

**APPEAL BY MR D MORRIS AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION FOR THE CONSTRUCTION OF SIX SHARED OWNERSHIP DWELLINGS AT LAND ADJACENT TO 6 BRASSINGTON TERRACE, DEN LANE, WRINEHILL**

<b><u>Application Number</u></b>	<b>18/00376/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused under delegated powers</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>26<sup>th</sup> July 2019</b>

**The Appeal Decision**

The Inspector identified the main issues for consideration to be;

- i. Whether the appeal development would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Development Plan Policy;
- ii. The effect of the proposed development on the openness of the Green Belt;
- iii. Whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area;
- iv. The effect of the proposed development upon highway safety;
- v. The effect of the proposed development upon the natural environment, with particular regard to the Betley Mere Site of Special Scientific Interest (SSSI) and the Midland Meres and Mosses Phase 1 Ramsar Site; and
- vi. Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

In dismissing the appeal the Inspector made the following key comments and observations:-

*Whether the proposal is inappropriate*

- The Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The appellant is of the opinion that the development of the appeal site would constitute 'limited infilling of villages' and also 'limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).'
- Policy S3 of the Newcastle under Lyme Local Plan 2011 (LP) also reflects the general thrust of the Framework with regards to development in the Green Belt, and also lists additional criterion, such as the development of a small gap of no more than 2 plots within the built-up area of a village of Keele.
- The appeal site would not be part of Keele, and is relatively detached and not integrated with a defined village, and is seen alongside the other sporadic development within the open countryside on the outskirts of Wrinehill.
- The Council disputes that there is a need for affordable housing in this particular location, and based on the evidence provided this need for affordable housing has not been demonstrated.
- There is a significant conflict between the proposal and the exceptions specified by the Framework and the Development Plan. The appeal proposal would not constitute limited infilling of villages or fulfil an affordable housing need. Accordingly, in accordance with Paragraph 145 of the Framework, the proposal would be 'inappropriate development' in the green belt. Additionally, the scheme would be contrary to Policy S3 of the LP where the scheme does not meet any of the exceptions specified for development within the Green Belt. Therefore, substantial weight is attached to the harm arising due to the inappropriate nature of the appeal development.

### *Openness*

- Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. Openness has also been shown to have both spatial and visual dimensions. In this particular case the appeal site is undeveloped and has an open aspect with views through the site to the countryside beyond. Whilst there is development on all three sides of the appeal property, this takes the form of a more sporadic development, where the development surrounding is experienced within the rural context of the countryside beyond which is reinforced by the topography of the site, and the narrow rural carriageway with hedges bordering either side.
- Paragraph 133 of the Framework states that 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence'. Whilst scale is not for approval, the application documents refer to the scheme of a terrace of six dwellings which would replicate Brassington Terrace, which are two storey Victorian properties. On this basis, the proposal would lead to built development where there is currently none. It would further erode the open aspect currently experienced and introduce residential development in the form of a development of terraced dwellings which would further erode the aims of the greenbelt. The proposed dwellings would be a material addition to the amount of built development on the site, which has a significant effect upon the openness of the Green Belt in this location. Nevertheless, this additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

### *Suitability of the site for development*

- The Council's Housing Strategy consists of Policy H1 of the LP, and Policies SP1 and ASP6 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2009 (CS). The housing strategy seeks that most new dwellings are located within defined settlement boundaries in accordance with a settlement hierarchy. The appeal site is located in a relatively isolated position, detached from Wrinehill, the nearest village. Wrinehill is not a designated settlement for delivering growth under Policy ASP6 of the CS which seeks that 'key service villages' and the towns are the focus of growth.
- In assessing the sustainability credentials of the proposed scheme, whilst the nearest settlement is Wrinehill, this is not a designated settlement for providing growth as outlined in the Housing Strategy. Despite this, according to the appellant, Wrinehill has a bus to Crewe and Newcastle; a doctors surgery; village hall; playground; public houses; village shop; post office; recreational facilities and a primary school.
- Even if Wrinehill was considered to be a suitable location for development, the appeal site is detached from this village with the only access via Den Lane, a narrow, largely unlit rural carriageway with hedges to either side and no footpath into the settlement of Wrinehill. The appeal site would therefore fail to be well integrated and would be detached from the village of Wrinehill. The Inspector considered that future occupants would be entirely dependent upon private vehicular use, given that there are no footways to access any nearby settlement.
- Whilst comments have been received which suggest that the site would 'join existing development' and has development on all three sides, the adjoining dwellings on either side are not part of the built-up form of a village and the rear development is in use as a day nursery. In review of this situation against relevant case law, the appeal site does lack sufficient accessibility to surrounding settlements and would be wholly dependent upon private vehicular use.
- Given the above factors, in relation to the housing strategy, it is concluded that the proposed development would not be in a suitable location which would be in line with the housing strategy Policies ASP6 and SP1 of the CS; Policy H1 of the LP and the Framework for delivering sustainable development.

### *Highway Safety*

- A total of two accesses would be provided to accommodate the site, one of which to the left is existing and services the day nursery and 1-6 Brassington Terrace.

- Den Road like many rural roads suffers from limited width which impedes simultaneous two-way flow. Refuge areas are needed in order to allow vehicles to stop momentarily to give way to traffic coming in the opposite direction.
- Given this section of road is 30mph, it is nearby the increase of speed limit to 60mph, however it did appear that vehicles were travelling over 30mph. This point was also raised by the Highways Authority (HA) who seek to understand the speed of vehicles travelling along the road in order to determine appropriate visibility splays, which may need to be wider than those recommended for 30mph roads of 2.4 x 43 metres. Whilst the HA state that there have been no reported incidents in the past 5 years, and that the road appears to be operating without any significant safety issues, a speed survey would be necessary to determine the appropriateness of the access and visibility splays.
- Assessing the proposed visibility splays for a 30mph road, the HA has provided a map showing the extent of the highway. With regards to the existing access, this according to the HA is already sub-standard for the current use. Visibility splays towards the westerly direction are not obtainable and the HA would not support the use of the already sub-standard access for increased vehicular movements caused by the development.
- With regards to the new proposed access, the proposed scheme is not able to demonstrate the required visibility splays in the westerly direction without being reliant on third party land of the detached dwelling known as 'Savelaure.'
- Based on the evidence the proposed scheme is not able to demonstrate appropriate visibility splays and access, and further investigations to the speed of the road may cause the splays needing to be wider. As such there is a lack of adequate information available in order to approve the proposed and existing access, and demonstrate that a safe and suitable access to the site can be achieved for all users. The site therefore is likely to cause unacceptable impacts upon highways safety and be contrary to Paragraph 109 of the Framework.

#### *Natural Environment*

- The appeal site is within proximity to Betley Mere SSSI as well as being within proximity to the Midlands Meres and Mosses Phase 1 Ramsar Site which are designated national and European sites. In order to determine the appropriateness of the principle of the development, evidence in the form of a Habitats Regulation Assessment which details ecological impacts, whether the hedgerow is defined as an 'important hedgerow,' foul and surface water drainage and resultant impacts and a plan to mitigate any identified harm is required.
- Based on the evidence it is not possible to understand whether the appeal scheme would cause significant effects to the natural environment, and in particular the SSSI and the Ramsar site. The scheme would therefore be contrary to Policy CSP4 of the CS which seeks to ensure that the location, scale and nature of all development planned avoids and mitigates adverse impacts upon the natural environment and designated sites, and Paragraph 175 of the Framework which seeks measures to protect and mitigate against harm to habitats and biodiversity.

#### *Other considerations*

- The Council draw attention to the housing supply and weight given to housing strategy policies via the engagement of Paragraph 11 of the Framework and two appeal decisions due to the Local Plan policies being significantly out of date. In these decisions, the Inspectors afforded little weight to Policy ASP6 of the CS and Policy H1 of the LP in relation to the housing delivery, supply, and the location of settlement boundaries and have instead applied the general thrust of sustainable development as noted in the Framework. This is to locate new development towards settlements with a range of facilities and access to public transport. Whilst these appeals are both considered, they are not analogous to the circumstances of the appeal site given that in this particular instance Paragraph 11 of the Framework is not engaged as the green belt designation is excluded from this 'tilted balance' where it provides a clear reason for refusing the development proposed.
- Consequently, these other considerations do not, either separately or cumulatively, clearly outweigh the substantial harm to the Green Belt by reason of

inappropriateness and the harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

#### *Conclusion*

- In conclusion, the appeal proposal does not sufficiently demonstrate that appropriate access can be achieved or that the natural environment including designated sites will not be detrimentally harmed. The appeal site would not be a suitable location which would be entirely dependent upon private vehicle use. The site would be inappropriate development in the terms set out in the Framework and, in addition, it would lead to a significant loss of openness to the Green Belt and cause harm to the open countryside in this location. These issues are not outweighed by the considerations advanced by the appellant. The other considerations in this case do not clearly outweigh the harm that has been identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, for the reasons given above the appeal is dismissed.

#### **Recommendation**

That the appeal decision be noted.