



Appeal Decision

Site visit made on 17 November 2015

by Susan Heywood BSc(Hons) MCD MRTPI

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

Decision date: 09/02/2016

Appeal Ref: APP/A0665/W/15/3081128

Land at Mill Lane, Little Budworth

- 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 Alan & Chris Newton against the decision of Cheshire West & Chester Council.
 - The application Ref 14/02637/OUT, dated 16 June 2014, was refused by notice dated 23 December 2014.
 - The development proposed is an outline planning application for 13¹ residential dwellings including means of access, layout and scale.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - i. whether the development would preserve the setting of the Grade II* listed Church of St Peter and other non-designated heritage assets; whether it would preserve or enhance the character or appearance of the Little Budworth Conservation Area and its impact on the character and appearance of the surrounding countryside;
 - ii. whether the proposal would be a sustainable form of development having regard to local and national planning policy;
 - iii. whether the proposal would result in the loss of the best and most versatile agricultural land (BMV land).

Preliminary matter

3. The appeal is made in outline with means of access, layout and scale to be determined at this stage. Only the appearance of the development and landscaping are reserved for future consideration. The appeal is accompanied by a site layout plan showing the proposed location of the 13 dwellings, access road and open spaces. This plan is to be determined in this appeal. The appeal is also accompanied by plans and elevations of a number of house types. The scale of the dwellings is shown on these plans and in this respect

¹ The application form indicates that the development was for 17 dwellings. This was subsequently altered by the appellants to 13 and I have therefore used the description on the Council's decision notice in this appeal.

they form part of the appeal before me. I have, however, taken them to be illustrative in relation to the appearance of the dwellings.

Reasons

Policy context

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
5. The development plan includes the Cheshire West and Chester Local Plan (Part One) Strategic Policies (the Local Plan) and the saved policies of the Vale Royal Borough Local Plan (VRBLP). The Local Plan was adopted in January 2015 following the refusal of planning permission for the development in December 2014. Policies within the Local Plan are now relevant to the determination of this appeal. Policy GS5 of the VRBLP has been saved as part of the Local Plan. Other VRBLP policies referred to in the reasons for refusal have been superseded by policies in the Local Plan.

The setting of heritage assets and character and appearance of the area

6. When approached from the north along Mill Lane, the village of Little Budworth sits on elevated ground within the surrounding landscape. The appeal site lies on the north eastern edge of the village and comprises agricultural land, currently grassland, which slopes upwards from north to south. The site is prominent in the foreground on the approach to the village along Mill Lane from the north. The western portion of the site is situated within the Little Budworth Conservation Area. The Grade II* Listed Church of St Peter sits at the highest point in the village and is seen in views along Mill Lane with the appeal site in the foreground. In these views the church tower forms the focal point and references the centre of the village for the viewer.
7. I note that the site is not identified as an area of important open space in the Conservation Area Appraisal. However, the appellants accept that the appeal site forms part of the rural setting of the church which contributes to the sense of place and its aesthetic value. Similarly, the appeal site makes a positive contribution to the conservation area, providing a rural foreground to the village when viewed from the north. In this way, the appeal site contributes to the significance of both of these heritage assets.
8. The proposed development would include the erection of six dwellings on the western portion of the site, three of which would be sited on the grassy bank to the north west. The appellants' Heritage Settings Impact Assessment (the Heritage Assessment) states that, where there are views of the church from Mill Lane, the dwellings would be 'glimpsed' in these views. However, I consider that this underestimates the visual impact of these dwellings.
9. On approaching the village along Mill Lane, the church tower comes into view with the open land of the appeal site in the foreground. At present, when viewed from Mill Lane, the existing dwellings to the north of the village unobtrusively sit beyond the crest of the slope. These dwellings are set some distance apart and are separated and softened by mature trees. The proposed dwellings would be sited relatively close together when compared to the existing dwellings at Waters Reach, Well Farm Bungalow and Rhodes Cottage. The rear elevations of the three properties located on the slope (plots 1, 2 and

- 3), their rear gardens and likely domestic paraphernalia would be located in an elevated position and would be clearly visible from parts of Mill Lane. Due to the sloping nature of the land, it would be difficult to screen or soften these to any significant extent. The proposed development, in particular the six dwellings to the west of the site and the access road, which would wrap around the curtilage to Waters Reach, would be strikingly visible in the foreground of views to the church tower from parts of Mill Lane.
10. Furthermore, the proposed access road would have an 'engineered', suburban design. This is also noted by Historic England (English Heritage as they were at the time of consideration of the planning application). The standardised design of the road and entire estate layout would introduce the concept of a modern cul-de-sac on the edge of the conservation area. Whilst I note that there is other modern estate development on the village edge, the proposal would do nothing to contribute to the character or sense of place of the village. I accept that the dwellings could be individually designed, although I also note the standard nature of the illustrative house-types. I also accept that a landscaping scheme could be implemented. But good design is about more than just the design of the individual house-types and landscaping, it involves the layout and spacing of dwellings and the street-scene that the development creates.
11. In raising their objections to the proposed development, Historic England state that retaining the undeveloped slope of the site down to the stream is vital to the setting of the village and the church. I concur with this opinion.
12. The appellants have submitted a Landscape and Visual Impact Assessment (LVIA). This describes the character of the site as 'urban fringe'. I do not agree with that description however, I consider that the site has a distinctly open, rural character which acts as a foil for the rural village beyond.
13. I accept the conclusions of the LVIA in relation to the negligible impact of the development on the wider local, regional and national landscape character types. However the LVIA acknowledges that the proposed development would have a moderate – major permanent adverse impact on the site itself both in landscape and visual terms when viewed from a nearby public footpath and Mill Lane (a moderate permanent adverse impact is noted from here). In my view this impact would extend beyond the site boundary to the surrounding localised area. It is claimed that retention of existing landscape features and new landscaping would mitigate the harm and reduce these effects after ten years to a permanent minor adverse effect. I accept that to a degree this would be the case, but I do not consider that landscaping would overcome the intrinsic harm that the development would cause to the character and appearance of the area or the significance of the heritage assets. Consequently, I do not agree with the conclusions of the LVIA regarding the long term impact of the development on the character and appearance of the area.
14. I note the negative impact of existing telegraph wires running across the site. However, I do not consider that the proposed development would be less intrusive than these lightweight and slender structures. Accordingly, the proposal would not enhance the character or appearance of the conservation area or surrounding countryside by the removal of these wires.

15. The site also adjoins the property at The Old Flour Mill² which is a non-designated heritage asset. This building is separated from the village by the surrounding agricultural land and set in a dip in the land form. It has a visual and historical connection with the stream and Budworth Pool to the west. The three dwellings proposed on plots 1, 2 and 3 would be elevated on the adjoining slope. Despite their single storey heights, visually these dwellings would dominate this historic building due to their elevated positions. In addition, the proposed development would erode the agricultural setting of the building and historical importance of its separation from the village, both of which contribute to its significance.
16. Bringing together the above matters, the proposed development would introduce a sub-urban intrusion into the open rural setting of the village. This would harm the character and appearance of the surrounding countryside, the conservation area and its setting. From some vantage points parts of the development would also intrude into the setting of the Grade II* listed Church of St Peter and would thus fail to preserve its setting. It would also harm the setting of the non-designated heritage asset of The Old Flour Mill.
17. Policy STRAT 1 of the Local Plan seeks to ensure that the natural and historic environment is protected, enhanced and improved and that the loss of greenfield land is minimised. STRAT 9 seeks to protect the open countryside as does saved policy GS5 of the VRBLP. The appellants suggest that these policies are too restrictive and should be considered to be out of date. However, the Local Plan has been relatively recently adopted and is therefore in compliance with the Framework. The proposed development would conflict with these policies. In this respect it would be contrary to the development plan.
18. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed through development within its setting. In this case the harm that would be caused to the designated heritage assets would be less than substantial. Nevertheless, considerable importance and weight must be given to the preservation of the setting of the listed building and to the preservation or enhancement of the conservation area. The greatest weight in this appeal is placed on the impact on the Grade II* listed church, it being the most important asset under consideration. The Framework states that the harm should be weighed against the public benefits of the proposal.

The public benefits

19. The proposal would increase the supply and mix of housing, including affordable housing, and would thus provide social and economic benefits. There would also be a benefit from the creation of jobs in the construction industry. Future residents would generate spending in the local area and could contribute towards sustaining the facilities offered in the village and in nearby Tarporley. However, these aspects of the proposal would be limited by the modest number of the dwellings proposed and the limited number of existing facilities in Little Budworth. I note the intention to create a wildlife habitat for badgers on land adjacent to the site. However, I consider this to be in the

² Incorrectly referred to as Millhouse Mews in the Heritage Assessment

form of mitigation for the potential impact of the scheme rather than being a direct benefit. The appellants also refer to the energy efficient nature of the proposed dwellings, but there is nothing to suggest that the properties would be particularly ground-breaking in this respect. Thus, whilst there are undoubtedly benefits of the scheme, these are not sufficient to outweigh the considerable importance and weight which must be given to the harm to the conservation area and the Grade II* listed church.

Sustainable development

20. The spatial strategy for the area is set out in Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 9 of the Local Plan. Together these aim to direct new housing to areas with good accessibility to shops, community facilities and schools and with good connections to public transport. They set a hierarchy for development comprising the main towns and city of Chester, identified key service centres and smaller rural settlements which will be known as local service centres. STRAT 2 and STRAT 8 state that a certain level of development will be brought forward in these smaller rural settlements. This is in accordance with the Framework and Planning Practice Guidance aims to ensure continued vitality of rural areas.
21. Part two of the Local Plan, which I understand to be at a very early stage in its preparation, will identify the local service centres. Little Budworth has a limited level of services and public transport and it is not yet known whether the village will be identified as a local service centre. However, even if it were to be so designated, as the inspector noted in appeal reference APP/A0665/A/14/2224763 provided by the appellants, within the context of the overall settlement hierarchy local service centres are not the most sustainable locations for housing development.
22. Whilst recognising that opportunities to maximise sustainable transport will vary from urban to rural areas, the Framework seeks to ensure that development is located in areas which make the fullest possible use of public transport, walking and cycling. The location of the appeal site would conflict with this aim.
23. I accept that accessibility is only one aspect of whether a development can be considered to be sustainable. The Framework makes clear that the economic, social and environmental dimensions of sustainable development are mutually dependent and should not be undertaken in isolation. I have set out above the benefits of the proposed development in economic and social terms. However, the development would also cause environmental harm due to its impact on heritage assets, the loss of open countryside and the relative inaccessibility of the location. Consequently, I conclude that the proposal should not be considered to be sustainable development having regard to local and national planning policy.

Agricultural land

24. The appellants submitted an Agricultural Land Quality Report with the appeal. This assesses the land as falling within Grade 3B of the Agricultural Land Classification. In accordance with Annex 2 of the Framework, this is not classed as BMV land. I note the evidence of interested parties relating to use of the land and yields. But there is no evidence, including from the Council, to counter the land classification evidence provided by the appellants.

Accordingly the proposed development would not result in the loss of BMV land and this matter does not weigh against the proposal.

Other matters

25. The Council say that they can demonstrate 6.83 years' supply of deliverable housing sites. The appellants dispute this. However, the evidence provided by both parties is limited and somewhat dated, some of it pre-dating the adoption of the Local Plan. Nevertheless, even if I were to conclude that the Council cannot demonstrate a 5 year supply of deliverable housing sites and that the policies for the supply of housing were out of date, the harm caused by the proposed development would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Accordingly, the lack of a 5 year supply of housing would not justify the grant of planning permission.
26. I have considered the concerns expressed by nearby residents regarding the proximity of the development to their properties. I acknowledge that the outlook from these properties would be altered by the proposed development on a previously open field. However, the proposed dwellings would not be sited excessively close to the existing properties so as to lead to a significant loss of privacy or dominating effect. This matter would not therefore weigh against the proposal.
27. I note the other appeal decisions drawn to my attention. None of these is directly comparable to the appeal before me, which has been considered on its own merits and having regard to the evidence submitted in this case.

Conclusion

28. In conclusion, the proposal would cause less than substantial harm to the setting of the Grade II* listed Church of St Peter. It would also harm the character and appearance of the Little Budworth Conservation Area and its setting. This harm would not be outweighed by the public benefits of the proposal. The proposal would also harm the setting of the non-designated heritage asset at The Old Flour Mill. Furthermore, the development would harm the character and appearance of the surrounding countryside. This environmental harm, together with the relatively inaccessible location of the appeal site, leads me to conclude that the proposal would not be sustainable development. Consequently, despite the dispute regarding the lack of a 5 year supply of housing sites, the proposal would fail to comply with the development plan and the Framework.
29. For the reasons given above, and having regard to all other matters raised, the appeal should therefore be dismissed.

Susan Heywood

INSPECTOR