



Appeal Decision

Site visit made on 18 March 2014

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 19 May 2014

Appeal Ref: APP/A0665/A/13/2205515

Land to the west of Whitchurch Road (A41) and south of Chapel Lane, Handley, Tattenhall, Chester (Easting 03460406, Northing 03587311)

- 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 Marbury Properties (Chester) LLP against the decision of Cheshire West & Chester Council.
 - The application Ref 13/01241/OUT, dated 20 March 2013, was refused by notice dated 5 June 2013.
 - The development proposed is 65 residential dwellings with access, a new village hall / community facility, new rural ambulance station and associated parking and public open space and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site. A section 106 agreement has also been submitted which I have taken into account.

Main Issues

3. The main issues in this appeal are;
 - whether the proposed development would be in accordance with the development plan for the area;
 - the effect of the proposed development on the character and appearance of the area; and,
 - whether the proposal would be a sustainable development.

Reasons

Development plan

4. The development plan consists of the Chester District Local Plan (adopted in 2006). Consultation on the Publication Draft Local Plan (PDLP) has finished. However, it has not yet been subject to examination. I attach therefore only limited weight to the PDLP and its policies. The National Planning Policy

Framework and Planning Practice Guidance issued on 6 March 2014 are material considerations. I have taken both into account.

5. The appeal site is located within the small settlement of Milton Green. It consists of a former depot and a field that separates the south eastern side of the depot from the A41 road. Policy HO5 of the Local Plan supports, subject to certain criteria being met, proposals for residential development on unallocated sites within the built-up envelope of villages. For planning policy purposes open countryside lies beyond the edge of the existing built form of the settlement. Policy HO7 of the Local Plan only supports new housing in the open countryside that is essential for a rural worker engaged in agriculture, forestry or other rural enterprise.
6. The settlement boundary for the village is not defined. The A41 passes through the middle of Milton Green. On the western side of the village the depot site and neighbouring development along Chapel Lane form the settlement's southern edge to the built up envelope of the village. As a consequence, the proposed housing development on the depot part of the appeal site would comply with policy HO5. The field which forms part of appeal site lies on the southern side of this boundary.
7. On the opposite side of the road to the field is an isolated line of houses that projects southwards away from the compact consolidated core of the settlement. I acknowledge that a recent planning permission (ref 3/00826/OUT), if implemented, will link this ribbon of development to the rest of the village. However, in my assessment even if this occurs it will remain an isolated finger of development outside the built up envelope of the settlement.
8. I recognise that the Council decided that planning permission ref 3/00826/OUT and a permission to its north (ref 13/00011/OUT) formed a cluster of development within the natural envelope of the village. Nevertheless, each application is decided on its merits. The appeal site is far larger than either of these two sites and extends further away from the centre of the settlement. For these reasons it is not directly comparable to them.
9. Taking all these matters into account, I therefore find that the field which forms a large part of the appeal site is within the open countryside. The proposed development would therefore be contrary to policy HO7 of the Local Plan.

Character and appearance

10. A core principle in paragraph 17 of the Framework is that the intrinsic character and beauty of the countryside should be recognised in both plan making and decision taking. The approach of the Local Plan to confine new housing, other than in certain specified instances, to within the built up areas of settlements is consistent with this approach.
11. Milton Green is a small settlement located within a gently undulating landscape of hedged fields. On the approach from the north along the A41 existing development screens the appeal site from view. On the approach from the south, along the A41, the road gently rises. In visual terms Tickeridge House on the left and Rose Cottage at the start of a row of houses on the right marks the first development associated with the village. The appeal site is located immediately beyond Tickeridge House with depot buildings and neighbouring houses acting as a backdrop to the field which forms part of the appeal site.

The openness of the field is apparent above the hedge along the boundary with the road. The public right of way along the southern edge of the appeal site provides good views of the field and the several tall mature trees protected by a tree preservation order that it contains. The field in terms of the landscape and the setting of the village therefore has significant value.

12. In response to an earlier scheme that was refused permission, an indicative site layout in this scheme shows how the protected trees could be retained and a significant part of the green field kept as public open space. Be that as it may, the introduction of the access road, houses and other built development onto the green field part of the site would urbanise a significant part of the field. I recognise that the appellant is not tied to this layout. However, on the basis of the information provided I am not satisfied that the proposed development could occur without a noteworthy proportion of built development taking place on the field. The loss of the open undeveloped nature of the field would cause demonstrable harm the countryside and landscape. This harm could not be overcome by landscaping as part of the proposed scheme.
13. The proposal in redeveloping the vacant depot would improve the character and appearance of built development within the village. However, this would not obviate the unacceptable harm that would be caused to the character and appearance of the countryside as a result of the proposal. The harm that would be caused to the countryside would be contrary to a core principle of the Framework. It would also be contrary to policy ENV24 of the Local Plan which seeks to prevent such harm.

Sustainable development

14. Sustainable development and the presumption in its favour are at the heart of the Framework. Policy ENV1 of the Local Plan is consistent with this approach. I have had due regard to the supplementary planning document 'Sustainable Development' which provides detail on the Council's approach to this issue. It advises that the focus generally of new development is Chester and key villages which have a good range of services.
15. Milton Green is not a key village. In terms of facilities and services it has only a car dealership. To the north of the village within the open countryside, approximately 1km from the appeal site, is a farm shop and café. The shop sells a reasonable range of food products, but does not appear to be open in the evenings when many people return from work. The farm shop cannot be safely accessed by foot due to the absence of a footway to the bridge on the A41. A contribution as a result of the proposed development would be made towards the cost of constructing a footbridge. However, the sum sought would only about a quarter of the total cost. It is therefore unclear when, or if, a pedestrian link would be created. Given the volume and speed of traffic on the A41 few would be confident enough to cycle to the shop. As a result, although the shop is within a reasonable walking and cycling distance of the appeal site I find that residents would be reliant on the car to access it and would have to drive further afield when it is closed.
16. Handley is approximately 1.25km away and has a church and public house. The nearest settlement with a range of services is Tattenhall. Amongst other facilities the village has a post office, a food store that is open until 10pm most evenings, a butcher, restaurants and a primary school. However, at approximately 3km from Milton Green it is not within a reasonable walking

distance for a round trip. In terms of cycling, Frog Lane which connects Milton Green to Tattenhall is an unlit rural road with a number of tight bends with limited visibility. As a consequence, only the most confident would be prepared to cycle. Tattenhall and all its facilities are therefore only readily accessible by motor vehicle.

17. In terms of public transport, the 41 and 41A bus service connects the village with Chester 7.5 miles distant, Whitchurch, approximately 13 miles away, and villages such as Tattenhall. Mondays to Saturdays buses serve the village every two hours from approximately 8am. The last bus serving the village leaves Chester and Whitchurch at approximately 5.30pm. Slightly more frequent services are provided at the start and end of the schedule, Monday to Friday. With a bus stop is present outside the appeal site the proposed development would therefore be reasonably well served by public transport during normal working hours. People who wished to commute to these towns for study or work between these times could therefore do so.
18. However, in my view, the services are too infrequent for children to be taken to and from the primary school in Tattenhall, or for shopping or other trips to this village. In the evenings and on Sunday, no bus services operate. As a consequence, at these times of the week the village becomes isolated and journeys other than to Handley for leisure, social or recreational purposes are not possible unless made by car. Taking all these matters into account, I therefore find overall that future residents of the development would be reliant on the private car to meet their basic needs. As a result, they would be unable to make sustainable transport choices in accordance with the objectives of the Framework.
19. In relation to the economy, the construction of the proposed development would generate employment and the spending of the new households would benefit the economy of the area. The local authorities would also receive additional money through the New Homes Bonus to spend on local services and facilities. Turning to the environmental aspects of sustainability, whilst approximately half the site is previously developed land, the remainder is a green field. Development of this part of the site, as I concluded earlier, would demonstrably harm the character and appearance of the countryside by urbanising part of it. This harm would continue long after many of the economic benefits associated with construction of the new houses have faded.
20. In terms of the social aspect of sustainability the proposed development would help address the shortage of housing generally in the local authority area and the shortage of affordable housing. It would also provide a village hall, public open space and equipped play space. As part of the scheme the ambulance station on the appeal site would be relocated and retained. Nevertheless, the low number of facilities in the village, the difficulty accessing the farm shop and the limited bus service would mean that residents would remain dependant on the private car.
21. I recognise that there have been three recent residential planning permissions in Milton Green which have the potential to introduce a significant number of new houses within the settlement. However, the appeal scheme would be by far the largest. Furthermore, these other sites were considered to relate well to Milton Green and comply with the development plan which limits the expansion of the settlement. The proposal in including land outside the envelope of the settlement would result in a significant expansion of the village

that would harm the character and appearance of the countryside. The facilities in the village, even with those that would be provided as part of the proposed development, would remain very limited. A point is reached where the expansion of this settlement would no longer be sustainable and development would not maintain or enhance the vitality of communities in the area. Given its limited facilities and isolated location the proposed development would increase the size of the settlement beyond this point.

22. My overall conclusion on this issue is that the noteworthy social and economic benefits of the proposal would not overcome the extremely limited range of facilities the settlement has to offer, its isolated location and the harm that would be caused to the character and appearance of the area. In reaching this conclusion I have taken into account the facilities that would be built as part of the proposed development. I therefore conclude, on the overall balance of considerations that the proposal would not be a sustainable development. As a consequence it would be contrary to the Framework and policy ENV1 of the Local Plan.

Other matters

Housing land supply

23. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to deliver housing over a 5 year period to meet the target contained within the development plan. It is common ground that the Council has less than a 5 year housing land supply. The proposed development is a deliverable site and up to 65 dwellings would make a contribution to addressing the shortfall in housing land supply in the area of the local authority.

Other permissions

24. A series of other decisions where permission has been granted on appeal have been referred to in support of the proposed development¹. Some of these decisions relate to sites within the Cheshire West and Chester, the remaining relate to sites in other parts of the country. It is an established principle that each application is decided on its merits. The Secretary of State and the Inspectors in these other appeals would have exercised their judgement on the evidence in relation to the particular case before them. I must similarly use my judgement in respect of the evidence before me. These appeal decisions therefore have not altered my findings in relation to this appeal.

Overall Conclusions: The Planning Balance

25. The location of the proposed development would be contrary to policy HO7 of the Local Plan. Given the housing shortfall within the Council's area in certain circumstances it may be necessary to allow housing outside settlements. As a consequence, I consider policy HO7 is a housing land supply policy. Contravention of a policy of the development plan normally weighs heavily against a proposal. However, the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies governing housing land supply should not be considered up to date.

¹ Appeals references APP/A0665/A/11/2159006, APP/A065/A/12/2179410 & APP/A065/A/12/2179374, APP/A0665/A/13/2193956, APP/L3815/A/12/2188243, APP/G1630/A/11/2146206 & APP/G1630/A/11/2148635)

26. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. However, I have concluded that the development would not constitute a sustainable development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework applies. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The proposal would cause demonstrable harm to the character and appearance of the countryside. It would also not constitute a sustainable development. These factors weigh heavily in favour of dismissing the appeal. On the other side of the balance, the proposed development would contribute to addressing the undersupply of housing in the District. This factor is of significant weight in favour of the proposed development.
28. My overall conclusion in this case, having considered all other matters raised, is that the adverse impacts of the proposal are considerable. These impacts significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore be dismissed.
29. Policy MI1 of the Local Plan advises that the Council will negotiate an agreement to secure the provision of additional education facilities where development gives rise to a need to do so. A contribution is also sought by highways towards the cost of providing a proper footway to the bridge on the A41 to the north of the village. At the request of the Council the appellant has submitted a properly completed section 106 agreement for £143,865 in relation to education and £78,000 in relation to highways to secure compliance with these matters. The tests in paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits, and the terms of the obligation are not in dispute, it is not necessary to assess the agreement against the requirements of regulation 122 or paragraph 204.

Ian Radcliffe

Inspector