Dear Members

Planning Committee

A virtual meeting of the Planning Committee will be held using Zoom on Wednesday, 6 May 2020 at 3.00pm to deal with the business as set out on the agenda.

To watch the meeting, please follow the instructions below:-

1  Log on to Zoom at https://zoom.us/join
2  Enter Meeting ID 981 4554 6638 when prompted
3  Enter Password 715516 when prompted

Or, to listen to the meeting, please call the following telephone number:-

0131 460 1196

Please note that this meeting will be recorded.

Members are reminded that contact officers are shown in each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

[Signature]
Head of Law and Administration
A G E N D A

1 Minutes
2 Apologies
3 Declaration of Member’s Interests/Lobbying
4 Delegated Applications
   Details of Delegated applications will be circulated separately to Members.

Page Nos
5 Planning Applications 3 - 10
6 Planning Appeals 11 - 16
7 Enforcement Matters 17 - 31

MEMBERSHIP

Chairman - Councillor R M Sutherland

B M Cross          W J Kemp
M G Dodson         A Nixon
A P Edgeller       A N Pearce
A S Harp           M Phillips
A D Hobbs          R M Sutherland
J Hood

(Substitutes - F Beatty, A T A Godfrey, P W Jones, R Kenney)
PLANNING COMMITTEE - 6 MAY 2020

Ward Interest - Nil

Planning Applications

Report of Head of Development

Purpose of Report

To consider the following planning applications, the reports for which are set out in the attached APPENDIX :-

<table>
<thead>
<tr>
<th>Planning Application</th>
<th>Address</th>
<th>Page Nos</th>
</tr>
</thead>
<tbody>
<tr>
<td>20/31977/HOU</td>
<td>The Croft, Church Lane, Gayton, Staffordshire ST18 0HL</td>
<td>4 - 10</td>
</tr>
</tbody>
</table>

This application was called in by Councillor F Beatty

Officer Contact - Nicholas Lawrence, Deputy Development Manager - Telephone 01785 61732

Previous Consideration

Nil

Background Papers

Planning application files are available for Members to inspect, by prior arrangement, in the Development Management Section. The applications including the background papers, information and correspondence received during the consideration of the application, consultation replies, neighbour representations are scanned and are available to view on the Council website.
REASON FOR REFERRAL TO COMMITTEE

This application has been called in by Councillor F Beatty (Ward Member for Milwich) for the following reasons:-

This application in my opinion complies with National Planning, SB Local Plan and material planning considerations. The dwelling is in the centre of the village, not overlooked in substantial grounds.

Context

The Application Site

The Croft, Gayton (the Bungalow) is a modest detached bungalow that was approved under application reference CSR 5158 in September 1967 as an agricultural workers’ dwelling, which was added to by way of a single storey extension in 1985 and conservatory in 2004. The occupancy condition was subsequently lifted in 2002 (Application Reference 02/42390/FUL). The bungalow is set within sizeable grounds.

The bungalow is within the small, rural village of Gayton, set back from Church Lane and the nearest residential properties are The Malthouse to the south and by dwellings on the opposite side of Church Lane. The north of the Bungalow is defined by its grounds and to the east by open countryside.

The existing dwelling as noted above is modest in form and appearance, of traditional brick and tile construction with a low pitched roof (not as per image within the submitted drawings). The Bungalow has a length of some 19 metres (excluding the conservatory); maximum depth of 12 metres; ridge height of 4.50 metres with an eaves level of some
2.30 metres. The appearance and layout of the Bungalow is shown on submitted drawing no.19S45 s01 (Existing details site and location plans).

The Proposed Development

The description of the proposed development on the application form is Alterations and extensions to a single storey dwelling to form a two storey dwelling. However, in practical terms the proposal is for a new dwelling.

The proposed development incorporates a series of major two-storey extensions to the side and rear of the Bungalow, together with a new first floor. The resulting scheme produces a two-story dwelling of a larger footprint, mass, scale, and presence than that of the existing dwelling, which features a number of roof pitches, gables, dormer windows and glass balustrade balcony. It is proposed that the dwelling will have a white render finish.

The resulting dwelling will have a length of some 29 metres, maximum depth of 15 metres; and maximum ridge height of 8.60 metres with an eaves level of 4.40 metres. The appearance and layout of the resulting dwelling is shown on submitted drawing no.19S45P01 Rev B (Proposed alterations and first floor addition).

Designations

The Site is outside any defined settlement boundary as shown on the Inset Maps to The Plan for Stafford Borough 2011-2031 (the Plan) and is therefore classed as being within the open countryside to which Spatial Principles 3 (SP3) and 7 (SP7), together with policy C5 of the Plan primarily attach.

Officer Assessment – Key Considerations

1. Principle of the proposed development

Spatial Principle 7 as an overarching policy supports development outside settlement boundaries where, in part, it is consistent with the objectives of policy C5, together with other relevant policies of the Plan, and national guidance.

Policy C5 supports in principle both replacement dwellings and extensions/alterations to buildings outside defined settlement boundaries (i.e. in the open countryside) subject to a series of criteria. Fundamental to both of these aspects of policy C5 is the proposed development’s relationship to the existing dwelling in terms of quantum and massing of proposed development, and respecting the character of the existing dwelling together with its impact upon the character of the area.

These matters are referenced in terms of replacement dwellings under criteria B.f; whereby a replacement dwelling would be acceptable in principle where…the replacement building is of a similar floor area, volume and massing as the original whilst respecting the character of the existing site and its surroundings

With regard to extensions/alterations; policy C5 at C (ii) looks to limit such interventions to no more than 70% to the dwelling as originally built unless…..the design and appearance
of the proposed extension is proportionate to the type and character of the existing dwelling and the surrounding area.

Therefore the principle of the proposed development is deemed acceptable subject to the provisions of Spatial Principle 7, policies N1, N8, and C5, other relevant policies of the Plan and material considerations.

2. Quantum of development and impact upon the existing building

Quantum of development

The original floor area of the property, pre-extensions, is taken to be in the region of 131m², which increased to some 223m² with the additions (i.e. conservatory and single storey extension). The proposed development through the addition of a first floor, combined with the two additional two storey extensions would create a floor area of 650m², which is some 427m² over the existing dwelling and 519m² over the original dwelling. This would equate to an increase in floor area of some 396% against the Bungalow as originally built, and in the order of 191% above the Bungalow as existing.

Therefore in percentage terms the floor area of the proposed development exceeds the 70% threshold and is clearly not of a similar floor area to either the existing or original dwelling, and thus this aspect of the scheme does not accord with either criteria B. or C. (ii) of policy C5 cited above.

Impact upon the existing building

Policy C5 also references that development should be of a similar volume and massing as the original, and be proportionate to the type and character of the existing dwelling.

As noted above, the existing dwelling is a modest, low profiled bungalow of brick and tile construction. The proposed interventions by virtue of their unrelieved bulk and massing, and in particular with respect to the creation of a first floor, which vastly increases the overall volume of the dwelling, would result in disproportionate additions to the existing dwelling. Given the major extent of the works proposed taking the traditional bungalow to a modern two storey dwelling of a much larger footprint, it is considered that the visual effect of the proposal can be likened to a ‘replacement dwelling’ rather than that of an extension to an existing dwelling.

The proposal would clearly alter the appearance of the existing dwelling not only in terms of its scale and proportions, but also in regard to its character with having a simple traditional appearance compared to the contemporary modern design of the proposal which is exacerbated by the material palette consisting of white render and feature black boarding, extensive glazing, and glass balustrade feature to the proposed rear terrace. It is therefore considered that, notwithstanding the vast increases in massing proposed, the overall character of the existing dwelling would be significantly altered as a result of the extensions. The net effect is that the proposed development subsumes the existing dwelling and there is no recognition in the resulting development of the existing dwelling in terms either of form or presence.

The proposal therefore does not comply with policy C5 of the Plan.
Impact upon the character and appearance of the area

Policy C5, together with policies N1 and N8 and the Supplementary Planning Document on Design require that development should not harm the character and appearance of the area. This position is also reflected within national guidance.

In terms of the character of the area; it is noted that a number of the nearby two storey properties in the surrounding area (e.g. ‘The Old School House’ and ‘Ford House’) do have large footprints similar to that proposed. It is however also considered that these are historic buildings of a traditional character, consisting of a simple brick and tile construction. Therefore, whilst the proposal may be comparable to the size and type of a limited of dwellings in the surrounding area it is considered that it would not be in-keeping with the overall character of the surrounding rural locality. Although the property is set back from Church Lane, the resulting development would be readily viewed from Church Lane and would therefore have a direct effect on the visual amenities of the area.

Policies and Guidance:-
The Plan for Stafford Borough (The Plan) 2011-2031 – Spatial Principle 3 (Sustainable Settlement Hierarchy); Spatial Principle 7 (Supporting the Location of New Development); policies C5 (Residential Developments outside the Settlement Hierarchy); N1 (Design); N8 (Landscape Character); and Supplementary Planning Document – Design.

Other matters

Impact upon residential Amenity

Given the separation distances between surrounding dwellings there are no significant amenity concerns associated with the application and the proposal thereby is not at variance with Spatial Principle 7, together with policies N1, C5 (B.h), and the Supplementary Planning Document on Design.

Policies and Guidance:-
National Planning Policy Framework (NPPF) – Paragraph 127
The Plan for Stafford Borough (TPSB) 2011-2031 – Policy N1 Design
Supplementary Planning Document (SPD) – Design

Adequacy of parking provision

The proposal would result in the creation of two bedrooms taking the property from three to five bedrooms. This affects parking requirements in that an additional, third parking space is required on site. This provision has been demonstrated on the parking plan submitted and therefore it is not considered that the proposal would have an adverse effect on parking or highway safety; therefore the scheme accords with policy T2 of the Plan and accompanying Appendix on Parking Standards.
Flood risk

The majority of the property is located in Flood Zone 1 with part of the site located in Flood Zone 2. Given that part of the site lies in Flood Zone 2, a Flood Risk Assessment has been submitted. The document concludes that there is a moderate risk of groundwater flooding and very low risk of surface water flooding. The assessment states that that the ground floor level of the proposed extensions will be set at the same level as the existing dwelling. There is also a precautionary evacuation strategy set out as part of the document. It is therefore considered that sufficient mitigation to flood risk has been demonstrated and this aspect of the scheme accords with policy N2 (Climate Change) of the Plan.

Public rights of way

There is a public right of way which runs through the North of the site boundary as submitted. The Public Right of Way lies approximately 60m North of the dwelling. As such the Rights Of Way Officer was consulted on the application who has concluded that the proposal would not affect the public right of way.

Concluding comments

The proposal by reason of its excessive scale, form, massing, composition and design would not comparable or proportionate to the existing dwelling and the character and appearance of the area and is thereby contrary to spatial principle 7, together with policies C5, N1 and N8 of The Plan for Stafford Borough 2011-2031 and guidance set within the National Planning Policy Framework (2019).

Reason for refusal

The proposal by reason of its excessive scale, form, massing, composition and design would not comparable or proportionate to the existing dwelling and the character and appearance of the area and is thereby contrary to spatial principle 7, together with policies C5, N1 and N8 of The Plan for Stafford Borough 2011-2031 and guidance set within the National Planning Policy Framework (2019).

Consultations

Parish Council: No objections

Neighbours (4 consulted):
No representations received

Site Notice: No representations received
Expiry date: 01.04.2020

Newsletter Advert:
Expiry date: 01.04.2020
Relevant Planning History

04/02899/FUL - Provision of pitched tiled roofs in place of flat roofs and erection of conservatory. – PERMIT – 17.09.2004

02/42390/FUL - Removal Of Condition No 2 Of Planning Permission Csr 5158 Agricultural Occupancy – PERMIT – 12.09.2002


CSR 5158

Recommendation

Refuse due to the following reason:

1. The proposal by reason of its excessive scale, form, massing, composition and design would not comparable or proportionate to the existing dwelling and the character and appearance of the area and is thereby contrary to Spatial Principle 7, together with policies C5, N1 and N8 of The Plan for Stafford Borough 2011-2031 and guidance set within the National Planning Policy Framework (2019).
20/31977/HOU
The Croft
Church Lane
Gayton
PLANNING COMMITTEE - 6 MAY 2020

Ward Interest - Nil

Planning Appeals

Report of Head of Development

Purpose of Report

Notification of new appeals and consideration of appeal decisions. Copies of any decision letters are attached as an APPENDIX.

Notified Appeals

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Location</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>19/31349/FUL</td>
<td>Land Rear Of Egremont Newport Road Stafford</td>
<td>Proposed new dwelling.</td>
</tr>
<tr>
<td>Delegated Refusal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19/30866/COU</td>
<td>19 Avondale Circle Stafford</td>
<td>Change of use from garage to beauty room</td>
</tr>
<tr>
<td>Delegated Refusal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19/30627/PAR</td>
<td>Land to the North Westley House Marston Lane</td>
<td>Change of use of agricultural building into two residential dwellings</td>
</tr>
<tr>
<td>Not PD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19/31191/HOU</td>
<td>Victoria House Bromstead Common Lane Bromstead Heath</td>
<td>Detached Garage/Workshop with storage above</td>
</tr>
<tr>
<td>Delegated Refusal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Decided Appeals

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Location</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>19/30637/COU</td>
<td>Land North Of Fairbanks Cottage The Green Chebsey</td>
<td>Change of use of agricultural building to residential with minor alterations, formation of a domestic curtilage with erection of fence and hedge-planting, formation of a parking area, plus demolition of pole barn</td>
</tr>
<tr>
<td>Appeal Dismissed</td>
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</tr>
</tbody>
</table>

Previous Consideration
Nil

Background Papers
File available in the Development Management Section

Officer Contact
John Holmes, Development Manager Tel 01785 619302
Appeal Decision
Site visit made on 17 December 2019
by Bhupinder Thandi BA (Hons) MA MRTPI
an Inspector appointed by the Secretary of State
Decision date: 27 February 2020

Appeal Ref: APP/Y3425/W/19/3237551
Land to the north of Fairbanks Cottage, The Green, Chebsey, Stafford ST21 6JU

- 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 Mr & Mrs David and Jean Clews against the decision of Stafford Borough Council.
- The application Ref 19/30637/COU, dated 24 May 2019, was refused by notice dated 11 July 2019.
- The development proposed is the change of use of agricultural building to residential with minor alterations, formation of domestic curtilage with erection of fence and hedge-planting, formation of a parking area, plus demolition of pole barn.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
   a) Whether the development would be consistent with local and national policies relating to the location of new housing development; and
   b) The effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Chebsey Conservation Area (CA) and the effect of the proposal upon the setting of listed buildings and non-designated heritage assets.

Reasons

Location of site

3. The appeal site is located within the village of Chebsey and within the Chebsey Conservation Area and is visible from a number of approaches into the village. Chebsey is not classed as a settlement in the Sustainable Settlement Hierarchy and as such the appeal site is located within open countryside.

4. The site contains two buildings – a brick-built cowshed and a pole barn that occupy a prominent central position in the site and that are elevated from The Green. Both buildings are in a state of disrepair but despite their appearance do not significantly detract from the area’s verdant appearance.
5. For areas outside settlement boundaries Policy E2 of The Plan for Stafford Borough (2014), (PSB) amongst other things, sets out a number of criteria for assessing the suitability for the use and re-use of rural buildings.

6. The appeal site is located within open countryside and the settlement is not well connected to the nearest Key Service Village. It is acknowledged in the National Planning Policy Framework (the Framework) in paragraph 103 that transport solutions vary between urban and rural areas. However, future occupiers would be overwhelmingly reliant on private vehicles to access services and facilities to meet their day to day needs. There are no realistic alternative modes of transport or footpaths that would be available for future occupiers.

7. The appellant has indicated that they are partially self-sufficient in terms of fruit, vegetables and eggs and that this would continue, and any surplus supplied to the village. However, this would not outweigh the conflict that I have identified in relation to this criterion of the policy. I also find that this conflict would not be overcome through the imposition of a condition for electric vehicle charging points.

8. I note the appellant maintains that a previous application¹ for a speculative business use was refused by the Council and therefore this criterion of the policy has been satisfied. The Council have advised that the application was refused on scheme specific reasons rather than the principle of a business use in this location and dispute the appellant’s comments on this matter. Based on the information before me I am not persuaded that the appellant has fully satisfied this criterion of the policy.

9. The structural assessments submitted with the application indicate that there has been some movement in the timber truss bearings but that the roof is in a satisfactory condition and despite plenty of weathering of bricks and cracking around the building the walls are upright and stable. However, the reports go on to state that for a conversion to take place the left side of the front wall will require rebuilding on new foundations; re-pointing of the brickwork and replacement of bricks in poor condition, new damp course proofing, new timber lintels and a new roof covering would be required. In addition to the structural works the proposal would involve significant alterations in the form of modern glazing, timber weather boarding and steel roof covering to the wings.

10. Furthermore, having regard to my own observations at the site visit, there appears to be considerable areas of deterioration consistent with the prolonged periods of neglect and lack of maintenance including significantly weathered and damaged brickwork.

11. Taking the above into account and my observations on site I am not persuaded that the building would be capable of being converted into residential use without significant alteration or rebuilding and would be tantamount to a new dwelling in the countryside.

12. The proposal would utilise existing openings and the original form of the central element would by and large be retained. The wings would have a modern appearance with an increased ridge height, although they would still be subservient to the central element. The overall bulk and design would

¹ 18/28284/FUL

https://www.gov.uk/planning-inspectorate
successfully juxtapose the historic form of the building and the modern alterations resulting in a pleasing appearance.

13. There is no evidence before me to indicate that the buildings on site are of historic significance, notwithstanding their location within the CA. I therefore find that the proposal would not harm the significance of a historic farmstead. Given the lack of historic significance I find that the external alterations to the building would not unduly harm the character of the countryside. Taking into account the modest increase in the height of the wings the proposal would not unduly diminish views across the site.

14. Notwithstanding the above, the cumulative impact of the driveway, parking area, pathway, the proposed garden area and boundary treatment would result in a domestication of the site that would significantly erode its verdant and rural appearance adversely affecting the character and appearance of the area.

15. Taking into account the site’s prominent position in the village the scheme would not successfully integrate into the wider landscape. It would be very apparent and intrusive appearing as an incongruous form of development that would change the verdant appearance of the site to something more urban. The harm that I have identified would not, in my view, be overcome through the imposition of conditions in relation to materials, landscaping or hard surfacing.

16. The Council state the proposal would not be large enough and indicate that it falls below the standards contained in the ‘Technical housing standards – Nationally Described Space Standard’ for a 1 bed, 2-person house. Based on the information before me it is not apparent whether the Council have adopted the housing standards as part of the development plan. Nonetheless, I find the proposed internal layout indicated on the plans would be satisfactory and would be of a sufficient size to accommodate a residential use. The proposal therefore accords with this criterion of the policy.

17. Taking all of the above into account I find that the proposed development would not accord with the Policy E2 of the PSB in relation to the re-use of rural buildings. I also find that it would be contrary to Policy N8 of the PSB which, amongst other things, requires new development to reinforce and respect the character of the settlement and the landscape setting.

**Character and appearance including effects on heritage assets**

18. The CA is characterised by a surviving historic road layout and green spaces, including the appeal site, that extend through the village and surround the built form that contribute to its rural agrarian character. This agrarian landscape provides the verdant setting for a number of designated and non-designated assets in the village.

19. The parties have identified a number of listed buildings nearby the site. These comprise The Mount a two storey red brick dwelling elevated from the highway; The Green Park a 17th century cottage; Lane Cottages formerly known as the Old School House and now one dwelling that has been altered and restored; and the Anglo-Scandinavia cross a monument located in the churchyard of All Saints’ churchyard.

20. Further to the listed buildings there are a number of attractive buildings along the northern side of the Green comprising cottages and former farmhouses of a
similar vernacular that collectively as a group make a positive contribute to the CA.

21. I acknowledge that the demolition of the pole barn would improve the character and appearance of the site and the CA. However, I find that the domestication of the site would unacceptably diminish the site’s verdant and rural appearance which would not preserve the character or the appearance of the CA. I turn now to the effects on nearby listed buildings.

22. The introduction of the domestic build form into this attractive verdant agrarian landscape would harm the setting of nearby designated assets. The proposal in the manner shown would be very apparent and intrusive and would diminish the site’s contribution to the collective setting and significance of nearby listed buildings.

23. In light of the above I find that there would be some, albeit limited harm to the CA and the setting of nearby designated assets. I also find that the proposal would result in harm to the setting of nearby non-designated assets. Accordingly, the proposal would be contrary to Policy N9 of the PSB and paragraph 127(c) of the Framework.

24. In accordance with Paragraph 196 of the Framework, it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA and the setting of nearby listed buildings. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.

25. In this regard, the proposal would contribute to local housing supply and employment with the construction of one dwelling, but these benefits are modest. I therefore afford these benefits limited weight. Taking into consideration the points above I find that the harm to the CA and the setting of nearby listed buildings would clearly outweigh the public benefits of the proposal.

26. As such it would fail to preserve or enhance the character and appearance of the CA and the significance of designated heritage assets and non-designated heritage assets contrary to Policies N1, N8 and N9 of the PSB which, amongst other things, requires development to preserve and enhance the character of the area, have regard to and protect the setting of heritage assets, sustain or enhance the significance of them and protect historic elements of the present day landscape. It would also conflict with the Framework.

Other Matters

27. I acknowledge that the site is located within the 15km zone of influence of the Cannock Chase SAC, however, as I am dismissing the appeal on other substantive grounds it has not been necessary for me to consider this matter further.

28. I note that representations against the appeal have been received in respect of the size of the access and highway safety, landscaping, sewerage, storage for agricultural, garden equipment or bins, precedent, and the suitability of other land for development but have not led me to a different conclusion.
Conclusion

29. For the reasons set out above the appeal is dismissed.

B Thandi
INSPECTOR
Ward Interest - Nil

Enforcement Matters

Report of Head of Development

Purpose of Report

To consider the following reports.

(a) The Orchard, Abbeylands, Weston 18 - 25
(b) Unauthorised development in respect of various properties 26 - 31 in the Stone Article 4 Direction Area and Stone Conservation Area

Previous Consideration

Nil

Background Papers

File available in the Development Management Section

Officer Contact

John Holmes, Development Manager Tel 01785 619302
PLANNING COMMITTEE - 6 MAY 2020

COND/00228/EN19 - The Orchard, Abbeylands, Weston

Report of Head of Development and Head of Law and Administration

Purpose of Report

1. To consider the failure to comply with condition 11 on planning permission 15/22092/FUL to remove a gate within the southern boundary of the site and replace it with a solid non-opening panel(s), thereby blocking a pathway from the site onto Green Road.

Site and Alleged Breach of Planning Control

2. In October 2019 a complaint was made to the Planning Service concerning the use of a footpath associated with a residential development comprising 4 detached dwellings on land to the west of the Abbeyland Apartments, Stafford Road, Weston.

3. The report arose following the dismissal of an appeal, details of which are set out below, in connection with the requirement by way of planning condition 11 on planning permission 15/22092/FUL to ‘block off’ a pedestrian route from the south of the residential development directly onto Green Lane, which passes between the dwellings known as Kenlee and Abbeyland Cottage (ie the alleged breach of planning control).

Background and Detail

Background

4. Planning permission was granted at appeal in 2012 (Appeal reference APP/Y3425/A/11/2163763) for the erection of 10 dwellings. Planning permission was subsequently granted in June 2013 under application reference 12/17152/FUL for 4 detached dwellings on the same site.

5. However, the dwellings were not built in accord with that planning permission and, following an enforcement investigation, a further application was submitted which resulted in planning permission 15/22092/FUL) being issued in November 2018, following completion of a S106 Legal Agreement, to regularise the realignment of a number of dwellings during the construction phase as approved under application 12/17152/FUL.
6. The above decisions were approved subject to the provision and retention of a pedestrian access onto Furlong Close that was secured by way of a s106 Agreement (the Agreement) and condition (i.e. condition 9 on application 15/22092/FUL). Those parties to the Agreement were the Owner, Stafford Borough Council as the Local Planning Authority, and Staffordshire County Council as the Local Highway Authority.

7. Condition 11 of the permission required the closure of an alternative footpath access from the southern part of the site onto Green Road. The condition provided that:

   Within 3 months of the date of this permission the gate within the southern boundary of the site shall be removed and replaced with a solid non-opening panel(s). The non-opening panel(s) shall thereafter be retained and no other openings shall be created within the southern boundary of the site.

8. The reasoning for the condition was in the interest of highway safety to pedestrians to comply with policy T2 of the Plan for Stafford Borough.

9. Condition 11 was attached to the permission at the request of the Local Highway Authority in order to address their objection to the proposed development which read:

   The proposed development would exacerbate the risk of pedestrian/vehicle conflict as the proposed footpath link connects the Development to Green Road at a location which has no footpath leading to an increase in the likelihood of danger to highway users.

   The original agreed proposal (12/17152) was to connect the development to local amenities by providing a footpath link to Furlong Close as shown on the original diagram PL 110B. Furlong close can provide a safe pedestrian connection to the amenities of the area. The connection via Green Lane at the location chosen cannot provide this connection for pedestrians as there is no footpath connection on Green Lane forcing pedestrians into the carriageway.

   The footpath provided by the developer, with it being fenced on both sides, is too narrow over a long stretch to allow 2 pushchairs/wheelchairs to pass safely. The tight 90 degree bends in the footpath also increase this problem.

Detail

10. In 2019 permission was sought under application reference 19/30516/FUL for the development of land without complying with conditions subject to which a previous planning permission was granted (i.e condition 11). The Local Highway Authority restated its previous position, as per application 12/17152/FUL, that the application should be refused on the basis:
The proposed gate would exacerbate the risk of pedestrian/vehicle conflict as the gate could connect the Development to Green Road at a location which has no footpath leading to an increase in the likelihood of danger to highway users. The footpath provided under application 15/22092 is more appropriate and should be used at all times.

11. The Application was determined under delegated powers and was refused on the grounds cited by the Local Highway Authority.

12. The Applicant appealed the Decision and the appeal was subsequently dismissed and the outcome was reported to the Committee on 6 November 2019.

13. In dismissing the appeal the Inspector was of the view that the pathway from the southern side of the site to Green Road provided an alternative access route to that onto Furlong Close, which was secured by condition and the Agreement, and consequently saw no reason to allow the appeal.

14. In reaching this decision the Inspector critically noted at paragraph 7 of the Decision Letter in respect of the pathway onto Green Road:

   Therefore, whilst I have found the pathway to be awkward and impractical, the use of it would be no less safe than the existing pedestrian access points serving residential properties from the northside of the highway. Accordingly, the use of the footpath and access would not significantly affect highway safety and condition 11 is therefore neither necessary nor reasonable. Therefore, without the condition the proposal would still comply with policy T2 of the DP [The Plan for Stafford Borough], which seeks development that would have a safe and adequate means of access.

15. In essence, the basis of the condition as sought by the Local Highway Authority did not meet the tests for a condition to be compliant with the requirements of the National Planning Policy Framework (the Framework) and should not have been attached to the originating permission and subsequently carried over.

Conclusion and the planning balance

16. In considering whether to pursue enforcement action, regard is had to paragraph 58 of the Framework, which under the heading of Enforcement states...Enforcement action is discretionary, and local planning authorities should act proportionately in response to suspected breaches of planning control.

17. Having regard to the findings of the Inspector in the appeal decision, and mindful that the Inspector considered that the condition sought by the Local Highway Authority to be neither necessary or reasonable, it is not considered expedient for the Local Planning Authority to take enforcement action.
Recommendation

18. It is not considered expedient to take enforcement action and it is therefore recommended that no further action is undertaken by the Local Planning Authority.

19. The Local Highway Authority do have powers in respect of highway safety matters, and it is further recommended that the Local Highway Authority is notified of the Council’s position; thereby providing them with the opportunity to consider any such action as they deem appropriate.
Appeal Decision

Site visit made on 16 September 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2019

Appeal Ref: APP/Y3425/W/19/3232359
The Orchard, Abbeylands, Weston, Stafford ST18 0DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Granville Falshaw, on behalf of Falshaw Homes Limited, against the decision of Stafford Borough Council.
- The application Ref 19/30516/FUL, dated 2 May 2019, was refused by notice dated 18 June 2019.
- The application sought planning permission for Retrospective amendments to permission 12/17152/FUL for the development of 4 detached dwellings with garages, without complying with a condition attached to planning permission Ref 15/22092/FUL, dated 20 November 2018.
- The condition in dispute is No 11 which states that: Within 3 months of the date of this permission the gate within the southern boundary of the site shall be removed and replaced with a solid non-opening panel(s). The non-opening panel(s) shall thereafter be retained, and no other openings shall be created within the southern boundary of the site.
- The reason given for the condition is: In the interest of highway safety to pedestrians. (Policy T2 of the Plan for Stafford Borough).

Decision

1. The appeal is dismissed.

Procedural matters

2. An appeal was allowed on the site in 2012\(^1\) for the erection of ten dwellings. Furthermore, consent was granted in 2013\(^2\) for 4 detached dwellings. A further submission was granted in 2018 to regularise the development following the realignment of some dwellings during construction. These decisions were approved subject to the provision and retention of a pedestrian access onto Furlong Close. This has been secured by a Legal Agreement\(^3\) and condition, the Agreement was required as the applicant does not own the land through the adjacent ‘Abbeylands Apartments’ site. The condition was originally applied to place a timeframe on its first provision. Separately, condition 11 required the closure of an alternative footpath access onto Green Road.

\(^1\) Planning Appeal Reference: APP/Y3425/A/11/2163763
\(^2\) Planning Application Reference: 12/17152/FUL
\(^3\) Legal Agreement in connection with application 15/22092/FUL- 16 November 2018

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Main Issue

3. The main issue is whether condition 11 is reasonable and necessary in the interests of highway safety in regard to policies of the Development Plan and The National Planning Policy Framework (The Framework).

Reasons

4. The footpath, the subject of this appeal, connects the site directly to Green Road. The footpath is narrow, runs between two gardens and then turns through two tight 90-degree corners. The gate at the exit of the estate is spring loaded and the path provides steps down onto the second part of the footpath. The lower part of the pathway is unsurfaced and would be difficult to navigate in poor weather. It would also be difficult to use for cyclists or people with prams and wheelchair users due to its awkward terrain.

5. The access onto Green Road is on a side of the highway that does not benefit from a footpath. However, there is a footpath on the southern side of the highway. Consequently, many dwellings on the north side of Green Road do not have immediate access to a footway with residents having to cross the road to walk on a footway. Green Road has the appearance of a quiet village highway, with streetlights and a feeling of intimacy. The highway is relatively narrow and includes many driveways and cul-de-sac entrances. As such motorists and pedestrians would need to employ particular care and attention when using this highway due to its characteristics.

6. Policy T2 of the Plan for Stafford Borough 2014 (DP) states that development should not materially impair highway safety. The Framework further informs that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. The footway link runs between existing dwellings that have access onto the path. Furthermore, the occupiers of Abbeyland Cottage and 1 Green Lane have driveway access from the path. The access onto Green Road is relatively wide. Adjacent boundaries are sufficiently low to allow a pedestrian to take in a wide view of the highway before entering it. Moreover, the road is straight for a substantial distance and flat. These features aid visibility of the highway from the access.

7. Therefore, whilst I have found the pathway to be awkward and impractical, the use of it would be no less safe than the existing pedestrian access points serving residential properties from the northside of the highway. Accordingly, the use of the footpath and access would not significantly affect highway safety and condition 11 is therefore neither necessary nor reasonable. Therefore, without the condition the proposal would still comply with policy T2 of the DP, which seeks development that would have a safe and adequate means of access.

8. However, a more practical pedestrian access has been provided through Furlong Close. This appears to be both safer and accessible to all. This access has been established through previously approved development as necessary to the development and secured with a Legal Agreement. The access provides a useful link from the site to the main village without walking alongside the very busy A518. Therefore, notwithstanding the estate’s frontage access, the footpath via Furlong Close is necessary as an alternative pedestrian route.
9. There is no evidence to illustrate that ownership has changed since the legal agreement was entered into in 2018. Furthermore, there is no mechanism within the appeal submission to ensure that the access can be secured in perpetuity. A condition would not be sufficient as no change to land ownership has been brought to my attention and therefore a legal mechanism would still be necessary. Without an Agreement any approval would take a retrograde position and disregard previous reasonable planning decisions taken on the site.

Other matters

10. Representations have identified that the access onto Green Road is safe and useful. I concur but find the alternative access through Furlong Close to be a preferred and a safer route for the reasons stated above.

11. Concerns have been raised in representations, that the access is less safe and would discourage the use of Furlong Close. It is also suggested that the use of the footpath puts it in conflict with cars using the adjacent two driveways. However, the low frequency of use and slow speeds associated with this action would limit this risk. Concerns have also been raised in regard to enabling access by burglars. However, there is no compelling evidence to illustrate that this would occur as a direct result of the increased use of the footpath. It has the appearance of a private access route to passing members of the public.

12. Abbeylands is a grade II listed building and St Andrews Church is Grade II*. I have a statutory duty\(^4\) to have special regard to the desirability to preserve the setting of a listed building. Due to its distance and the nature of the proposal, the variation to the consent would have no discernible effect on the setting of these heritage assets. As such the proposal would preserve the significance of these nearby listed buildings.

Conclusion

13. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR

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\(^4\) section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

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ART/400234/EN19 - Unauthorised development in respect of various properties in the Stone Article 4 Direction Area and Stone Conservation Area

Report of Head of Development and Head of Law and Administration

Purpose of Report

1. To consider unauthorised development in respect of various properties in the Stone Article 4 Area / Stone Conservation Area undertaken without the benefit of planning permission.

Background and Detail

Background

2. The Stone Article 4 Direction Area (the Article) was designated in 1996 and removed a series of permitted development rights (i.e. those developments that could be undertaken without the need for planning permission). The Article, in part, removed the permitted development rights in respect of alterations to the roof of a dwellinghouse and the replacement of windows and doors.

3. The Stone Conservation Area, which includes the Article area, also requires that certain forms of development requires planning permission under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which includes the installation of a satellite dish that faces onto and is visible from the highway.

Detail

4. A report was received by planning enforcement in respect of a number of alleged breaches of planning control, namely:

   - 38 Tunley Street  Satellite Dish
   - 22 Northesk Street  Satellite Dish
   - 12,16, and 18 Alma Street  Satellite Dish
   - 2 Alma Street  Roof Tiles
   - 3 Alma Street  Front Door

5. The above properties were visited by the Deputy Development Manager on 15 January 2020.
Planning Policy Framework and Material Considerations

The Plan for Stafford 2011-2031

Policies

- N9 Historic Environment

National Guidance

- National Planning Policy Framework
- Planning Practice Guidance

The Alleged Breaches of Planning Control

Number 2 Alma Street

6. With regard to the roof tiles to number 2 Alma Street a report was presented to the Planning Committee on 21 June 2017 (copy appended). The Conservation Officer within the body of the Report was of the view that “The roof to No 2 Alma Street does not look incongruous with the character of the area and detrimental to the street scene.”

7. The Committee accepted the recommendation and resolved that it was not expedient to take enforcement action.

Satellite Dishes and Front Door

8. It is recognised that the satellite dishes and the replacement door have been installed without the benefit of planning permission.

9. The Article 4 Direction has been in place for a significant period of time and during that period there has been the introduction of a number of satellite dishes and replacement doors within the Article 4 area, including Alma Street, Northesk Street, and Tunley Street.

10. It is evident from visiting the identified properties and the Article 4 area that a number of the satellite dishes and replacement doors have been in situ for a significant period of time (ie over 4 years) and are therefore exempt from enforcement action.

11. Whilst, Alma Street at some time had a uniformity of presence (ie unaltered from its original form), that is clearly not the case now. Indeed, it is considered that there may be only 2 doors that are original to the terrace housing of Alma Street and a number of satellite antenna adorn a number of other properties. This pattern is largely repeated in the surrounding streets.
12. Policy N9 of the Plan for Stafford Borough 2011-2031 (the Plan) addresses the Historic Environment and seeks to conserve and protect Conservation Areas. This approach is passive neutral (ie if the development is no worse than currently exists then the proposal in principle is acceptable. This position is also reflected within the National Planning Policy Framework under the section - Conserving and enhancing the historic environment and the Guidance - Historic Environment.

13. Allowing for the nature of the satellite dishes and replacement door, the identified addresses and the existing character of the area that includes replacement doors and satellite dishes, it is considered that the developmental elements lead to less than substantial harm to the designated heritage asset (ie Conservation Area). It is also considered that satellite dishes can be viewed as ‘transient’ as they become technologically redundant their presence will decline.

14. In essence, the satellite dishes and replacement door are reflective of the character and appearance of the area, and therefore their retention does not conflict with the intent of policy N9 of the Plan, or national guidance.

Conclusion

15. In considering whether to pursue enforcement action, where not exempt, regard is had to paragraph 58 of the National Planning Policy Framework, which under the heading of Enforcement states…Enforcement action is discretionary, and local planning authorities should act proportionately in response to suspected breaches of planning control.

16. Whilst the identified properties lie within the Stone Conservation Area and/or the Article 4 Direction Area, it is considered that the changes set out above, having regard to the character of the area are not sufficiently out of character that it would be in the public interest to pursue enforcement action.

Recommendation

17. It is not considered expedient to take enforcement action and it is therefore recommended that no further action is undertaken.

Background Papers

WKS/00350/EN16 - Introduction of new roof tiles to property without permission

Contact Officer

Nicholas Lawrence - Deputy Development Manager - 01785 619732
Ward - St Michael’s and Stonefield

2 Alma Street, Stone

Report of Economic Development and Planning and Head of Law and Administration

Purpose of Report

To consider the introduction of roof tiles to the property of 2 Alma Street a dwelling in the designated Article 4 Area of Stone without the requirement of a planning permission.

1  Background

1.1 A report was received by planning enforcement on 28 October 2016 about new tiles that had been introduced to the roof at 2 Alma Street, Stone, a property in an Article 4 area within Stone Conservation Area.

1.2 A site visit was undertaken on 12 October 2016 to view the roof tiles. The property had been re roofed with new roof tiles.

1.3 A letter was sent to the owner/occupant of 2 Alma Street requesting a meeting and the submission of a planning application for the works undertaken. The owner contacted the planning department on 18th October 2016 asking advice on how to submit a planning application and supporting information required. No planning application was received.

1.4 A site visit was undertaken on 6th December 2016. The new roof tiles still remained in situ.

1.5 No further contact with or correspondence received from the owner.

2  Policies

2.1 The plan for Stafford Borough 2014:- N1 Design, N9 Historic Environment.

2.2 National Planning Policy Framework:- Paragraph 17 - core principles; paragraph 146 - 121 Conserving and enhancing the historic environment; paragraph 207 - enforcement.
3 Consultations

3.1 Conservation Officer - The roof of No. 2 Alma Street does not look incongruous with the character of the area or appear detrimental to the street scene.

4 Conclusion

4.1 In considering whether to pursue enforcement action a local planning authority must act proportionality. Whilst the property is covered by an Article 4 direction, it is considered that the changes to the roof tiles are not sufficiently out of character that it would be in the public interest to pursue further enforcement action.

5 Recommendation

5.1 It is not considered expedient to take enforcement action and it is therefore recommended that no further action be taken.

WKS/00350/EN16 - Introduction of new roof tile to property without consent - under consideration

Contact Officer

Name - Mrs Eiryl McCook - Development Lead - Direct No 01785 619732
ART/400234/EN19
Various properties in the Stone Article 4 Direction Area and Stone Conservation Area