



Appeal Decision

Hearing held on 30 April and 18 December 2013

Site visit made on 18 December 2013

by B.S.Rogers BA(Hons), DipTP, MRTPI

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

Decision date: 5 February 2014

Appeal Ref: APP/R0660/A/13/2190651

Land adjacent to no.4 Audlem Road, Hankelow, CW3 0JA

- 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 Mr Chris Kidd against the decision of Cheshire East Council.
- The application Ref: 12/2309N, dated 11 June 2012, was refused by notice dated 11 September 2012.
- The development proposed is a residential proposal comprising 10 no. two-storey residential units in total broadly, 8 no.semi-detached dwellings, circa 160 square metres with integral garages and 2 no.detached dwellings, circa 185 square metres with detached garages.

Summary of Decision: The appeal is allowed and planning permission is granted, subject to conditions.

Application for costs

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural matters

2. The Council accepted in September 2012, in its first reason for refusal, that it could not demonstrate a 5 year supply of housing land. However, in its subsequent hearing statement of February 2013, it claimed to have more than 7 years' supply, based on an emerging Strategic Housing Land Availability Assessment. The appellant confirmed that it formed an important part of his case that the Council did not have a 5 year supply of housing land. As this is a significant consideration in the light of paras.14 & 49 of the National Planning Policy Framework (NPPF), and as the parties had not had the opportunity of exchanging evidence on this matter, I decided that it was necessary to adjourn the hearing. Prior to the resumption of the hearing, the question of the 5 year supply of housing land was considered at a number of other appeals in the District. As a result of those appeal decisions, the Council conceded at the hearing that it did not have a 5 year supply of deliverable housing land. Therefore, there was no need to examine this issue at the resumed hearing.
3. On the first day of the hearing, the Council withdrew its reason for refusal relating to the lack of details on the drawing showing the proposed access. It now accepts that its concerns can be addressed by way of a planning condition.
4. With the agreement of both parties, I carried out my site inspection unaccompanied.

The application

5. The application is in outline with all matters except access reserved for later consideration. The appellant confirmed that any additional details shown on the submitted plans were to be treated as indicative only. At the hearing, and with the agreement of the Council, the appellant amended the description of the proposed development to "erection of 10 dwellings". As a result, the matters relating to car parking and overshadowing/overlooking of neighbouring dwellings are no longer relevant at this stage; they could be addressed at reserved matters stage.
6. It was confirmed that the drawings submitted to, and determined by, the Council were those numbered AP001, AP002, AP003 and AP004. Drawing AP004 Rev.1 was not part of the application but had been the subject of subsequent discussions with the highway authority.

Main Issue

7. The main issue is the impact of the development on the open countryside, having regard to its sustainability, the Council's housing strategy and the supply of housing in the area.

Reasons

8. The Regional Strategy for the North West (RSS) was revoked in May 2013, shortly after the hearing opened. Although time expired in terms of a number of matters, including housing numbers, the Council confirmed that the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP) remained the development plan. A number of relevant policies had been saved. The emerging Core Strategy is at an early stage, having just completed a period of public consultation and is presently of little weight.
9. Para.14 of the NPPF indicates that, where relevant policies of the development plan are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Para.49 indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. The Council cannot demonstrate a five-year supply of deliverable housing sites. The appeal proposal would make a modest contribution towards this shortfall, with the indication is that it is readily developable.
10. The appeal site lies within the village of Hankelow. However, it is outside the settlement boundary defined in the LP, and saved Policy NE.2 indicates that it is to be treated in policy terms as lying within open countryside. The purpose of Policy NE.2 appears to be in part strategic, to direct development to appropriate locations, and in part to protect the countryside for its own sake. It therefore has a bearing on housing land supply and I have treated it as time expired for that purpose.
11. In the Council's Development Strategy which was emerging in April 2013 but has now been superseded, Hankelow was considered to be a 'sustainable village'. This category no longer appears in the presently emerging Core Strategy and it is now regarded as one of the 'other settlements', which are cumulatively expected to accommodate 2,000 new homes. On this basis, the proposed development of this modestly sized site would not appear to be out of

scale with the village and nor would it conflict seriously with the Council's emerging general locational strategy.

12. The appeal site is an undeveloped field fronting Audlem Road, with housing on either side and across the road. It is of modest visual appeal and, rather than having the character of open countryside, it appears as a substantial gap in an otherwise significantly built up frontage to the north-west side of Audlem Road. Nevertheless, the site contributes to the setting of the northern fringe to the village. Assuming satisfactory layout, scale, appearance and landscaping at reserved matters stage, any adverse environmental impact arising from the proposal would to my mind be moderate.
13. Para.7 of the NPPF indicates that, in addition to the environmental impact, economic and social impacts are components of sustainable development. In economic terms, the development would bring the short term advantages of jobs and, in the longer term, would enhance the viability of local businesses. The development would also bring social benefits in terms of supporting local facilities and in the provision of social housing. The Council has identified a serious shortage of affordable housing in the Audlem area. Saved Policies RES.5 and RES.8, together with the Council's adopted Draft Interim Policy Statement on Affordable Housing would indicate a requirement for some 30% affordable housing on a rural site such as this. The provision of affordable housing is a significant benefit of the proposal and is a matter that can be controlled by way of a planning condition.
14. The Council has used the North West Sustainability Checklist as a guide to assessing accessibility, albeit that this relates to policies in the now defunct RSS. Nevertheless, this gives a number of useful guidelines, many of which are met. The village has a pub, a church, a village green and a post box and there is a golf club close to the appeal site open to both members and non-members. However, the village has no shop or school. Audlem, which has a greater range of facilities, is only a short distance away. The appeal site has good access to 2 bus routes, which serve a number of local destinations. There are footways on both sides of the road linking the site to the village centre and other public rights of way close by. Audlem Road here forms part of the national cycle network. Therefore, whilst the use of the car is likely to predominate, there are viable alternative modes of transport. In locational terms, the appeal site appears to me to be reasonably accessible for a rural settlement.
15. When the 3 strands of sustainability set out in para.7 of the NPPF are taken into account, together with its accessibility, I form the view that Hankelow is a suitable type of settlement for a modest amount of new housing development and that the appeal proposal should be regarded as a sustainable form of development.
16. The Council submitted an appeal decision in which a proposal for a dwelling in the nearby village of Poole was considered an unsustainable form of development contrary to Policy NE.2 (Ref: APP/R0660/A/13/2198497). However, Poole appears to me of a different character and far less accessible than Hankelow.
17. Where regard is had to the development plan for the purpose of determining an application, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The NPPF is such a

consideration, at the heart of which is a presumption in favour of sustainable development. Whilst I have identified conflict with LP Policy NE.2, I consider this policy to be out of date in terms of its effect on housing land supply. In any event, the modest environmental harm arising from that conflict is outweighed here by the economic and social benefits, primarily the contribution to the shortage of housing land in the district and to the shortage of affordable housing in this local area. Having come to the view that this is a reasonably sustainable location for a rural area, and that the development would not seriously conflict with the emerging housing strategy, the benefits of the proposal outweigh any harm to the aims of the development plan.

18. I have taken account of all other matters raised but have found nothing to alter my conclusion that the appeal should succeed.

Conditions

19. The Council produced a draft list of conditions. It is not necessary to stipulate parking provision at this stage as it can be dealt with at reserved matters stage, when considering the layout. I see no justification for removing permitted development rights prior to seeing any indication of the proposed layout. There appears to be a need identified for further investigation of contamination. Control over hours of working is needed to protect the living conditions of neighbouring residents and details of fenestration/ventilation to protect the living conditions of future residents. As stated above, the provision of affordable housing is an important consideration helping to outweigh the conflict with the development plan and is a significant factor in the success of this appeal.

Formal Decision

20. The appeal is allowed and outline planning permission is granted for the erection of 10 dwellings on land adjacent to 4 Audlem Road, Hankelow, CW3 0JA in accordance with the terms of the application, Ref: 12/2309N, dated 11 June 2012, and the plans submitted with it, subject to the following 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 not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) Prior to the development commencing:
 - (a) a Phase II contamination investigation shall be carried out and the results submitted to and approved in writing by the Local Planning Authority (LPA);
 - (b) if the Phase II investigations indicate that remediation is necessary, a Remediation Statement shall be submitted to and approved in writing by the LPA. The remediation scheme in the approved Remediation Statement shall then be carried out;

- (c) if remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.
- 5) The construction of the development (and associated deliveries to the site) shall not take place outside the following hours: Mondays to Fridays: 0800 to 1800; Saturdays: 0900 to 1400. There shall be no work on Sundays or public holidays.
- 6) A detailed specification of glazing and ventilation to be installed within the dwellings in line with the noise mitigation report 7481-NEA-01 received by the Local Planning Authority on 24 August 2012 shall be submitted with the reserved matters application. The development shall not be carried out other than in accordance with the approved details.
- 7) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing set out in the Glossary to the National Planning Policy Framework. The scheme shall include:
- i) the numbers, type and location on the site of the affordable housing provision which shall consist of not less than 30% of the dwellings. The tenure shall be split 65% social rented or affordable rented and 35% intermediate and the dwellings shall be 'pepper-potted' across the site;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing. No more than 80% of the open market dwellings shall be occupied before the affordable housing is completed and available for occupation;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 8) Notwithstanding the approved plans submitted with the application, a further amended plan shall be submitted to and approved in writing by the Local Planning Authority, within the reserved matters application, showing a reduced access point of no more than 4.8m wide and tracked to determine a necessary kerb radii dimension to support the required turning movements at the junction. The access shall be constructed in accordance with the amended scheme.

B.S. Rogers

Inspector

Appearances

For the appellant:

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| Mr R.Holmes | - | Planning Law & Environment Advisory Service |
| Mr P.Blair | - | SBA Transport Planning |
| Mr C.Kidd | - | The appellant |
| Mrs R.Kidd | - | The appellant's wife |

For the Council:

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| Mrs G.Horton | - | Cheshire East Council |
| Ms J.Dutton | - | Cheshire East Council |
| Ms S.Orrell | - | Cheshire East Council |

Interested persons:

- | | | |
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| Mr M.Twigg | - | Gladman Developments |
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Documents

- Doc.1 – Attendance lists for both days
- Doc.2 – Letters of notification of hearing for both days
- Doc.3 – Extract from Council's Pre-Submission Core Strategy – Nov 2013.
- Doc.4 - Copy of appeal decision APP/R0660/A/13/2198497.
- Doc.5 – Copy of letter from Hankelow Parish Councillor