



Appeal Decision

Site visit made on 8 August 2014

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: 2 September 2014

Appeal Ref: APP/R0660/A/14/2212276

Land off A34 Newcastle Road, Congleton, Cheshire.

- 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 Astbury Mere Development Ltd. against the decision of Cheshire East Council.
 - The application Ref 13/2501C, dated 19 June 2013, was refused by notice dated 22 August 2013
 - The development proposed is the erection of up to 9 no. residential dwellings (Outline) with all matters reserved except for access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 9 no. residential dwellings (Outline) with all matters reserved except for access on land off A34 Newcastle Road, Congleton, Cheshire, in accordance with the terms of the application Ref 13/2501C, dated 19 June 2013 and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Main Issues

2. I consider that the two main issues in this appeal are the impact on open space provision and the impact on the character and appearance of the local area.

Reasons

Background

3. The appeal site, which measures about 0.4ha, is rectangular in shape. It is unused and overgrown. Along the western and southern boundaries of the site there is recent residential development whilst to the east there is a building used as an Indian restaurant and take-away. Along the northern boundary there is a belt of trees and Astbury Mere Country Park. The Park comprises a number of recreational elements including a circular footpath around a large lake, water sports centre and visitor centre.
4. The appeal proposal seeks outline planning permission for up to 9 no. residential dwellings with all matters reserved except for access. Access would be provided along an existing roadway from Newcastle Road to the west. This roadway also serves the water sports centre and the Indian restaurant. A spur from this roadway already provides access to the restaurant and would also serve the proposed development. An indicative layout plan has been submitted

with the appeal application which shows 9 detached dwellings with existing and proposed landscaping.

Policy

5. The appeal site is identified as open space in the *Congleton Borough Local Plan First Review 2005 (CBLP)*. *Policy RC2* of this Plan indicates that development on areas of open space will only be permitted when various criteria are satisfied. *Criterion 1* seeks to ensure that development does not result in a local open deficiency in terms of quantity, range and accessibility, or alternatively an equivalent or improved and suitably located replacement facility is provided within a reasonable time scale. *Criterion 2* is designed to safeguard open space that has significant value because it forms part of an existing network of open areas, acts as a buffer between incompatible uses, is an important visual amenity or break in an otherwise developed area, or is part of an existing or proposed linear amenity area. *Criterion 3* makes it clear that any proposal needs to accord with other local plan policies, particularly those relating to nature conservation, landscape and agricultural land. The supporting text specifies that for the purposes of the policy 'open space' refers to all areas of open space which are of public benefit and includes formal, informal and natural areas of open space.
6. The thrust of *Policy RC2* accords with the *National Planning Policy Framework (NPPF)* which emphasises the importance of protecting valuable open space. In view of this consistency I have given *Policy RC2* significant weight.

Open space provision

7. The appeal site is in private ownership and there is no public access to the land. Although it is designated as protected open space in the *CBLP* it does not serve any recreational use in its own right or in connection with the Country Park. There is an extant planning permission for a restaurant and play barn on the site which could be implemented and appears to be viable. Consequently the appeal scheme would not lead to the loss of a usable area of open space and therefore would not generate a need for a replacement facility.
8. Notwithstanding this there is still a need to assess whether there is a requirement for the provision of additional open space as a result of the development. The material before me indicates that the Council considers that the development may not be suitable for an on-site play area given its relatively small size. I have no reason to disagree with this view. Furthermore the Council accept that there are no Council owned play areas nearby that would benefit from financial contributions. In the light of this the appellant has submitted a unilateral undertaking making a financial contribution to the maintenance of Council owned open space in the area of the development. The contribution accords with the Council's requirements and satisfactorily addresses this matter. In terms of more informal recreational provision future residents will have ready access to the Country Park.
9. I conclude, therefore, that the proposal would not have a detrimental impact on open space provision. As a result the proposed scheme accords with those elements of *CBLP Policy RC2* which seek to ensure that new development does not lead to local open space deficiencies.

Character and appearance

10. It is accepted that the proposed development on the appeal site would be visible from a number of viewpoints within the Country Park and introduce development where there is currently none. However I do not believe that the houses would intrude on the landscape of the Park to an unacceptable extent. In reaching this view I am mindful that the new houses on the adjacent site and the Indian Restaurant building are already visible from the Country-Park and the new development would be sited between the two. Consequently the proposed houses would be seen within the context of existing built development and not in isolation. In order to minimise the visual impact conditions could be attached to any permission to ensure that the belt of trees along the northern boundary, which are in the ownership of the appellant and provides screening, is retained. Other conditions could be attached requiring the submission of details of levels, siting, and landscaping, to ensure that the height of the new houses is carefully controlled and that they are appropriately sited and landscaped. In view of this I do not consider that it is necessary to retain the land as a buffer area, particularly given that there is already an existing commitment by the Council for a large building on the site.
11. I have taken account of the felling licence on the site and the requirements for replacement planting. I believe, in accordance with the appellant's Arboricultural Statement, that the replanting requirement can be complied with by way of the landscaping scheme to be submitted at reserved matters stage.
12. I conclude, therefore, on the second main issue that the proposal would not have an unacceptable impact on the character and appearance of the local area provided appropriate conditions are attached. Consequently the proposed scheme is not in conflict with those parts of *CBLP Policy RC2* that are designed to safeguard areas of open space that have visual importance.

Other considerations

13. In comparison to the use of the site for a restaurant and play barn the proposal would be likely to generate less traffic. It would also facilitate improvements at the junction of the access with the A34. I note that the Council's Strategic Highway Manager considers that the appeal proposal would be better from a highway point of view. Given the limited amount of additional traffic likely to be generated by the proposed houses, and the use of the access road, the provision of a footway would not be justified.
14. Local people have raised a number of concerns including impact on living conditions, density, biodiversity, trees on the site, and the location of the site in relation to services and facilities. However, having considered all the material before me, none of these matters individually or cumulatively would be likely to cause significant harm, and they are not, therefore determinative to the decision. In view of these findings I do not consider that *Criterion 3* of *CBLP Policy RC2* is infringed.
15. From the material before me, in particular a number of recent appeal decisions, it is evident that the Council cannot demonstrate a five year supply of housing land and therefore the Council's policies for the supply of housing are not up to date. This weighs in favour of allowing the appeal.

Planning balance

16. I have concluded that the proposal would not have a detrimental impact on open space provision, or have an unacceptable impact on the character and appearance of the local area provided appropriate conditions are attached.
17. The additional housing provided would be in line with the government's stated aim of boosting significantly the supply of housing, and these are recognised social and economic benefits of the proposal. These support the social and economic roles of sustainable development in the *NPPF*. As I have found that the Council's policies for the supply of housing are not up to date the presumption in *paragraph 49* of the *NPPF* applies. As I have not identified any significant adverse impact of the development I conclude that the appeal proposal constitutes sustainable development and should be allowed to proceed in accordance with the *NPPF*.

Conditions

18. I have considered the planning conditions put forward by the various parties in the light of the advice in the *Planning Practice Guidance*. I have applied the standard outline conditions (*Conditions 1, 2 & 3*). To ensure that the development proceeds in accordance with what has been approved the site plan is specified, as are the approved number of dwellings (*Conditions 4 & 5*). Tree and shrub planting details are required, including restocking in accordance with the Forestry Commission Felling Licence, to ensure that the site is suitably landscaped and in keeping with local character (*Condition 6*). In order to control the height of the new dwellings, thereby minimising the impact on the surrounding area, details of existing and proposed levels are required (*Condition 7*).
19. In the interest of highway safety the junction with the A34 requires improvement (*Condition 8*). Bin and recycling facilities need to be located so as to minimise their visual impact (*Condition 9*). To take account of the past usage of the site a contamination survey and report is required (*Condition 10*). The provision of appropriate sewerage and drainage works to serve the site are necessary (*Conditions 11, 12 & 13*). In the interests of protecting the living conditions of neighbours hours and methods of construction, together with deliveries, are to be controlled (*Conditions 14, 15 & 16*). To protect biodiversity conditions relating to nesting birds and updated protected species surveys and method statements are required (*Conditions 17 & 18*).

Overall conclusion

20. My conclusions constitute compelling grounds for allowing the appeal subject to conditions. None of the other matters raised outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

SCHEDULE OF 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. A detailed Arboricultural Impact Assessment, Arboricultural Method Statement and tree and hedge protection plan shall be included within the landscaping proposals.
- 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) The development hereby permitted shall be carried out in accordance with the approved plan [i.e. Site Location Plan at 1:1250 scale].
- 5) The development hereby permitted shall include no more than 9 dwellings.
- 6) No works or development shall take place until full details of all proposed tree and shrub planting, and the proposed times of planting, have been submitted to and approved in writing by the local planning authority, and all tree and shrub planting shall be carried out in accordance with those details and at those times. The tree planting shall include restocking in compliance with the Forestry Commission Felling Licence.
- 7) As part of the reserved matters details of existing and proposed ground levels across the site and the levels of the proposed floor slabs and heights of the proposed dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 8) As part of the reserved matters detailed plans for the junction upgrade with the A34 shall be submitted to and approved in writing by the local planning authority. The upgrade will be carried out as approved and completed before the occupation of any of the dwellings.
- 9) As part of the reserved matters details of bin/recycling storage shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the bin/recycling facilities pertaining to that dwelling have been made available for use. The approved facilities shall be retained permanently thereafter.
- 10) The development hereby permitted shall not be commenced until :
 - (a) a contaminated land Phase I report to assess the actual/potential contamination risks at the site shall be submitted to and approved in writing by the local planning authority;
 - (b) if the Phase I report recommend that a Phase II investigation is required a Phase II investigation shall be carried out and the results submitted to and approved in writing by the local planning authority;

- (c) if the Phase II investigations indicate that remediation is necessary a Remediation Statement shall be submitted to and approved in writing by the local planning authority. The remedial scheme in the approved Remediation Statement shall be carried out as approved; and
 - (d) 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 local planning authority prior to the occupation of any of the dwellings hereby approved.
- 11) The development hereby permitted shall not be commenced until a scheme for the disposal of sewage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any of the dwellings.
 - 12) The development hereby permitted shall not be commenced until a scheme to limit the surface water runoff generated by the proposed development has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any of the dwellings.
 - 13) The development hereby permitted shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any of the dwellings.
 - 14) Ground or construction works (and associated deliveries to the site) shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 09:00 hours to 14:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
 - 15) Any foundation or other piling on site shall not take place outside 08:30 hours to 17:30 hours Mondays to Fridays and 09:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
 - 16) Prior to commencement of development a construction method statement shall be submitted to and approved in writing by the local planning authority which outlines the method of construction, details of deliveries to the site during construction, how and where materials will be unloaded and details of where contractors' vehicles will park. Development shall be carried out in accordance with the approved details.
 - 17) Prior to any commencement of works between 1 March and 31 August in any year, a detailed survey shall be undertaken by a suitably qualified person to check for nesting birds and the results submitted to the local planning authority. Where nests are found in any hedgerow, tree or scrub to be removed, a 4m exclusion zone shall be created around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the local planning authority before any works involving the removal of the hedgerow, tree or shrub take place.
 - 18) Prior to commencement of development, updated protected species surveys and method statements shall be submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Richborough Estates