

OPENING SUBMISSIONS OF THE APPELLANT

APPEAL BY NEWETT HOMES

LAND NORTH EAST OF SHEPLEY ROAD, STOCKSMOOR,
HUDDESFIELD, HD4 6XW

S78 TOWN & COUNTRY PLANNING ACT 1990

PLANNING INSPECTORATE REF: APP/Z4718/W/25/3375000

LOCAL AUTHORITY REF: 2024/91242

1 Introduction

- 1.1 This appeal relates to the delegated refusal of an application for planning permission for 50 homes at Shepley Lane, Stocksmoor.
- 1.2 Between the Council and the Appellant there is only one substantive issue and it relates to the effects of the development on Stone Wood Lane, an existing lightly trafficked road that connects Stocksmoor to Shepley.
- 1.3 The second reason for refusal is addressed by the now agreed S106 Agreement.
- 1.4 Some important matters have been agreed between the Appellant and the Council, and it is worth summarising these from the SoCG:
 - 1.4.1 The principle of residential development of the site is accepted subject to the effects on Stone Wood Lane; its safeguarded land allocation is not a basis for refusal¹,
 - 1.4.2 The site is in a sustainable/accessible location and its sustainability/accessibility by different modes of transport is not a basis for refusal²,
 - 1.4.3 The Council does not object to the development due to potential increased delay to vehicular traffic on Stone Wood Lane and this is no part of the Council's refusal of permission³.
 - 1.4.4 Subject to conditions, the Council has no concerns as to the ecological effects of the development or of its effects on ancient woodlands and relevant policies in that respect are complied with⁴,

¹ Statement of Common Ground, 6.2.

² Statement of Common Ground 6.4 – 6.14.

³ Statement of Common Ground 6.16.

⁴ Statement of Common Ground 6.23 – 6.37.

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- 1.4.5 Subject to conditions, there are no matters related to flood risk or drainage that are capable of amounting to reasons for refusal⁵,
- 1.4.6 There is therefore, subject to conditions and the S106, no basis for refusing permission, beyond the contested issue of the development's effects on Stone Wood Lane.

2 Identification of the Site

- 2.1 The Site is safeguarded land in the adopted development plan (Adopted in 2019). It was removed from the Green Belt because it was needed to meet longer term development needs. The rationale and justification was that it would accommodate housing.
- 2.2 The Site was assessed by the Council several times for its suitability through the Examination process always in terms of a capacity of 87 units:
- 2.2.1 In November 2016 it was assessed as suitable, in highways terms to be safeguarded⁶,
- 2.2.2 A similar exercise was carried out in July 2017 - with the same outcome, but greater clarity set out in the methodology of approach. This clarified that sites were looked at by the Council Highways Department undertaking a "*detailed assessment*" of safety and the effects of development on the local road network⁷. The level of scrutiny is confirmed by comments made about the local highways network for other sites - both those that were proposed for allocation and those proposed for safeguarded designation.
- 2.2.3 In response to the Local Plan Inspector, wanting to know that safeguarded sites were deliverable, the Council also produced an assessment in May 2017⁸ which confirmed this site scored green against the criteria of securing an effective and safe transport network. The reason for a question mark as to delivery was third party land. The further highways comment was that there should be "***further consideration of the scale of the development in relation to the local road network***". Nothing was mentioned of the principle of development, only the scale in the context of an 87-unit capacity assumption,
- 2.2.4 In response to the Local Plan Inspector's interim views report, after sections of the Examination hearings had taken place, the Council proposed the removal of some safeguarded sites in May 2018, making specific comments about their effects on highways safety and local road suitability, yet the appeal site remained unaffected⁹,
- 2.2.5 The Examining Inspector's final report¹⁰ then concluded the site should be a safeguarded site, noting the constraint on delivery was third party land, not otherwise,
- 2.2.6 The Plan was then adopted with two housing allocations and two safeguard land designations in Stocksmoor. One of those allocations has now got permission with no suggestion in the decision making process that it would have any harmful effects on Stone Wood Lane.

⁵ Statement of Common Ground 6.38 – 6.43.

⁶ CD 6.14

⁷ CD 6.13

⁸ CD 6.8

⁹ CD 6.10

¹⁰ CD 6.11

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- 2.3 These matters are important context. They define both the Council's corporate view and previous highways department officer's professional views about the appropriateness of more housing in Stocksmoor and should be contrasted with the evidence of Mr Darwin, the officer whose consultation responses led to the delegated refusal in this case.

3 The Housing Situation

- 3.1 The Council has no 5-year housing land supply (4.18 years is claimed) and worse still has a delivery rate of just over half of what it should be (54%). There is, what can only be described as, a chronic and acute housing supply and delivery problem. The Interim Housing Statement was introduced two years ago, and it hasn't been sufficient to address the problem. It advocates the release of safeguarded land for development in principle, and has been operative to that effect, in common with other similar instances (and appeals) around the Country. There can be no question that the so called tilted balance in NPPF 24 at paragraph 11 is engaged and it is common ground that it is not disengaged by any other aspect of the Framework. It concludes that the most important policies for determining this appeal are to be viewed as out of date and that permission should be granted unless the adverse effects of doing so would *significantly and demonstrably* outweigh the benefits. The Council's claimed adverse effects are limited to those in reason for refusal 1, as clarified by the SoCG.

4 The Highways Issues

- 4.1 There is much written in the evidence about Stone Wood Lane. It is rather dense and detailed, but the issues are reasonably straight forward in reality. The Lane is an existing connection between Stocksmoor and Shepley (but not the only one), and whilst it's arrangements (width and forward visibility in particular) are not what would be expected as a new road, it operates now with vehicles, pedestrians, cyclists and horse riders all using it. They travel along the Lane now and pass each other, as regularly as the survey evidence suggests, on a daily basis.
- 4.2 Meanwhile the only empirical metric for safety (recorded personal injury accidents) shows there has not been even one accident in the last 15 years on the relevant section of road. This is significant, despite the Council's protestations, as the NPPG states that one should look over 3 years, or maybe 5 years if the area has been identified as a high accident area (which this has not).
- 4.3 The Council's case amounts to claimed failings of the Lane's forward visibility and width. These are noted but we are not here dealing with the construction of a new road and the reality of operation doesn't bear out the assertions of safety risk that is now claimed by the Council.
- 4.4 The change caused by the development is the key consideration in this case. The NPPF test is whether *there would be an unacceptable impact on highway safety* brought by the development¹¹. This has to be assessed in terms of *reasonable* future scenarios: a range of *realistic* transport scenarios¹². The approach to assessing this should be reasonable and realistic.
- 4.5 The Appellant's evidence is clear that the peak hour traffic from the Appeal development using Stone Wood Lane will be some 7 vehicles (two way) or on average one every 8 ½ minutes. The Council's decision to refuse was based on 19 vehicles (two way). It is now 16 (a reduction of almost 16%). Seven vehicles is 63% less than the Council assumed at the time of refusal. In judging the effects of the development, it will be important not just to understand the Appellant's two independent, but corroborative bases for determining the extra traffic that would likely use the Lane, but also see that in the context of the local residents assessment of 7.6 and 10.6 two way vehicles AM and PM from a smaller survey sample (which is also far less than the Council's assumption at the time of refusal).

¹¹ NPPF December 2024, paragraph 116, page 33.

¹² NPPF December 2024, Glossary, 'Reasonable future scenarios', page 77.

Importantly the evidential basis for the Councils position is important, rather than just the repeated upset at what others have done.

- 4.6 Once the effects of the development on Stone Wood Land are properly understood, the need for and effect of any improvement is a matter to be judged on the evidence. The Council accepts the improvements will cause improvement for all users, but the degree is in dispute.

5 Other Matters

- 5.1 The Rule 6 Party has raised a series of other matters. Whilst it is important to understand them and explore them, in opening the Appellant notes that none are supported by the Local Planning Authority, none by statutory consultees (even the Woodland Trust's call for a 30 m buffer is met fully in respect of the houses) and none are supported by technical or expert evidence.
- 5.2 The Rule 6 party case on matters of ecology, woodland effects, drainage and flooding, amounts to assertion on a range of topic headings without evidence of harm.

Richard Sagar

24.02.26
