



Appeal Decision

Site visit made on 1 February 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 1st April 2016

Appeal Ref: APP/A0665/W/15/3140690

Land at Decoy Farm, Lache Lane, Marlston cum Lache, Chester CH4 9AD

- 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 Country Barns and Homes Ltd against the decision of Cheshire West and Chester Council.
 - The application Ref 15/01429/OUT, dated 7 April 2015, was refused by notice dated 4 November 2015.
 - The development proposed is a mixed use development comprising up to 24 dwellings and 24 associated commercial units with access.
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This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 1 March 2016.

Decision

1. The appeal is allowed, and outline planning permission is granted for a mixed use development comprising up to 24 dwellings and 24 associated commercial units with access, at Land at Decoy Farm, Lache Lane, Marlston cum Lache, Chester CH4 9AD in accordance with the terms of the application, Ref 15/01429/OUT, dated 7 April 2015, subject to the conditions set out in Annex A.

Procedural Matters

2. The application was submitted in outline with access only to be determined at this stage. I have dealt with the appeal on this basis, treating the plans which show the site layout and the appearance of the buildings as indicative.
3. During the application process discussions took place regarding the provision of a footpath/cycle path from the site along Lache Lane to the bus stop, and to the edge of Lache, and plans for this were submitted in the appeal evidence. Both the Council and third parties have had the opportunity to comment on these revised plans as part of the appeal process, and the Council have indicated that they are happy for them to be considered. I therefore consider that no party would be prejudiced by my determining the appeal on the basis of the amended plans.

Main Issues

4. The main issues in the appeal are:
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- Whether the proposal is inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework.
- If so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- If not:
 - whether or not the proposed development would represent a suitable and accessible site for new housing in the light of national and local policies; and
 - The effect of the proposal on the character and appearance of the area

Reasons

Whether inappropriate development

5. The appeal site lies within the Green Belt. It consists of a former farmyard that is now used, in part, for a variety of employment purposes. It includes 6 large agricultural type buildings as well as some smaller buildings, hardstandings and areas used for open storage. Having regard to Policy STRAT 9 of *the Cheshire West and Chester Local Plan (adopted January 2015)* (CWCLP) and the *National Planning Policy Framework* (the Framework), the Council is satisfied that the proposal would not represent inappropriate development within the Green Belt. However a number of third parties have raised concerns regarding the impact of the development on the openness of the Green Belt and whether it is inappropriate development
6. Paragraphs 89 and 90 of the Framework set out the forms of development that are not inappropriate within the Green Belt. The Framework establishes in paragraph 89 that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the limited infilling, or the partial or complete redevelopment of previously developed sites. This is provided that it would not have a greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing development.
7. It has not been disputed by any party that the site forms previously developed land, and from my own observations I would agree with this conclusion.
8. Openness is an essential characteristic of the Green Belt. It can be considered as meaning the absence of built, or otherwise urbanising, development. The proposal would result in the removal of the existing buildings on the site. The undisputed figures provided by the appellant indicate that at present the various buildings have a floorspace of 3,476 sqm and a volume of 14,604 cubic metres. The illustrative plans show a development with the same floorspace and a volume of 12,288 cubic metres. In the light of this I am satisfied that, at reserved matters stage, a scheme could be designed that would have a similar quantum of development to that which is already present on the site. As such, in principle, the proposal would not have any greater impact on openness.
9. The existing buildings are located across the appeal site. The illustrative layout shows the proposed buildings occupying land that is currently either hardstandings or buildings. As such it would not result in any additional

encroachment into the countryside. Nor would it have any impact on the setting of the historic city of Chester. Consequently, I consider that a scheme can be designed that would not harm any of the purposes of including land within the Green Belt as set out in paragraph 80 of the Framework.

10. Therefore, I consider that, in principle, a scheme could be designed that would not constitute inappropriate development within the Green Belt. I shall determine the appeal on this basis.

Whether a suitable and accessible site for housing

11. A core planning principle of the Framework is to focus development in locations which are, or can be made, sustainable. With the aim of promoting sustainable development in rural areas, paragraph 55 directs housing to areas where it will enhance, or maintain, the vitality of rural communities. In general, new residential development is most appropriate in locations where there is access to services, opportunities for employment, and alternative modes of transport than the private car (paragraph 30 and 37).
12. This is also reflected in Policy STRAT 1 of the CWCLP which indicates that new housing should be located where there is good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport. Policy STRAT 9 of the CWCLP seeks to resist new development within the countryside to that which requires a countryside location. In the Green Belt, it indicates additional restrictions will apply to development in line with the Framework, which as outlined above, allows the limited infilling, or the partial or complete redevelopment of previously developed sites. Policy HO 7 of the *Chester District Local Plan (adopted May 2006)* seeks to restrict new dwellings in the open countryside.
13. The appeal site is located around 1 km from the edge of Lache, a suburb of Chester. This has a number of local shops, community facilities including a library, and schools. The site is also close to Chester Business Park which is a major employment site, and Chester itself contains a wide range of services and facilities. Whilst I note the comments regarding the nature of Lache Lane in terms of being suitable for cyclists, it is a designated cycle route. In addition, there is a bus stop within 300m of the site which provides an approximately hourly daytime service, 6 days a week to Chester and Mold.
14. At present there are no pavements or street lights along Lache Lane between the site and the edge of Lache, or from the site to the bus stop. However, a scheme to provide a footpath/cycle way to the bus stop and the edge of the settlement has been proposed as part of the appeal scheme. The Framework acknowledges that opportunities to travel by sustainable means, and to minimise journey lengths, will vary from urban to rural areas. The distances to most of the facilities within Lache are at a distance that many people, and especially those with young children, are more likely to drive. Nevertheless, with the provision of a footpath along the road in either direction, future residents would be provided with opportunities to use a variety of means of transport, and so would not be solely reliant on private car during the daytime at least. In addition, as the scheme is for live/work units, some of the residents may not need to commute to work.
15. As a result, I consider that the proposal would be reasonably well located to services and facilities, and would not be solely reliant on the private car to

access these. As such, it would be a suitable and accessible site for new housing, and so would not conflict with the Framework or STRAT 1 of the CWCLP. Whilst I note that it would not be in conformity with STRAT 9 or HO 7 because it would be in line with national policy on Green Belt, and have adequate accessibility, I consider that, in this instance, these other material considerations outweigh the conflict with some local policies.

Character and appearance

16. The appeal site is located in the open countryside. Apart from the adjacent farmhouse there are no other buildings in the immediate vicinity. Although the existing buildings on the site vary considerably in their size and materials, and are currently used for employment purposes, many are agricultural in nature. Thus they do not appear out of keeping with the rural character of the area. Whilst some of the structures on the site, including a large portakabin, are more urban in nature, these are largely screened from view by the other buildings.
17. The appearance, scale and layout of the development are not to be determined at this stage. The illustrative plans show a mixture of short rows of houses, semi-detached and detached houses and the "work" units being separate units located along the road frontage. The design of the buildings is also shown to reflect the agricultural vernacular. Given the size of the site, I am satisfied that a scheme could be designed in a way that the layout, density and the design of the buildings could be sympathetic to the rural character of the area, and which would reflect the traditional layout of a farmyard.
18. Whilst the existing access to the site would need to be widened to enable it to provide a two way flow of traffic, I consider that this would not be detrimental to the character and appearance of the area.
19. Therefore, I consider that the proposal would not have an unacceptable effect on the character and appearance of the area. Accordingly, it would not be contrary to Policies ENV 2 and ENV 6 of the CWCLP which seek to ensure that developments have a high quality of design that protect the character of the landscape and the local area.

Other matters

20. The Council has stated that they have a 5 year supply of housing land and this has not been disputed by the appellant. However, this is a minimum requirement. The Framework seeks to significantly boost the supply of housing and sets out a presumption in favour of sustainable development, whereby development proposals that accord with the development plan should be approved without delay. Paragraph 7 of the Framework identifies that there are 3 dimensions to sustainable development: economic, social and environmental.
21. The construction of up to 24 live/work units would enhance the economy of the local area by the creation of jobs associated with the construction phase, and the spending by the new residents would also be beneficial to the economy of the area, although the modest scale of the development would limit these contributions. The site is currently used for economic activity, and the live/work nature of the proposal would continue this, albeit in a different way.

- Overall, the proposal would have positive economic benefits, and the scheme is sustainable in terms of the economic dimension.
22. The provision of new housing is a positive feature and the occupiers would help to maintain the vibrancy of local services provided in Lache and the surrounding villages. I have concluded above that the future occupiers would not be totally reliant on the private car to meet their day to day needs. Therefore the proposal would be sustainable in terms of the social dimension.
 23. The Council have indicated that, subject to certain mitigation measures, development of the site would be unlikely to have any impact on protected species. Whilst the landscaping of the site is not to be determined at this stage, I am satisfied that a suitable landscaping scheme could ensure that the proposal would not have a negative impact on wildlife habitats or the environment. In the light of this, and my conclusion above that the scheme would not be detrimental to the character and appearance of the area, I consider the scheme is sustainable in terms of the environmental dimension.
 24. Having considered the economic, social and environmental dimensions of the scheme, I consider that the proposal would be sustainable development. As such the presumption in favour of sustainable development set out in paragraph 14 of the Framework does apply
 25. The council has highlighted the need for a financial contribution as there are insufficient places in the catchment primary school. However, this was not a reason for refusal, and no policy justification for this contribution has been provided. In the absence of this, I am unable to ascertain whether the requirement for a contribution satisfies the tests set out in the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). As such, I give this no weight in my decision making.
 26. Concern has been raised regarding the potential for the development to increase traffic movements and the impact on highway safety. The employment use of the site already generates traffic movement to and from the site. Whilst the development may generate additional traffic movements, the council have indicated that the local highway network would be able to accommodate this. Furthermore, I note that subject to conditions the highway engineer did not have any objections to the scheme. In the light of this, and my own observations on site, I am satisfied that the proposal would not have an unacceptable impact on highway and pedestrian safety in the area. In addition, there are no persuasive reasons to believe that the proposed development would have any detrimental impact on flooding or drainage in the area.
 27. It has been suggested that the appellant may seek to develop other land which they own in the area for housing. Be that as it may, such schemes are not before me at this appeal, and the acceptability of any future housing schemes on other land in the area would have to be considered by the Council, as would any proposal to convert the commercial units into housing at a future date. As such, these matters do not constitute a reason for refusing the application that is before me.

Conclusion

28. To conclude; the development would be in a suitable and accessible site for housing having regard to national and local policies. The proposal would also result in the redevelopment of brownfield land and the provision of new housing. There are no other material considerations that outweigh these matters and so the appeal should be allowed.
29. In addition to the standard implementation and reserved matters conditions, I have imposed a condition specifying the relevant plans as this provides certainty. As the application was made for up to 24 houses and 24 commercial units I consider it is reasonable to condition the maximum number of units that can be built on the site.
30. For reasons of highway safety and to provide adequate access to the site a condition is required to ensure the provision of a footpath on Lache Lane and alterations to the access to the site. A construction management plan is necessary to ensure highway safety is not compromised. In order to ensure the development is live/work units it is necessary to control the occupancy of the units and their provision.
31. In the interests of nature conservation conditions are necessary to ensure the provision of bird and bat boxes and to control vegetation clearance on the site. To protect the living conditions of future occupiers, it is necessary to ensure the remediation of the ponds and slurry pits/lagoons is carried out prior to the dwellings first being occupied. A condition to ensure that details of the play areas is provided at reserved matters stage is necessary to ensure the adequate provision of this on the site.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of three years from the date of this permission, or before the expiration of two 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 plans but only in respect of those matters not reserved for alter approval: Existing Site Plan Drawing No L(80)001 Rev P3; Proposed Site Plan Drawing No L(81)001 Rev P9; Proposed Footways from site Drawing No SCP/15051/F02.
- 5) The development hereby permitted shall be for no more than 24 dwellings and 24 commercial units.
- 6) No development shall take place until a scheme for all works in the highways relating to the provision of footway links from the application site to the bus stop located on Lache Lane to the south of the application site, and to connect the application site to the existing footpath to the north on Lache Lane, and for the works to form the proposed access (including verge reinstatement) has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with approved details before any part of the development hereby approved is first occupied.
- 7) No development shall take place until a construction management plan ('CMP') outlining details of the phasing of the demolition and construction traffic for the development, including temporary highway vehicle and pedestrian routings, times and days of large vehicle movements to/from the site, suitable off-highway parking for all construction related vehicles and vehicle cleansing/wheel washing facilities has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall be adhered to in full during the entire course of the construction of the development.
- 8) The commercial units shall be not be used for any other purpose other than uses within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The commercial units shall only be occupied by businesses run by the occupants of the dwellings on site or their employees and the construction of the commercial units shall be before the occupation of the residential units. The individual dwellings shall each have a commercial unit on the site to be identified on a plan which shall have been

- submitted to, and approved in writing by, the local planning authority prior to the commencement of the development.
- 9) No development shall take place until a scheme of bird and bat boxes has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in full before the first occupation of any part of development.
 - 10) No vegetation clearance or demolition shall be carried out on the site between 1st March and 31st August ('bird breeding season') inclusive, unless the site is subject to a breeding bird survey carried out by a suitably qualified ecologist and the survey, and an appropriate scheme of mitigation is submitted to, and approved in writing by, the local planning authority. Any vegetation clearance which takes place shall then be carried out during the season to which the survey relates only, and the development shall be carried out wholly in accordance with the agreed scheme of mitigation. Further surveys, and mitigation measures, shall be submitted to the local planning authority for approval, for any vegetation removal carried out in subsequent bird breeding seasons, and the development shall be carried out in accordance with the agreed mitigation.
 - 11) No development shall take place until a scheme for the remediation of the ponds, slurry pits and slurry lagoon shown on Drawing No L(81)001 Rev P9 are submitted to, and approved in writing by, the local planning authority. The measures outlined in the scheme shall be carried out in full and in accordance with a timetable that has been agreed in writing by the local planning authority prior to the first occupation of any part of the development.
 - 12) The landscaping and layout reserved matters to be submitted pursuant to the requirements of condition 1 above, shall include details of a scheme, including a programme for implementation, for the provision of equipped and informal play areas, and informal amenity open space. Development shall be carried out in accordance with the approved details in accordance with a timetable agreed in writing with the local planning authority.