



Appeal Decision

Inquiry held on 25 May 2011

Site visit made on 25 May 2011

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 1 August 2011

Appeal Ref: APP/R0660/A/11/2145229

Elworth Hall Farm, Dean Close, Sandbach, Cheshire CW11 1YG

- 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 Bell Developments Limited against the decision of Cheshire East Council.
 - The application Ref 10/2006C, dated 25 May 2010, was refused by notice dated 22 December 2010.
 - The development proposed is the demolition of the existing buildings and the redevelopment of the site with 25 dwellings and associated works.
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Procedural matters

1. The application form states that 26 houses are proposed, but the scheme before me is only for 25. Furthermore, although it was also intended to demolish the farmhouse that was not present at the time of my visit. I have therefore amended the description accordingly.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of the existing buildings and the redevelopment of the site with 25 dwellings and associated works at Elworth Hall Farm, Dean Close, Sandbach, Cheshire CW11 1YG in accordance with the terms of the application, Ref 10/2006C, dated 25 May 2010, subject to the conditions in the Conditions Schedule below.

Main Issues

3. The main issues in this case are
 - a) whether housing on the site of the former farmhouse and its garden is acceptable in principle and
 - b) the effect of the proposal on the character and appearance of the countryside,and, if any conflict with the development plan would occur in relation to the above issues,
 - c) whether material considerations indicate that the proposal should be determined otherwise than in accordance with the development plan.

Reasons

4. The appeal site is on the edge of Sandbach, with open land to the north and east and modern housing to the south and west.
5. On about half of the site there used to be a farmhouse and its garden. This area is in the Settlement Zone Line (SZL) for Sandbach and was accessed off Dean Close. The remainder of the site is outside the SZL in what is identified as open countryside, and it was occupied by steel-framed and brick agricultural buildings along with associated hardstandings. Access to that area was taken from a short modern residential cul-de-sac called Wrenmere Close. The brick agricultural buildings are the only structures now remaining on the land.
6. In February 2011 planning permission was granted to demolish the steel-framed buildings and the farmhouse, erect 11 new dwellings and convert the brick buildings to a further 7 units (the previous permission). The 11 dwellings would be sited entirely within the SZL but, while 4 of them would be accessed off Dean Close, the remainder would require an access road to run outside the SZL to Wrenmere Close. The dwellings in the former brick buildings would also use that cul-de-sac for access. I was told this permission has not yet been implemented though I noted the farmhouse had been demolished.
7. Eleven of the 25 houses now proposed would be identical in siting, design and layout to the 11 new dwellings approved under the previous permission. The remaining 14 houses would be built outside the SZL following the demolition of the existing brick buildings. Again 4 properties would be accessed off Dean Close and the remainder would be approached from Wrenmere Close.

Issue a) The principle of housing in the curtilage of the former farmhouse

8. Under the definitions in Planning Policy Statement 3 *Housing* (PPS3) the garden of the former farmhouse is not previously-developed land. However, PPS3 does not restrict new development solely to such land. The site is close to services and facilities, and its importance as an open space is limited as it has no public access and is substantially concealed from public view. The Council has raised no concerns about the effect of developing this portion of the site on the take-up of previously-developed land elsewhere. I am also mindful that what is now proposed is identical to the extant permission granted 6 months ago. Therefore I consider the principle of housing in the curtilage of the former farmhouse to be acceptable, as it would not be contrary to PPS3 and I am not aware of any conflict that would occur with local policy.

Issue b) The effect on the character and appearance of the countryside

9. As the part of the proposal within the SZL is of a layout and design that has already been permitted, I consider the impact of this element on the surrounding countryside would not offer a basis to resist the scheme.
10. Turning to the portion that would lie outside the SZL, national policy in Planning Policy Statement 4 *Planning for Sustainable Economic Growth* (PPS4) says that the countryside should be protected for the sake of its intrinsic character and beauty. Similarly Planning Policy Statement 7 *Sustainable Development in Rural Areas* (PPS7) requires the quality and character of the wider countryside to be protected. At a local level, Policies PS8 and H6 in the *Congleton Borough Local Plan* identify the type of new development that will be permitted in the open countryside, none of which comprise what is before me.

11. In my opinion the 14 dwellings proposed outside the SZL would represent a suburban encroachment into the open countryside that would detract harmfully from its rural character.
12. While this site was previously occupied by a farm complex that has now been removed and, in any event, I consider agricultural buildings, even if they have an industrial appearance, are not necessarily unsuited to the countryside. Moreover, while residential development in the existing buildings has been accepted on this land, conversions are addressed under a different policy regime and can be acceptable in the open countryside in certain circumstances. To my mind that conversion would be more sympathetic to the surrounding landscape than the scheme before me, as the overall amount of development would not be as significant and I anticipate the original rural nature of the buildings would still be apparent. Consequently, when compared to the approved conversions this proposal would have a greater impact. Furthermore, it was not demonstrated that the previous permission could not be implemented, and so an alternative proposal is available for this land.
13. The site is at the edge of the open countryside and is well related to the settlement with housing on 2 sides. However those facts alone do not justify new dwellings here as such an approach could be applied to many sites and would lead to the cumulative erosion of the countryside over time. While the effect on the countryside would be relatively localised, there is nothing in national or local policy that accepts housing in such a circumstance. The northern boundary would be landscaped and important trees would be retained, but these would not overcome this concern, as an area of countryside would still be lost and the new houses would not be concealed.
14. It is accepted though that the designs and density of the houses on the portion outside the SZL adequately reflect that of the dwellings approved inside the SZL under the previous permission. They also respect the general pattern of housing on adjacent roads.
15. Accordingly, I conclude that the proposal would detract unacceptably from the character and appearance of the surrounding open countryside, in conflict with Policies PS8 and H6 in the Local Plan and national policy in PPS4 and PPS7.

Issue c) Other material considerations

Housing land supply

16. PPS3 states that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable housing sites, housing applications should be considered favourably. Such consideration should have regard to various factors. One of these is the suitability of the site and another is whether the proposal reflects the need for housing in, and the spatial vision for, the area.
17. The Council accepted that across the Borough there was not a demonstrable 5 year supply of deliverable sites for housing. While the parties differed on the precise scale of the shortfall, it was accepted it was sufficiently great to be an important consideration in the light of PPS3.
18. Although the Local Development Framework (LDF) would address this, its preparation was at an early stage and it was not expected to be adopted until 2013/14. To provide a basis for determining proposals in the meantime, in early 2011 the Council adopted *Interim Planning Policy: Release of Housing Land (IPP)*. This broadly said that, when a shortfall is identified, residential

development will be allowed on greenfield sites around Crewe under certain circumstances, as well as in mixed developments in town centres and regeneration areas. It stipulated that any sites accepted under the IPP needed to be developed within 5 years. The Council maintained that such an approach reflected regional policy of focussing on Crewe and it also ensured the consideration of the various options for the distribution of growth in the emerging LDF was not prejudiced.

19. As part of its evidence base in the preparation of the LDF in November 2010 the Council adopted a *Strategic Housing Land Availability Assessment* (SHLAA). The SHLAA identified the appeal site as suitable, available, achievable and deliverable for housing within 1 to 5 years.
20. In the appeal submissions the Council accepted that this site was available for development and the works could commence imminently. However, it contended that, despite the shortfall in housing land, it was not a suitable site under the terms of PPS3 for 2 reasons. The first was that it was contrary to the IPP and associated policy with its focus of housing on Crewe. The second reason was that Sandbach is not an appropriate place for new housing due to its relatively few facilities and the number of houses that have already been granted permission there. While it was acknowledged that schools and basic shops were nearby, the limited opportunities offered in Sandbach means this development would exacerbate outward flows to larger towns for jobs, shopping and so on.
21. Responding to the Council's case, firstly in an overview, I note this concern was not, in itself, a specific reason for refusing the application. Rather, this matter was raised by the Council in its decision as why the adverse effect on the countryside could not be put aside in the light of the housing situation.
22. Furthermore, the approach adopted by the Council in this appeal is contrary to that of the SHLAA. By identifying this land as capable of accommodating 33 dwellings I consider the SHLAA was clearly envisaging development on the portion outside the SZL. If that had not been the intention, it would have been reasonable to expect the site in the SHLAA to be smaller, and it would have been requiring development at a much greater density than is found around. Moreover, as it does not refer to an element of conversion it can be assumed it envisaged all the houses to be new-build. In my opinion the SHLAA therefore saw the entire site as being suitable for housing.
23. I appreciate that the SHLAA does not identify the open countryside allocation that applies to half of the site but rather says it is urban land in the SZL. Furthermore, while it is correct for the SHLAA to define the site as a mix of greenfield and brownfield land to my mind this does not reflect the fact that about only 2% of its total area is previously-developed land. Despite these points though the Council confirmed the SHLAA had been prepared under a robust methodology and should be afforded significant weight. Based on the evidence before me it appears to have been compiled in accordance with nationally recognised good practice and has been accepted by the Council, presumably after proper consideration and with due regard to the direction of its policy. Consequently, I have no basis to put aside its overall findings that this is a suitable site for housing.
24. Turning now to the detail of the Council's arguments, the local plan does not currently focus development on Crewe. That though is not surprising as, when it was adopted, Crewe was not in the same local authority. There is an

encouragement for development in Crewe in the *North West of England Plan Regional Spatial Strategy to 2021* (RSS) but that does not prohibit development at centres that are lower in the settlement hierarchy. Moreover, the various LDF options for the spatial distribution of growth do not exclude housing away from Crewe – indeed in each case Crewe would take only about 37% of all growth. I appreciate that various other policy documents issued by the Council support the promotion of Crewe. However, to my mind the way in which the IPP exclusively focuses development on that town (with the exception of town centre schemes and regeneration areas) does not reflect the spatial vision in either the RSS or the emerging LDF. This means I can only afford it limited weight. Moreover, the Council referred to 2 proposals on the edge of Crewe that are intended to relieve much of the shortfall. One though had not been received at the time of the Inquiry and, given their size and their possible infrastructure issues, I had insufficient evidence to be confident these schemes would be developed in time to address the shortfall in housing.

25. With regard to the principle of development round Sandbach, this is a relatively sustainable site close to public transport, schools, and supermarkets. However, assessing sustainability can go beyond such matters and also relate to the sustainability of the site in a wider context by affecting what the Council termed a town's 'self-containment'. In this case though, apart from data about employment little information was submitted to indicate that services in the town were inadequate for further growth. Indeed it is inevitable that a town of this size will not be entirely self-contained with regard to shopping, business and so on, but that should not necessarily stand in the way of new development. To my mind it has not been shown that the inadequacy of facilities in Sandbach would be sufficient to render this proposal unsustainable in this wider context.
26. The Council's concerns have not prevented housing to be permitted there over the years or for it to be identified for some growth. The Council said the amount of housing had already exceeded the proportion given in Local Plan Policy H2. However, it accepted elsewhere a departure from the development plan must now occur because of the shortfall in housing land and the Government Office advised that a borough-wide approach should be taken in relation to the requirement for housing¹. Any conflict with the figures in Policy H2 is therefore not decisive. It was also noted that much of the approved development round Sandbach was in outline form only and on previously-developed land. Consequently there is again uncertainty as to how much of this could be delivered within the necessary timetables.
27. Accordingly, given the shortfall in available housing land and the advice in PPS3 I conclude that insufficient evidence has been submitted by the Council to indicate that this would not be a suitable site for the 7 additional dwellings that this scheme would provide over-and-above the 18 subject of the previous permission.

Affordable housing

28. Eight units in this proposal (32% of the scheme) would be affordable housing, comprising a mix of types. A Unilateral Undertaking was submitted to ensure this and I have afforded significant weight to that document.

¹ Letter from Government Office for the North West to Stuart Penny of Cheshire County Council dated 27 October 2008.

29. Under the previous permission, no affordable housing was to be provided because of viability issues. However, in that respect the proposal was not contrary to policy and, for the reasons stated above, it had greater regard to the character and appearance of the countryside. In this case the affordable housing is a benefit, albeit one that is in accordance with the Council's normal requirement. However, this accommodation does not fall under the circumstances in Policy H14 of the Local Plan when affordable accommodation can be accepted in the open countryside. Therefore, in itself, it cannot outweigh the harm identified under Issue (b).

Effect on neighbouring living conditions

30. While a farmstead may not be the most compatible neighbouring use for houses, this has now been removed and there was no evidence to show it would return. Moreover, many farmsteads are close to housing, and so again allowing the scheme on this basis could result in incremental harm to the countryside. The weight attached to this point is therefore not significant.

Conclusions on the main issues

31. I have reached the view that the proposal would harm the countryside in conflict with the Local Plan. However, the Council did not have a demonstrable 5 year supply of deliverable sites for housing. Given this, I have also concluded that, on the evidence before me, it has not been shown that this would not be a suitable site for new dwellings. In my opinion the weight to be afforded to this material consideration indicates that the proposal should be determined otherwise than in accordance with the development plan. For this reason, and subject to the conditions below, the appeal should therefore be allowed.

32. While the Council has expressed a concern that such findings could act as a precedent across the Borough, a decisive part of my reasoning was the site being identified as suitable in the SHLAA.

Other matters

33. Having regard to the previous permission the additional traffic associated with this scheme would not be sufficient to affect highway safety on Wrenmere Close or the other roads in the area to any material degree.

34. The interface distances proposed and the arrangement of the properties mean the development would not unreasonably affect the privacy, outlook or daylight enjoyed by the neighbouring residents. Again the traffic would not be great enough to harm the character of the surrounding roads. While there could well be some disruption during the construction period, that does not justify dismissing the appeal.

35. Matters such as contamination, drainage and the effects on wildlife could be adequately addressed by conditions so as to safeguard the environment.

36. I have also taken into account the *Draft National Planning Policy Framework*, but this document is still in draft form and subject to change and so I have accorded its policies little weight. Notwithstanding that point, I see little in its contents to lead me to a different decision.

Conditions

37. In the interests of the character and appearance of the area the external materials, the levels, the landscaping, the tree protection and the boundary

treatments should be agreed, and where necessary retained. Lighting to public areas should also be agreed for this reason, though to impose such controls on lighting within individual curtilages would be unduly onerous.

38. Other than in the vicinity of existing planting to be retained, there is no need to agree road construction. However, to protect highway safety the roads should be provided to base course before any dwelling is occupied and should be completed before the final house is occupied. On-site parking should also be provided and retained.
39. A drainage scheme should be approved so as to protect the water environment and suitable measures should be taken to safeguard the habitats of any wildlife that may be present. Given the requirements of other legislation I am not satisfied though that a condition concerning a detailed survey of nesting birds is necessary if the work is to commence between March and August. Contamination should also be addressed, though I see no reason for the condition to require explicitly the submission of validation reports. Such matters could be agreed as part of the overall contamination scheme and it is for the Appellant to address contamination in any event.
40. The development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. Moreover, no elevational details of the detached garages were included in the submissions, and so they too should be required by condition.
41. Noise from construction times and piling are covered by other legislation and so such conditions would be unnecessary in this instance. There is adequate room in the curtilages for refuse storage.

Conclusions

42. Having taken into account the views of local residents and other interested parties in reaching this decision, for the reasons given above the appeal should be allowed.

J P Sargent

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise modified under the conditions below, the development hereby permitted shall be carried out in accordance with approved drawings: R049/1.1, R049/100, R049/102, R049/106, R049/107, R049/108 Palermo (Alt) Planning Drawing, R049/108 Newburgh Planning Drawing, R049/109, R049/110, R049/111 and 840/01.
- 3) No development shall take place until elevational details of all the detached garages on the submitted drawings have been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of the finished floor levels for the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved levels.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include details of all boundary treatments and a programme of planting, seeding and turfing. It shall also include details of the trees and hedges adjacent to the site and trees and hedges on the site that are to be retained (collectively referred to hereafter as the retained planting) and how the retained planting is to be protected during and after the course of development. The details of tree and hedge protection shall include the fencing and practices that are to be employed, the lines of any drainage runs, service runs or similar that are to pass through the root protection zones of the retained planting, and the means of forming any areas of hardstanding within the root protection zones of the retained planting.
- 7) All planting, seeding or turfing in the approved details of landscaping shall be carried out in accordance with the programme approved by the local planning authority; and any trees or plants (including the retained planting) which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) The measures and practices approved under Condition 6 to protect the retained planting shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. In any root protection zone for the retained planting all services, drains and similar shall be laid

solely along the approved runs and any hardstandings shall be constructed in the approved manner.

- 9) The boundary treatments around each property shall be provided in accordance with the approved details before that property is first occupied.
- 10) No development shall take place until details of the surfacing for the access road and shared surfaces have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the access road and shared accesses have been laid out to base course level in accordance with the approved drawings, and the 25th dwelling shall not be occupied until the access road and shared surfaces have been surfaced in the approved manner.
- 11) No dwelling shall be occupied until the parking provision in its curtilage shown on the approved drawings has been provided, and that provision shall thereafter be retained.
- 12) No development shall take place until a drainage scheme for the site, together with a timetable for its implementation, has been submitted to and approved in writing by the local planning authority, and the development shall then be carried out in accordance with the approved drainage scheme and timetable.
- 13) No development shall take place until details of the means of accommodating any breeding birds and roosting bats have been submitted to and approved in writing by the local planning authority. Any of these features to be installed on houses shall be installed before that house is first occupied and shall thereafter be retained while any features to be installed elsewhere other than on houses shall be installed prior to the first occupation of any dwelling, and shall thereafter be retained.
- 14) No development shall take place until details of external lighting to the access road and shared surfaces has been submitted to and approved in writing by the local planning authority, and any external lighting to the access road and shared surface shall be in accordance with the approved details.
- 15) No development shall take place until details have been submitted to and approved in writing by the local planning authority of an investigation of the nature and extent of any contamination on the site, together with any measures for its remediation and a timetable for such remediation to take place. The development shall be undertaken in accordance with the approved measures and the approved timetable.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter	Counsel instructed by the Solicitor for Cheshire East Council
He called	
Mr B Haywood	Principal Planning Officer with the Local Planning Authority

FOR THE APPELLANT:

Mr H Wolton QC	Counsel instructed by JASP Planning Consultancy
He called	
Mr S Pemberton	Agent

DOCUMENTS SUBMITTED AT OR AFTER THE INQUIRY

- 1 Statement of Common Ground (dated April 2011 and signed by the parties on 25 May 2011)
Submitted by the Local Planning Authority
- 2 Letter of notification of the appeal
- 3 Map showing the extent of greenfield land and brownfield land on the site
- 4 Table headed *Years 1 to 5 Housing land – former Congleton Borough by sub area (without appeal site)*
- 5 Table (untitled) listing sites subject of planning applications and permissions for housing in the Sandbach area
- 6 Policies MCR3 and MCR 4, together with extract map, from *The North West of England Plan Regional Spatial Strategy to 2021*
- 7 Extract from the glossary of the *Core Strategy Issues and Options Consultation Paper*
- 8 Extract from Supplementary Planning Document *Affordable Housing and Mixed Communities*
- 9 D&G Bus SB1, SB2, SB3 Bus Services Sandbach Circulars
- 10 The Sandbach UDC (Vicarage Lane / Elworth Hall) Tree Preservation Order 1969
- 11 E-mail from Sheila Dillon to the Planning Inspectorate (dated 29 June 2011)
- 12 E-mail from Ben Haywood to the Planning Inspectorate (dated 4 July 2011)
Submitted by the Appellant
- 13 Summary Proof of Evidence for Mr Pemberton
- 14 Unsigned and undated Unilateral Undertaking
- 15 Signed and dated Unilateral Undertaking (dated 17 June 2011) together with accompanying letter from Mr Pemberton to the Planning Inspectorate (dated 21 June 2011)
- 16 E-mail from Simon Pemberton to the Planning Inspectorate (dated 28 June 2011)