



Appeal Decision

Site visit made on 22 June 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 10 July 2015

Appeal Ref: APP/R0660/W/15/3004227

Land off Wrenbury Road, Aston, Nantwich, Cheshire CW5 8DQ

- 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 M Schofield (Carlton Holdings) against the decision of Cheshire East Council.
 - The application Ref 14/1018N, dated 18 February 2014, was refused by notice dated 28 August 2014.
 - The development proposed is described as outline application for 31 dwellings with access to Wrenbury Road including ten two bedroom affordable homes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. While the Council maintained that it could demonstrate a National Planning Policy Framework (Framework) compliant supply of housing land at the time of determining the appeal planning application, it subsequently concluded that it cannot. Having reconsidered the proposed development in light of these changed circumstances, the Council concluded that in the overall planning balance the harm to the character and appearance of the open countryside significantly and demonstrably outweighed the benefits such that it resolved to maintain its objection to the scheme. This is reflected in the Council's main appeal evidence.
3. The proposal is for outline planning permission with all matters reserved for future approval except for access. The details submitted with the application include documents and plans which make reference to layout, appearance, landscaping and scale. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site could be developed.
4. The refusal reason includes reference to Policy PG5 of the emerging Cheshire East Local Plan Strategy – Submission Version (the eCELP). I note that while it is reasonably well advanced it is not clear from the information before me whether there are any outstanding objections to Policy PG5. I am also mindful that the eCELP examination has been suspended and that further work is being undertaken such that the housing strategy of the eCELP is likely to change. For these reasons, therefore, with reference to paragraph 216 of the Framework I am able to attribute only limited weight to eCELP Policy PG5.

5. The evidence makes reference to a potential legal agreement under Section 106 of the Town and Country Planning Act 1990 (S106 Agreement). However, I have not been provided with a copy of such a document and, so far as I am aware, no S106 Agreement has been completed for the appeal development. Consequently, I have considered and determined the appeal on that basis.

Main Issue

6. The main issue is whether any harm arising from the proposed development is outweighed by any other considerations, such that the proposed development would be sustainable.

Reasons

Context

7. The appeal site is an area of some 1.2 hectares of agricultural land located on the south western edge of the village of Aston with a frontage to Wrenbury Road. While residential properties adjoin it to the north and south and also face it on the eastern side of Wrenbury Road, the site stands just beyond the settlement boundary identified in the Borough of Crewe and Nantwich Replacement Local Plan 2011, February 2005 (the Local Plan).
8. The Framework outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
9. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Paragraph 49 says that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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. In this case the main parties agree that there is not a Framework compliant supply of housing land, such that paragraph 49 is engaged.
10. Design is part of sustainable development and this includes taking into consideration the effect of development on open spaces. Development should contribute to protecting and enhancing the natural and built environment. As part of this, it should help to minimise pollution and mitigate/adapt to climate change including moving to a low carbon economy. The Framework also states that due weight should be given to relevant development plan policies that pre-date the Framework according to their consistency with it.
11. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. Policy NE.2 of the Local Plan says that all land outside the defined settlement boundaries will be treated as open countryside, with only development which is essential for the purposes

of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area, being permitted. It goes on to say that an exception may be made where there is the opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage. Local Plan Policy RES.5 says that outside settlement boundaries all land will be treated as open countryside, with new dwellings restricted to those that meet the criteria for infilling contained in Policy NE.2; or are required for a person engaged full time in agriculture or forestry, subject to several criteria.

12. I recognise that the settlement boundaries identified in the Local Plan are out of date as they do not provide for housing requirements beyond March 2011. Nonetheless, the purpose of Local Plan Policies NE.2 and RES.5 extends beyond containing built development within settlements, they also act to protect the open countryside in order to safeguard its character and appearance. Although the Framework does not seek to protect the countryside for its own sake, these Local Plan Policies do encompass the intrinsic character and beauty of the countryside in the terms of the Framework; and to that extent they are consistent with it. That aspect of Policies NE.2 and RES.5, therefore, carries full weight.

Character and Appearance

13. The appeal site is located between two residential properties on the western side of Westbury Lane. The width of the site is reasonably substantial such that the space between these neighbouring properties could not be said to be a 'small gap' in the terms of Local Plan Policy NE.2. Moreover, the scale of development proposed is substantially greater than is envisaged by this aspect of the Policy. In short the appeal scheme would result in the building of some 31 homes on a greenfield site in the countryside.
14. The site is partly screened by planting along its boundaries, principally in the form of field hedges, and this could be supplemented by additional planting. Nonetheless, due in part to the reasonably flat local topography, development of the scale and type proposed would be readily apparent from beyond the site. For instance, the proposed dwellings would be visible from Wrenbury Road and from the A530 a little to south, as well as from more distant views, such as from rights of way that run to the south and west of the site.
15. I recognise that the appeal site is located on the fringes of the settlement close to existing dwellings that would be broadly comparable to the development proposed, and that the detail of the appeal scheme could be carefully considered at the reserved matters stage. Nonetheless, the introduction of the development to this greenfield site would have an urbanising effect that would be harmful to the intrinsic character and beauty of this part of the countryside. This effect would be readily perceived from the surrounding public domain due to the reasons outlined above.
16. For these reasons, therefore, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, in this regard, it would conflict with Local Plan Policies NE.2 and RES.5. This weighs against the appeal scheme.

Local Infrastructure

17. The Council's Committee report in respect to the appeal development and Appeal Statement both refer to several matters that it considers should be secured via a S106 Agreement if planning permission were to be granted. The Council's position on these matters is broadly unchallenged by the appellant. Indeed the material submitted with the planning application makes reference to a potential S106 Agreement. In summary the matters identified by the Council to be secured by planning obligation are the provision of affordable housing on-site at a rate of 30% of the total development, with a split of 65% social or affordable rented and 35% intermediate tenure; a payment of £65,371 for secondary education provision; and a management company to maintain all on-site open space and associated areas in perpetuity.
18. The provision of the affordable housing in line with the Council's adopted policy could be secured via a suitably worded planning condition. Some of the other matters, however, could not be dealt with in this way and would require a S106 Agreement.
19. In coming to this view I have had particular regard to the Planning Practice Guidance which states "in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. ... [In these circumstances the appropriateness of using a condition and] the heads of terms or principal terms need to be agreed prior to planning permission being granted ..." With reference to this guidance, my attention has not been drawn to any 'exceptional circumstances' in this regard. There is also no clear evidence to show that the detail of these other obligations is fully agreed between the parties.
20. The education contribution would be necessary to ensure that secondary school aged residents of the development would be provided with adequate school facilities in accordance with the requirements of Policy BE.5 (Infrastructure) of the Local Plan and paragraph 72 of the Framework. The provision of the proposed area of open space and associated equipment could be secured by planning condition. However, due to the long term nature of the requirement, provisions for its on-going management and maintenance would need to be secured via planning obligation. An obligation of this nature would be necessary to ensure that residents of the proposed development would have access to well-maintained public open space and play equipment in accordance with Local Plan Policy RT.3 (Recreational and Open Space and Children's Playspace in New Housing Developments) and paragraph 73 of the Framework.
21. Having considered these obligations in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations, I am satisfied that they would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms. The Council's evidence also indicates that none of the payments which are sought would result in the pooling of more than five obligations for any one infrastructure project or type of infrastructure through planning obligations.

22. In the absence of a planning obligation to secure the requisite education facilities and on-going management/maintenance of the proposed on-site open space, I am not satisfied that the effect of the development on local infrastructure would be adequately offset. Consequently, in this regard, the proposed development would conflict with Policies BE.5 and RT.3 of the Local Plan and with the Framework. This also carries weight against the appeal proposal.

Planning Balance and Sustainable Development

23. For the reasons outlined above the appeal development would conflict with Policies NE.2, RES.5, BE.5 and RT.3 of the Local Plan.

24. In terms of the economic and social dimensions of sustainable development, the appeal proposal would increase the supply and choice of housing, including affordable homes. The development would also contribute towards economic growth during the construction phase and the additional population would assist the local economy and help support the sustainability of local services and facilities. These matters, particularly the housing delivery, carry weight in favour of the proposals but they must also be balanced against the impact of the development on local infrastructure.

25. In terms of the environmental dimension, additional planting and landscaping offer the potential to enhance biodiversity. However, as outlined above, the development of the site would cause harm to the character and appearance of the area.

26. Although there are several considerations and benefits that weigh in favour of the appeal, in my judgement these are significantly and demonstrably outweighed by the identified harm such that overall the proposal would not represent sustainable development in the terms of the Framework. Consequently, there is no presumption in its favour.

Other Matters

27. In coming to my decision I have also taken into consideration other concerns raised locally. However, they have not led me to any different overall conclusion.

Conclusion

28. Based on the information before me, the proposed scheme would not represent sustainable development. On this basis and given the identified conflict with the development plan, on balance, the appeal should be dismissed.

G D Jones

INSPECTOR