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## Appeal Decision

Site visit made on 20 October 2014

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 10<sup>th</sup> November 2014**

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**Appeal Ref: APP/A0665/A/14/2224365**

**Clock House, Edge, Malpas SY14 8LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Martin Bury (Church Green Developments Ltd) against Cheshire West & Chester Council.
  - The application Ref 13/05438/OUT, is dated 18 December 2013.
  - The development proposed is residential development for up to 31 dwellings including access, open space and associated infrastructure.
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### Decision

1. The appeal is dismissed and outline planning permission is refused for residential development for up to 31 houses including access, open space and associated infrastructure at Clock House, Edge, Malpas SY14 8LA.

### Procedural Matters

2. The application is submitted in outline with access, layout and scale to be determined at this stage. I have dealt with the appeal on this basis treating the plans that show the appearance of the dwellings as illustrative.
3. The Planning Committee considered the application at their meeting on the 2 September 2014 after the submission of the appeal against non-determination. The Council's evidence sets out what would have been the reasons for refusal had it been in a position to determine the application.
4. The Council have made reference to policies from the *emerging Cheshire West and Chester Local Plan (Part One) Strategic Policies* (CWCLP). The examination for the CWCLP was held in June/July 2014 and consultation on the main modifications required to make the plan sound finished in mid-October 2014. Although the emerging plan is at an advanced stage I cannot be sure the policies from it will be adopted in their current form. As such, whilst the policies referred to appear to be broadly consistent with the *National Planning Policy Framework* (the Framework), I can only give them limited weight.

### Main Issues

5. The main issues in the appeal are:
  - The effect of the proposed development on the character and appearance of the countryside; and

- Whether or not the proposed development would conflict with policies for residential development which seek to achieve an accessible pattern of development.

## **Reasons**

### *Character and Appearance*

6. The hamlet of Hampton Heath is set in the open green landscape of the gently undulating Cheshire countryside. It is focused around the junction on the A41 with the road to Malpas. The appeal site is approximately 650m to the north of the hamlet and the intervening open land means that the site is both visually and physically detached from the rest of the settlement. The Clock House and its various outbuildings, although adjacent to the site, are largely screened from view by mature vegetation. As a result the backdrop to the site is that of open countryside.
7. Whitney Lane is a narrow country lane with high hedges and trees along the field boundaries. Although the rear of the industrial estate is located close to the southern part of the lane, this is largely hidden from view by vegetation and does not detract from the rural character of the lane. The substandard nature of the junction of Whitney Lane with the A41 means that it is very lightly trafficked, which adds to its rural and tranquil character.
8. The wider countryside forms part of the Landscape Character Area RF5. The Council have stated that the key characteristics of the area are medium/small scale rolling interlocking fields, views to the sandstone ridge and the Clwydian Hills, slightly open to enclosed, relatively well wooded narrow lanes between high hedges and being very rural and tranquil.
9. The appeal site is agricultural in nature, although it is indicated that it is not in active use for either arable or livestock farming. The effect of the proposed development would be to introduce up to 31 dwellings and supporting infrastructure onto what is currently open fields. The lack of any physical or visual connection between the site and Hampton Heath means that the development would be seen as an isolated and alien intrusion in the open countryside. Furthermore, the size of the development would result in it having a suburban appearance which would be incongruous and out of keeping with the rural character of the area.
10. The additional traffic that would be created along Whitney Lane, together with the loss of the grass verge to create a pavement, would have a detrimental impact on the character and appearance of the lane especially as the northern part would be re-routed through the proposed development to a new access with the A41.
11. The appellant has suggested that the development would only be noticeable in a limited geographical area and that the effect would be further reduced by additional screen planting to enhance the existing boundary treatment. Whilst a lack of visibility may limit the impact the proposal would have on the appearance of the countryside, character is a more intrinsic quality that does not depend on visibility. The impact of the proposal on the rural and tranquil character of the area would be much more severe.
12. Therefore, I consider the appeal proposal would erode the open nature and would adversely harm the character and appearance of the countryside. It

would therefore conflict with Policies ENV2 and ENV24 of the *Chester District Local Plan (adopted May 2006)* (CDLP) which seek to ensure that new development respects the character and the key features of the landscape. It would also be contrary to the Framework's core planning principle of protecting the intrinsic character and beauty of the countryside.

### *Accessible Pattern of Development*

13. A core planning principle of the Framework is to focus significant development in locations which are, or can be made, sustainable. With the aim of promoting sustainable development in rural areas, paragraph 55 directs housing to areas where it will enhance or maintain the vitality of rural communities. In general, new residential development is most appropriate in locations where there is access to services, opportunities for employment and alternative modes of transport than the private car (paragraphs 30 and 37).
14. Hampton Heath has a restaurant, a farm shop and a veterinary practice, although the shop only has a limited range of products and other than Saturday morning is not open in the evenings or weekends. However, the presence of the industrial estate and the Milk and Cheese Factory does mean there is a range of employment opportunities close to the site. At present there is a footpath on the far side of the A41. However, its narrowness and the speed and volume of traffic does not make it an attractive pedestrian route from the site to these facilities. Whilst the proposed pavement along most of the length of Whitney Lane would improve the attractiveness of this route to pedestrians during the day, the absence of street lighting means at night it would be less attractive.
15. Malpas contains a greater range of services and facilities including both primary and secondary schools and I understand it is designated as a key service centre in the CWCLP. However, the main services and the primary school are located at a distance that most people, and especially people with young children, are more likely to drive. Whilst Hampton Heath has a bus service that links it to larger local settlements, the service is only approximately every two hours and there is no service in the evenings or on Sundays. Consequently, outside of these times future residents of the development would be reliant on the private car.
16. The Framework acknowledges that opportunities to travel by sustainable means, and to minimise journey lengths, will vary from urban to rural areas. Nevertheless the limited services within Hampton Heath would require future residents to travel outside the village to meet the majority of their basic needs and they would largely be dependent on the private car to do so. As a result the proposal would increase the amount of unsustainable journeys made. In addition, the limited range of local services means that the impact on the vibrancy and vitality of the immediate community would be minimal.
17. As a result, I consider that the proposal would not create an accessible pattern of development. As such it would conflict with Policy ENV1 of the CDLP which requires development to be in accordance with sustainable development principles and would also be contrary to the guidance within paragraphs 30 and 37 of the Framework.
18. My attention has been drawn to the fact that in determining the applications for two affordable housing schemes within Hampton Heath, the Council concluded

that the hamlet represented a sustainable location. However, the Council have highlighted that these decisions were made shortly after the publication of the Framework and that subsequent appeal decisions have provided greater clarity on the approach to sustainability.

## **Other Matters**

### *Housing Land Supply*

19. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. The Council acknowledges that until recently they considered that they could not demonstrate a 5 year housing supply. However, in the light of recent high court decisions they have changed their position on how they should assess the 5 year housing land supply. Whereas previously it was based on the 2008 Regional Spatial Strategy (RSS) figures, it is now considered that it should be assessed on figures within the emerging local plan. On this basis they consider that they have a deliverable 5 year housing land supply.
20. The appellant considers that until the CWCLP is found sound and the housing requirement figure is confirmed, it is appropriate to still determine the housing land supply against the RSS requirement figures, especially given the considerable objections that have been raised to the approach adopted for assessing the objectively assessed need. On this basis, using the Council's data, the appellant considers that there is not a deliverable 5 year housing land supply. Furthermore, the appellant has highlighted that the delivery rates of new housing within the rural area is likely to be slower which leads him to question the deliverability credentials of some of the sites within the rural area.
21. From the evidence put before me I have no firm basis for reaching a conclusion on whether the Council has a 5 year housing land supply. In any case I do not consider it appropriate to prejudge the findings of the Inspector examining the CWCLP. Nevertheless, I am mindful that in the absence of a definitive position, the matter of housing supply potentially carries significant weight. I return to this matter in my conclusions below.

### *Other Considerations*

22. The proposal would enhance the economy of the community by the creation of jobs associated with the construction phase and spending by the new residents would be beneficial to the economy of the area. In addition the local authority would benefit from increased Council Tax as well as receiving money through the New Homes Bonus to spend on local services. Whilst these matters are benefits of the scheme, they are of relatively little weight given that it seems to me they would be common to housing development elsewhere in the area that is not located within the open countryside.
23. It is proposed that the scheme would comprise a mix of detached, semi-detached and self-build plots and that 30% would be provided as affordable homes. This would help to maintain diversity within the local population. Whilst it is suggested that the houses would be able to provide accommodation for people employed in local business, there is no firm evidence to suggest that these businesses have difficulties relating to a lack of accommodation in the area.

24. It is agreed that the current junction of Whitney Lane with the A41 is substandard. The proposal would re-route the lane and create a new junction which would represent a significant improvement in highway safety. Whilst this favours the scheme, given the minimal amount of traffic that currently uses the lane, I only give it limited weight.
25. In support of their arguments both parties have drawn my attention to other appeals within the borough. However, I do not have the full details of the circumstances for these proposals and so cannot be sure whether they are directly comparable or not. I have, in any case, reached my own conclusion on the appeal proposal on the basis of the evidence before me.
26. Concern has been raised that the development would result in the loss of high quality agricultural land. However, it is agreed that the site has an Agricultural Land Value of 3b and as such is not classified as the best and most versatile agricultural land.

### **Conclusion**

27. In the event that one accepts the appellant's argument that the Council cannot demonstrate a five year supply of housing land, paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
28. The workings of the presumption in favour of sustainable development are set out in paragraph 14 of the Framework. This tells us that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking, the presumption means approving proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
29. In terms of harmful impacts, the proposal would have a detrimental impact on the character and appearance of the countryside. In addition, the development proposed would not be accessible and so would create a pattern of development that the Framework seeks to resist.
30. Therefore, even if one attaches significant weight to the benefits that the provision of market and affordable housing on the appeal site would bring, these benefits, taken together with the improvements in highway safety and the economic benefits are not sufficient to significantly and demonstrably outweigh the harm I have identified, when assessed against the policies of the Framework as a whole.
31. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR