter retained for the life of the development with nothing placed or retained above the level of the adjacent carriageway exceeding 600mm in height.
- 7) Prior to the first occupation of the proposed development the roadway and footways indicated on Drawing No. DJD001 Rev 3 shall be surfaced in a bound material and constructed with a longitudinal gradient not exceeding 2.5% in accordance with details first to be submitted and approved in writing by the local planning authority.
- 8) No development shall commence until full details of the following have been submitted to and approved in writing by the local planning authority:-
 - Site layout including disposition of buildings and provision of adequate parking, turning and servicing within the site curtilage;
 - Means of surface water drainage from all areas remaining in private ownership;
 - Full road construction including longitudinal sections, street lighting, drainage and satisfactory means of draining roads to an acceptable outfall.
 - Details of appropriate measures for the diversion or protection of the existing 9" surface water drain crossing the site.

The development shall be implemented in accordance with the approved details and be completed prior to first occupation of the proposed development.

- 9) Prior to the commencement of development, a Construction Vehicle Management Plan (CVMP) shall be submitted to and approved in writing by the local planning authority. The approved CVMP shall thereafter be

implemented at the commencement of the construction phase and thereafter adhered to and shall include details of areas for site operative and contractor parking, turning areas for HCVs, material storage and delivery areas and wheel wash facilities within the site.

- 10) Construction activities which are audible beyond the site boundary, including deliveries, ground works and earth movements, shall be restricted to the following days and times:

- 08:00 – 18:00 Monday to Friday
- 08:00 – 13:00 Saturday

Construction activities shall not be undertaken on Sundays, Bank Holidays or Public Holidays.

- 11) No above slab level construction shall take place until details of design measures, supported by an appropriate noise assessment, to be incorporated into the construction of the development to ensure the following noise levels shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to any part of the development becoming occupied and shall be permanently maintained in full accordance with the approved details.

i. Internal noise levels: Not to be exceeded in all habitable areas attributable to external noise sources (not to be exceeded in relation to external noise sources. Where windows need to be kept closed to meet these levels, adequate sound attenuated ventilation provision in accordance with the current building regulations and consideration of provisions to prevent overheating, as described within ProPG: Planning and Noise must also be demonstrated)

- 35 dBLAeq between 07:00 and 23:00
- 30 dBLAeq between 23:00 and 07:00 in bedrooms
- 45 dB LAMax between 23:00 and 07:00 in bedrooms

ii. External noise levels: (to be achieved in garden areas, balconies, terraces)

- 50 dBLAeq between 07.00 and 23.00

- 12) At least 1 parking space per residential unit must be provided with a fully operational dedicated electric vehicle charging point, which shall be retained thereafter. All other parking spaces shall be provided with passive wiring to allow future charging point connection. Charge points shall be a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit).
- 13) No development (except demolition and site clearance) shall commence until a detailed surface water drainage design has been submitted to and approved in writing by the local planning authority. The design must be in accordance with the overall strategy and key design parameters set out in the SuDS Report (Ref:70717R2 2018-10-26). The approved details

shall be implemented in accordance with the approved details before the development is first occupied.

- 14) No development (except demolition and site clearance) shall commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved details before the development is first occupied.
- 15) No development shall commence until a construction phase Tree Protection Plan to BS5837:2012 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 16) Each dwelling hereby permitted shall be occupied only by:
 - persons over the age of 55;
 - persons living as part of a single household with such a person or persons;
 - persons who were living as part of a single household with such a person occupying the development or persons who have since died.

Richborough Estates