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## Appeal Decision

Hearing held on 13 August 2014

Site visit made on 13 August 2014

**by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI**

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

**Decision date: 21 October 2014**

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### **Appeal Ref: APP/A0665/A/14/2214437**

#### **Land off School Lane, Mickle Trafford**

- 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 Mrs Angela Garrard (Partner Construction Ltd) against the decision of Cheshire West & Chester Council.
  - The application Ref 13/04150/FUL, dated 20 September 2013, was refused by notice dated 23 December 2013.
  - The development proposed is the erection of 16 affordable housing dwellings.
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#### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of 16 affordable dwellings, on land off School Lane, Mickle Trafford in accordance with the terms of the application, Ref 13/04150/FUL, dated 20 September 2013, and the plans submitted with it, subject to the following conditions on the attached schedule.

#### **Procedural Matters**

2. At the Hearing, the Council produced a briefing note updating its five year housing land supply to a surplus. The purpose was to correct the figure provided in the Statement of Common Ground (SCG) which showed a deficiency. After discussion, the Council clarified that this was not a substantive determining issue. I have formed my own conclusions on this matter which I have indicated later within my appeal decision taking into account the views of the appellant.
3. A signed copy of an agreement under Section 106 of the Town and Country Planning Act 1990, dated 12 August 2014 has been submitted after the Hearing was closed. It relates to the provision of a landscape buffer to the west of the site. The obligation has been considered under the tests of paragraph 206 of the National Planning Policy Framework (the Framework) later in my decision.
4. Comments were sought from the parties on the Redhill Aerodrome Limited v SSCLG, Tandridge District Council and Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin) judgement. However, this has been overturned in the Appeal Court and I have, therefore, dealt with this appeal on the basis of the relevant Framework and development plan policies. Although the appellant considered that the Redhill judgement did not support the Council's case, I do not consider it necessary to seek the parties' further comments and I am satisfied that this will not cause any injustice.

5. The content of the Planning Practice Guidance published on 6 March 2014 has been considered but in light of the facts does not alter my conclusions.

### **Main Issues**

6. The site is within the Green Belt and so the main issues are:
  - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
  - The effect of the proposal on the openness of the Green Belt and the character and appearance of the area, having regard to safeguarding the countryside from encroachment.

### **Reasons**

#### *Inappropriate Development*

7. The Framework establishes that new buildings are inappropriate unless they are categorised as an exception. Paragraph 89 of the Framework lists one such exception as limited affordable housing for local community needs under policies set out in the Local Plan.
8. Policy ENV 67 of the Chester District Local Plan (LP) explains that planning permission may be exceptionally granted for a group of low cost dwellings immediately on the edge of a settlement in the Green Belt. This is provided that it is not inconsistent with the purposes of including land within the Green Belt and subject to the requirements of LP Policy HO 12.
9. However, LP Policy ENV 67's requirement to be consistent with the purposes of including land within the Green Belt is not found within the text of paragraph 89 of the Framework where it relates to affordable housing as an exception. The Council has pointed out a purpose of the Green Belt is to safeguard the countryside from the countryside. Such a purpose does not comfortably fit with a policy which promotes low cost housing in the countryside as an exception, an inevitable consequence of which is encroachment. For these reasons, I have given little weight to LP Policy ENV 67.
10. The Parish Council has disputed whether the affordable housing would be for local community needs and stated that only 4 dwellings are required based on an independent survey but would consider an up lift to 6 dwellings. However, policies define local community needs at a ward level which covers not just Mickle Trafford. In this regard, the Strategic Housing Market Assessment (SHMA) 2013 shows a substantial need which covers the Cheshire Villages ward, including the Parish. The appellant is proposing a cascading arrangement where people in need in Mickle Trafford would be offered accommodation first and then surrounding areas. A planning condition can be imposed to ensure that the dwellings would be affordable and for local community needs in accordance with this arrangement. The affordable housing would also be limited in size compared to the extent of built-up development in Mickle Trafford and indeed, the built-up area of School Lane in the vicinity of the appeal site. For these reasons, the proposal would be for limited affordable housing for local community needs under the Framework.

11. Accordingly, the proposal would not be inappropriate development in the Green Belt when assessed against paragraph 89 of the Framework.

*Openness of the Green Belt and the character and appearance of the area*

12. A fundamental aim of the Green Belt under the Framework is to prevent urban sprawl by keeping land permanently open. It is defined in terms of the absence of development or built form. Although the effect on openness is not a test of the affordable housing exception set out in paragraph 89, the effect on openness is a factor that contributes to character and appearance. The development would comprise 16 two storey dwellings together with associated car parking and access areas on an open field. This would result in a new development of some height, scale and extent, where there is none at present, and it would have some negative effect on openness.
13. However, there is a mixture of buildings and open areas surrounding the site. It is adjacent to agricultural land to north beyond which there is a cemetery. Further beyond this, there are two dwellings on a road known as The Street. Abutting the site to the east, there is an existing affordable housing which is adjacent to further residential development. Public open space exists to the south and farmland to the west of the site. Opposite the site, there is a field bounded by hedgerow which is adjacent to a community hall and residential development. Within this context, there is no overwhelming absence of built form and thus the proposal's impact on openness would be small.
14. The purposes of Green Belts are set out at paragraph 80 of the Framework which includes one to assist in safeguarding the countryside from encroachment. The Council consider that the proposal conflicts with this purpose by reason of the scale and location of the development in an open area. They accept an element of encroachment into open countryside is likely to take place with exception sites by their nature but that the specific circumstances of each case has to be assessed.
15. The appellant's Landscape and Visual Assessment (LVA) identifies the site to be situated within the County Character Area of Guilden Sutton in the West Lowland Plain Landscape Character Type and Local Character Area of Backford Christleton. It identifies this landscape to be generally an unremarkable character but with some sense of place. In overall terms, it confirms that the proposed alteration to features and characteristics would be minor when assessed from various local viewpoints and the landscape effect would be minor. Based on my site visit, this is a realistic assessment because it could be seen that development would be mostly screened by intervening trees and hedgerows and the gentle, undulating nature of the surrounding countryside. The exception to this is the western boundary of the site.
16. Here, the submitted unilateral undertaking requires the approval of a Management Plan for the off-site landscape buffer on the western boundary before the commencement of development. Such a plan will include a long term strategy and programme to ensure the proper husbandry, management and maintenance of the buffer. The establishment of the buffer would visually reduce the impact of the height and scale of the development where it is situated on higher ground. The requirement for a buffer was not mentioned by the LVA but it is the one boundary of the site that faces onto extensive undeveloped countryside. For this reason, the buffer is of some value in visually integrating the development into the countryside. Thus the buffer is

necessary and relevant and the obligation meets the tests of paragraph 206 of the Framework.

17. The LVA refers to a more localised impact of the development from the public open space and identifies the significance to be major. However the existing hedgerow boundary to the open space would largely screen the lower parts of the development and the dwellings would also be set back by reason of intervening gardens. Taking this into account, I consider that the impact would not be significant.
18. The Council has further referred to the harm of the proposal on the open character of the area. Notwithstanding my comments on openness purely in relation to built form, the area is characterised by hedgerows and trees and a gentle undulating character. On both The Street and School Lane beyond the existing affordable housing units, there are strong landscaped boundaries. There is also residential development on The Street. In these terms, the area does not have an overriding open character.
19. The proposal would introduce a cul-de-sac style backland development which would be different to the mainly linear ribbon pattern of development on western side of School Lane. However this site would be seen against the context of a wider area than this which is more varied taking into account the cul-de-sac housing at Springfields, Micklefields and Regency Close and would be reflective of how the settlement evolved. Opposite the site, there are fields behind a hedgerow which the Council indicate gives this part of School Lane a countryside character. Again, such a narrow view of character fails to take into account the wider surroundings of the site which has a more of a urban fringe quality than countryside.
20. The design of the dwellings would be similar to one another but they would not be unattractive due to use of good architectural features, such as lintels, dentil courses and porch canopies. Furthermore the detailed aesthetics of the dwellings would not be out of character and appearance with the surrounding area where buildings are varied in design and lacking any particular local distinctiveness. For these reasons, the development would be visually attractive and give a reasonable degree of sense of place.
21. In summary, there would be no harm to the character and appearance of the area and would not unacceptably encroach into the countryside. Accordingly, the proposal would comply with Policies GE 7, ENV 2, ENV 24 and HO 12 of the LP, which collectively and amongst other matters, permits new development if it respects its surroundings, including local distinctiveness and key features of its landscape, and is not detrimental to its character.

#### *Other matters*

22. The SHMA establishes that 310 households live in affordable housing need within Chester Villages sub-area. Based on the particular accommodation requirements of those in need, there is a gross affordable housing requirement of 35 dwellings per annum from 2013/14 to 2017/2018. The Council's Annual Monitoring Report 2012 further suggests affordable housing delivery rates have fallen well short of need. Therefore, even taking into account recent planning permissions for affordable housing, such as Guilden Sutton and Christleton, there would be substantial need of affordable dwellings for the ward up to 2017/18. In this regard, the Council has not raised any objection based on

need. Therefore, the benefit of this proposal in fulfilling the affordable housing need is of some significance.

23. The Council's briefing note states that their 5 year housing land supply is in surplus whereas the SCG suggests otherwise. There are no detailed figures to explain how they have now derived a surplus. Without this, little weight can be placed on this amended figure and on this basis, the figure within the SCG showing a deficiency is more credible. Therefore, the Council's policies for the supply of housing are not up-to-date.
24. The Framework places a presumption in favour of sustainable development which is considered by assessing economic, social and environmental dimensions. The provision of 16 dwellings would make a modest but valuable contribution to a deficient housing land supply which would be of some social benefit. In the economic dimension, the house building would undoubtedly create or sustain employment and business activity. Environmentally, there would be no harm to the character and appearance of the area for the reasons referred to and the site would have reasonably access to services and public transport. The dwellings would also be built to Code Level 3 in the Code for Sustainable Homes Standards. On this basis, the development would be sustainable development according to the Framework which adds further to the positive findings of the proposal.
25. Mention has been made of noise and inconvenience arising from the construction of the development. The Parish Council has expressed concern about the proximity of sporting activities within the public open space adjacent to the housing. Such considerations would not be sufficient to override my findings on the acceptability of the proposal. The proposed development would be accessed from existing affordable housing development and there would be extra traffic generated on local roads. Although a Highways Officer initially expressed concerns about the proposal, I am satisfied that amended plans submitted during the determination of the planning application overcame this and there are no highway safety issues arising from the proposal. The development would also be sufficient distance from the nearest resident properties to avoid adverse overlooking.

### **Conditions**

26. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance (PPG); for clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.
27. Requiring the development to be carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. References to a landscaping plan, Great Crested Newt Survey and drainage strategy within this condition but they are not necessary as this would duplicate the requirements of other conditions. It was agreed that a further condition requiring elevation plans of house type 112 on plots 9 and 13 was needed. In the interests of the visual appearance of the development, samples of materials to be used in the construction of the dwelling are required. Given the topography of the site, a condition is required regarding finished ground levels and finished floor levels of the development.
28. In the interests of the living conditions of residents, a condition is required to approve a submitted Construction Method and adherence to it during the

construction period. Two conditions require highways and footways to be completed in accordance with a Highway Authority specification but this is not precise. These conditions have been merged in the interests of conciseness and worded to require appropriate details to be submitted and approved by the Council and the carrying out of development in accordance with these approved details. A condition requiring the implementation and retention of parking, turning areas and secure cycle storage shown on the approved plans is necessary in the interests of proper planning. In order to ensure satisfactory drainage, a condition is required to ensure surface water discharges into an existing watercourse and not into a foul sewer.

29. Landscaping conditions requiring the submission and approval of soft and hard landscaping, together with implementation and maintenance, are necessary in the interests of the visual appearance of the development. A restriction on construction hours is necessary in the interests of the living condition of nearby residents. In the interests of safeguarding a Protected Species, a condition has been added to secure mitigation measures in accordance with a Great Crested Report.
30. Finally, a condition is imposed given the proposal is for affordable housing for local housing need. The appellant's suggested condition is reasonable and ensures that the residential units would fall within the definition of affordable housing and remain in perpetuity. It would also ensure that the development would be undertaken by an 'affordable housing provider' and requires details of the occupancy criteria for the affordable units to ensure local need is served.

### **Conclusion**

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Jonathon Parsons*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: M3356 (PL) 001; M3456 (PL) 002/Rev A; M3456 (PL) 003/REV A; M3456 (PL) 004 and M3456 (PL) 005.
- 3) No development shall take place until elevation plans of house type F112 on plots 9 and 13 of the site layout plan, M3456 (PL)/002 Rev A have been submitted and approved in writing by the local planning authority. The Development shall be carried out in accordance with the approved plans.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted 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 there has been submitted and approved in writing by the local planning authority details of the existing ground levels and proposed ground levels of the site, together with finished ground floor levels for the dwelling. The development shall be carried out in accordance with the approved details.
- 6) No development shall commence, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement shall provide for:
  - i) the parking and loading of site operatives and visitors
  - ii) the loading and unloading of plant and materials
  - iii) the storage of plant and materials used in constructing the development
  - iv) wheel washing facilities
  - v) measures to control the emission of dust, dirt, noise, vibration and light during construction
  - vi) a scheme for recycling/disposing of waste resulting from construction work
  - vii) details of any piling
- 6) The development shall be carried out in accordance with the Shaun Tonge Engineering Report "Proposed Drainage Strategy" Partner Construction June 2013 and "Foul sewerage and Utilities Statement" Report. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
- 7) No development shall take place until details of the highways and footways specifications within the approved scheme, including the access road leading to site from Church Lane, and associated works timetable have been submitted and approved in writing by the local planning authority. No

dwelling shall be occupied until that part of the highway and footway which provides access has been constructed up to binder-course level in accordance with these approved details. The surface course shall then be completed in accordance with the approved details and timescale. The development shall be carried out in accordance with the approved details and timescales in all other respects.

- 8) The parking, turning areas and secure storage areas shown on approved plan M3546 (PL) 002/Rev A must be completed and available for use prior to first occupation of the development and shall be kept available for their intended purposes thereafter.
- 9) No development shall take place until details of hard and soft landscaping works have been submitted to and agreed in writing by the local planning authority. The details shall include planting specification, hard surface areas and surfacing areas and a timetable for implementation.
- 10) The approved scheme of hard and soft landscaping works shall be carried out in accordance with the approved timetable. Any trees or shrubs which within a period of 5 years from the completion of the development, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) Demolition or construction works shall not take place outside of the 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 12) The development shall be carried out in strict accordance with section 24 of the Brooks Ecological Great Crested Newt Survey 2013.
- 13) The development shall not begin until a scheme for the provision of affordable housing 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 in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The Scheme shall include:
  - I. The numbers, type and tenure of the affordable housing provision on the site to be made which shall consist of not less than 100% of housing units/bed spaces;
  - II. The arrangements for the management of the affordable housing;
  - III. The arrangements to ensure such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - IV. The occupancy criteria to be used for determining the identify of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.



## **APPEARANCES**

### FOR THE APPELLANT

Mr L Armstrong BA(Hons) DipTP MRTPI	Mosaic Town Planning
Mr P Williams MRTPI	Mosaic Town Planning
A Garrard RICS	Partner Construction Ltd
Mr G Metcalfe BSc(Hons) DipTP MRTPI	Partner Construction Ltd
J Bonington	Equity Housing Group

### FOR THE LOCAL PLANNING AUTHORITY

C Reay MSc MRTPI	Senior Planning Officer, Chester West and Chester Council
Mr N Smith LLB MSc MRTPI	Principal Planning Officer, Chester West and Chester Council

### INTERESTED PARTIES

Mr R Parkin	Mickle Trafford and District Parish Council
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## **Documents**

1. Unexecuted Unilateral Undertaking for Landscape Buffer
2. Cheshire West and Chester Council Members Briefing Five Year Deliverable Housing Supply
3. Mosaic Town Planning Site Distances (of recent affordable housing developments) from Mickle Trafford Chester Villages Ward.
4. Appellant's suggested affordable housing condition