



Appeal Decision

Site visit made on 29 September 2023

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/R0660/W/23/3320326

Land at Wrights Lane, Sandbach

- 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 Mr Ken Whitaker (Edgeford Homes) against the decision of Cheshire East Council.
 - The application Ref 22/08820, dated 25 February 2022, was refused by notice dated 12 January 2023.
 - The development proposed is the erection of 25no. dwellings with associated access, car parking, open space and landscaping
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. The main parties have been given the opportunity to comment on this and their responses have been taken into account.
3. During the course of the application, the proposal was amended from 26 dwellings to 25 dwellings. It was on this basis that the Council made its decision and therefore I have also assessed the proposal as comprising 25 No. dwellings.
4. The appellant provided a Noise Assessment and Highways Appeal Statement with the appeal, which the Council has had the opportunity to comment on as part of the appeal process. As such, I do not consider that any party would be prejudiced by my taking this into account.

Main Issues

5. The main issues are: (i) whether the proposal would comply with the provisions of Policy LPS53 of the Cheshire East Local Plan Strategy 2010 – 2030 (the Local Plan); (ii) the effect of the proposal on the character and appearance of the area; (iii) whether the proposal would provide an appropriate housing mix; (iv) whether the proposal would make appropriate open space provision; (v) the effect of the proposal on the living conditions of surrounding occupiers; and (vi) the effect of the proposal on highway safety.

Reasons

Policy LPS53

6. The site is a triangular plot to the north of Wrights Lane, within the Sandbach settlement boundary. Residential properties are present to the north, south and west of the site. However, to the east the site is bounded by open land.
7. Policy LPS53 of the Local Plan relates to land adjacent to J17 of M6, south east of Congleton Road, Sandbach, and includes the appeal site. It states that the development of this land will be achieved through a mixed use employment led development consisting of, among other things: (i) the delivery of 20 hectares of employment land (Class B1 & B2) as set out in Figure 15.64; and (ii) the delivery of up to 450 new homes to support the delivery of the 20 hectares of employment land, as set out in Figure 15.64. A copy of Figure 15.64 has been provided. This demonstrates the land area in question, with sections highlighted as 'employment', 'housing', 'planting belt', and 'wildlife area'.
8. Supporting text to Policy LPS53 is clear that the intention of this allocation is to ensure that the primary use of the site is for employment purposes with around 20 hectares being required for this purpose and that the employment component of the allocation is seen as central to the achievement of sustainable development for the town. It continues that residential development up to 450 dwellings may be required as a sub-ordinate use to cover the infrastructure costs needed to enable delivery of the whole site.
9. My attention has been drawn to various permissions, citing 420 approved dwellings and 4.8Ha of approved employment use within the land area shown on Figure 15.64. Reference has also been made to other applications¹ totalling some 29Ha of employment uses, which would not fall within the appeal site for the current proposal. However, even acknowledging the comments of the appellant regarding the reasons for the delay in these other applications, it remains that I have no substantive evidence to suggest that these have been determined such that I can only attribute little weight to these figures. Accordingly, on the information before me, a limited amount of employment use has come forward within the site.
10. The proposal is for the erection of 25 dwellings, and the appeal site straddles different areas of the land shown in Figure 15.64. Roughly half of the site in its south-western section falls within land marked as 'housing'. The remainder of the site continues north-east, sitting over the 'planting belt' and continuing into land marked as 'employment', reducing the availability of land for such uses. The appellant argues that Figure 15.64 is not a masterplan, but an indicative diagram such that the proposal would not, in itself, prevent employment uses coming forward.
11. However, I note the wording of the relevant part of Policy LPS53 to be the delivery of employment land and new homes 'as set out in Figure 15.64' such that weight should be attached to its designations. Taken together with the limited consented employment uses to date, noted as central for the delivery of sustainable development in the area, I find that the erection of the proposal in this location has the potential to prevent the delivery of 20Ha of employment land in accordance with Policy LPS53. While the 25 proposed dwellings would

¹ 17/4838C; 20/5466C

ensure that the 450 dwelling limit of Policy LPS53 is not exceeded, it remains that the policy requires delivery of 'up to' this number of dwellings, with supporting text clearing demonstrating such development as a sub-ordinate use in this location.

12. In this case, the development of 25 dwellings at the site would, due to its positioning, fail to support the delivery of 20Ha of employment land as set out in Figure 15.64, contrary to the policy aims. Even acknowledging that the provision of employment land within the Council area as a whole may be healthy, it remains that the specifics of the policy before me are such that this land remains allocated for the uses outlined, with Policy EG3 providing that existing employment sites should be protected for employment uses. In addition, while other housing has been permitted and constructed on the landscape buffer or employment land within the masterplan, on the evidence before me, the permission for this development pre-dated the adoption of the Local Plan and occupies a much smaller part of these allocated areas than the proposal would.
13. I note that the proposal has the potential to improve wider connectivity through its improvements to the current footpath, that it can come forward independent of the current employment use applications being considered due to the possibility of an access via Wrights Lane, and that there is no bar to over-provision of housing within the wider Council area. Nevertheless, on the information before me, the approval of the proposal would be contrary to the aims of Policy LPS53.
14. For the reasons given, the proposal would fail to comply with the provisions of Policy LPS53 insofar as it seeks to achieve a mixed use employment led development of land adjacent to junction 17 of the M6. It would also fail to comply with Policy EG3 of the Local Plan insofar as it seeks to ensure that existing employment sites are protected for employment use.

Character and Appearance

15. Policy GEN1 of the Local Plan states that development should reflect the local character and design preferences set out in the Cheshire East Borough Design Guide supplementary planning document (the Design Guide) unless otherwise justified by appropriate innovative design or change that fits in with the overall form and layout of their surroundings. Among other things, the Design Guide promotes creating well defined urban blocks with clear outward looking public fronts and secure and private backs.
16. The proposal would be an inward facing development, with properties along its north-western boundary backing onto the public right of way that separates the scheme from adjacent residential development. I note that this layout has been informed for a variety of reasons, namely to ensure that the trees subject to TPOs remain without creating undue access arrangement issues, and to provide a sense of differentiation from adjacent employment land, ensuring that the proposed dwellings have a residential rather than commercial outlook.
17. Nevertheless, this inward facing nature of the proposal would fail to reflect the preferences of the Design Guide. While opportunities to interact with the public right of way in this location are limited, and the proposal would provide informal connections in this regard, it remains that the overall inward facing nature of the development as a whole would result in the proposal feeling

unduly detached from the surrounding residential schemes, failing to contribute to an overall sense of connected and integrated development in the immediate surrounds, contrary to the form and layout of the area. This visual harm in the context of the surrounds would also be compounded by the failure of the proposal to adhere to the Design Guide preferences for street surfacing, further separating it from similar developments in the area. In addition, many proposed dwellings would back onto either the footpath or the SUDS basin, which in turn may raise safety concerns given the lack of natural surveillance again contrary to Design Guide suggestions for secure backs.

18. However, while the Council has concerns about the precise design of the dwellings, I do not share this view. The site sits in an area surrounded by a range of housing types and designs, to include the adjacent modern residential development and the more traditional terraces and semi-detached dwellings along Heath Road and further afield. The use of materials, pitched roofs, and fenestration placement and size pick up on traditional details found within the locality, while the more contemporary interpretation of such elements is reflective of the newer estates nearby. Rather than resulting in a pastiche development that awkwardly reflects the past, this would create a scheme that would appear visually coherent alongside both the modern and traditional dwellings in the area, assimilating within its context. In addition, the precise design of the dwelling at Plot 14, the presence of bungalows in the scheme or the SuDS design would appear so prominent in the surrounds or out of place in the immediate context as to cause undue visual harm.
19. Further, while I note the presence of parking spaces at the west of the site, I do not find that this would harm the sense of arrival to the scheme. These spaces are detached from the remainder of the site by an area of open space on either side of the road, creating a sense of visual separation. Combined with the proposed placement of trees, this would ensure that an avenue style approach to the proposed dwellings would remain.
20. Nevertheless, for the other reasons given, the proposal would overall have an adverse effect on the character and appearance of the area. As such, it would fail to comply with Policies SE1 and SD2 of the Local Plan; Policy GEN1 of the Cheshire East Local Plan Site Allocations and Development Policies Document 2022 (the SADPD); Policy H2 of the Sandbach Neighbourhood Development Plan 2010-2030 (the NP); and the Design Guide insofar as they seek to ensure high quality design that contributes positively to surrounds, represents the local character, and takes into account the Design Guide.

Housing Mix

21. Policy HOU1 of the Local Plan states that development should deliver a range of house types sizes and tenures responding to identified needs and demands. The accompanying Table 8.1 sets out indicative house type tenures and sizes. For market housing this shows a strong preference for delivery of 2- and 3-bedroom houses, recommending that these make up 23% and 53% of the development, respectively. An indicative total housing mix need for these units is 27% and 48%, respectively. Although indicative, this reflects the conclusions of the provided extract from the Cheshire East Residential Mix Study, which indicates that the highest housing need in the area is for 2- and 3-bedroom homes.

22. The proposal would deliver a range of 1-, 2-, 3-, and 4-bedroom housing, including 1-bedroom bungalows. However, while 44% of the housing would be 3-bedroom, only 8% would be 2-bedroom, with 40% of the delivery being 4-bedroom homes. This would fail to reflect both the indicative housing mix of Table 8.1 and the findings of the Residential Mix Study, which together demonstrate that provision of 2- and 3-bedroom homes is a priority within the Council area.
23. I note that the proposal would provide three tenures and four dwelling sizes in a modest 25 unit scheme, to include 8 affordable housing units, and has been informed with viability in mind. I further acknowledge that the housing mix was amended in an attempt to respond to local needs and that the provision of bungalows would address a local housing need for single storey dwellings to house older people and those with reduced mobility. I further note that the larger housing proposed would offer choice to families, for example leaving additional rooms for use as offices to support home working. Nevertheless, the aim of Policy HOU1 is to respond to identified needs and demands which evidence suggests in this case is the primary provision of 2- and 3-bedroom dwellings in residential developments. The proposal, in providing a large ratio of 4-bedroom houses and a minimal provision of 2-bedroom houses would be contrary to the policy aims.
24. For the reasons given, the proposal would not provide an adequate housing mix. As such, it would fail to comply with Policy SC4 of the Local Plan or Policy H3 of the NP insofar as they seek to ensure development delivers a range of house types sizes and tenures responding to identified needs and demands.

Open Space Provision

25. Policy SE6 of the Local Plan relates to delivering good quality green spaces and states that development should provide adequate open space as outlined in Table 13.1. This sets out that 65sqm of open space should be provided on site per family home, broken down into 20sqm each of children's play space, amenity green space, and green infrastructure connectivity, with 5sqm of allotments.
26. As 23 family units would be provided as part of the development, the proposal should provide a total of 920sqm of children's play space and amenity green space. The submitted plans show that space would be provided across various sections of the site, being a corridor along the public right of way, and 2 areas at the site entrance. These two areas at the entrance would provide a total of 594sqm of amenity green space, thus exceeding the requirements in this regard, and I find they would benefit from natural surveillance due to their position next to dwellings and at the entrance to the site.
27. However, the main parties agree that the proposal would not provide space for allotments or children's play space. Policy REC3 of the SADPD is clear that the presumption is that open space provision associated with residential schemes will be provided on site, and that off-site provision may be acceptable in limited instances through the payment of a commuted sum. In this regard, the appellant has agreed to the payment of such a sum.
28. Nevertheless, it remains that the presumption is that such space would be provided on site, with off-site provision only being acceptable in limited instances. I note the availability of open space in the surrounds, including the

over-provision of such at the adjacent residential development. Even if I were to consider the enhancements to the footpath and connectivity as green infrastructure connectivity, it remains that the on-site open space provided, in particular due to the absence of children's play space, would fall much below that required relative to the family homes to be provided.

29. Even acknowledging the modest confines of the site, this would fail to meet the policy aims of delivery of good quality green spaces on site. Due to the extent of the shortfall in this regard given the complete absence of a children's play space and allotments I am not convinced that off-site provision would achieve a better outcome in terms of open space delivery for the future residents of the proposal. While the Council may have accepted such off-site provision in other schemes, each application must be decided on its own site-specific merits.
30. For the reasons given, the proposal would fail to make adequate open space provision. As such, it would fail to comply with Policies SD2 and SE6 of the Local Plan and Policy REC3 of the SADPD insofar as they seek to ensure development provides adequate open space of an extent, quality, design and location appropriate to the development.

Living Conditions

31. Policy HOU13 of SADPD states that housing should generally meet the standards for space between buildings as set out in Table 8.2 unless the design and layout of the scheme, its relationship to the site, and its characteristics provides an adequate degree of light and privacy between buildings. It continues that the distances in Table 8.2 should be seen as a minimum where an existing property is impacted.
32. Plots 16 and 17 of the proposal are sited near the boundary of the appeal site that is shared with the existing two-storey dwelling at 2 Heath Close. In accordance with Table 8.2 of the SADPD, back to back habitable facing rooms in buildings of one or two storeys should have a minimum separation distance of 21m. On the evidence before me, the rear elevations of Plots 16 and 17 are some 23.5m and 20.5m from that of 2 Heath Close, respectively.
33. I observed the higher positioning of No. 2 Heath Close from the site on my visit, along with its shallow plot and visible rear facing windows. However, the proposed dwellings would sit at an angle to this property, such that the rear elevations and habitable room windows of the proposal would not be directly facing those of No. 2. While there would inevitably be a change in outlook for the residents of No. 2, this angled positioning, combined with the separation distance, would ensure that both current and future occupiers would not find the respective built form of No. 2 Heath Close or Plots 16 and 17 to be overbearing, or experience undue actual or perceived overlooking that would negatively impact their enjoyment of the dwellings and amenity space.
34. I note proposed planting along the shared boundary that would aid in further ensuring no undue impacts on residents in this regard but note the Council's concerns regarding its deliverability. Nevertheless, even in the event such planting could not be ensured, it remains that for the reasons above, the layout and positioning of the proposal would not cause harm to the living conditions of current or future residents with regard to outlook or privacy.

35. Access for the proposal would be taken from Wrights Lane, a cul-de-sac currently serving a small number of properties, with those on its eastern side having limited set back from the road behind a narrow footpath, while those on its western side are setback within plots with larger front gardens. Vehicular traffic passing along Wrights Lane would inevitably increase as a result of the proposed additional 25 dwellings at the site.
36. The appellant has submitted a Transport Statement that estimates an additional 14 two-way trips along this road in the AM peak and an additional 12 two-way trips in the PM peak. A Noise Assessment was carried out, concluding that the predicted noise impact on Nos. 2-10 Wrights Lane during these hours, when considering the context of the existing noise environment, would be at or below the 'no observed effect level', with internal and external noise levels complying with BS and WHO guidance respectively. Having reviewed these statements and, in the absence of substantive technical advice to the contrary, I give weight to their findings.
37. These assessments represent the worst case scenario during the peak hours, such that even in the absence of assessment outside of these hours, they provide an understanding of the potential effects of the development in this regard. In addition, with the provision of a new turning circle as part of the development, the overall manoeuvres of vehicles along this street would be reduced. Overall, I find that the proposal would not result in additional noise of a level that would create undue disturbance to the residents of properties on Wrights Lane.
38. For the reasons given, I find that the proposal would not result in significant adverse harm to the living conditions of residents of No. 2 Heath Close with regard to outlook or privacy, or to the living conditions of residents of Wrights Lane with regard to noise and disturbance. As such, it would comply with Policies HOU12 and HOU13 of the SADPD insofar as they seek to ensure that development does not cause unacceptable harm to the amenities of adjoining occupiers.

Highway Safety

39. The Transport Statement estimates of an additional 14 two-way trips along this road in the AM peak and an additional 12 two-way trips in the PM peak accord with the Officer's Report finding that a development of this size would typically generate 10-15 two-way vehicle trips during the peak hour, which the Officer's Report went on to consider as having a minimal impact upon the highway.
40. The proposal would provide off-road parking for properties on Wrights Lane, limiting the on-street parking on this road. However, it remains that the main parties do not agree as to whether Wrights Lane would allow for the passing of two-way traffic, with differing measurements given and a variety of guidance cited. Nevertheless, from my observations on site, even noting the proximity of properties and plot boundaries along Wrights Lane to the highway and the implications this would have for drivers, I found the road to be of sufficient width to accommodate two-way traffic, including the passing of construction vehicles which, in any event, would likely be for a temporary period.
41. Taken together with the straight nature of Wrights Lane that provides adequate driver visibility, the low traffic speeds in this location due to the 20mph speed limit on Heath Road, and the level of estimated increased movements at peak

time, I am satisfied that this would ensure the additional vehicular movements arising from the proposal would not have an unacceptable impact on highway safety or lead to severe residual cumulative impacts on the road network. Indeed I note that the proposal would also provide a turning area for visitors, and delivery and refuse vehicles which is currently unavailable on Wrights Lane, representing a modest benefit of the scheme for these users.

42. For the reasons given, the proposal would not result in significant adverse harm to highway safety. As such, it would comply with Policy INF3 of the SADPD and IFT1 of the NP insofar as they seek to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

43. The proposal would result in additional housing in a sustainable and established residential area, including 8 affordable housing units. While the Council can demonstrate the required housing land supply, there is no bar to an overall greater provision in this regard and this benefit carries significant weight.
44. Various biodiversity and ecological benefits would arise as a result of the proposal. However, given the modest scale of the scheme these would be overall limited benefits and, in any event, much of these are required either through policy or as mitigation measures. This therefore carries limited weight. Limited social benefits would also arise through the proposed enhancement to the public right of way.
45. The appellant has stated that the appeal site would remain vacant and would degenerate if the proposal is not granted planning permission. There is no substantive evidence before me to suggest that this would be the case such that I attribute limited weight to this benefit.
46. The proposal also would contribute to the local economy in providing construction jobs, new customers to surrounding shops and services, and additional contributions through Council Tax and New Homes bonuses. However, due to the modest scale of the development and the temporary nature of the construction period, these benefits are limited.
47. During the course of the appeal the Council raised that Policy HOU8 the SADPD requires new residential development in the borough to meet the Nationally Described Space Standards (NDSS) from six months after the date of adoption of the plan. Although this part of Policy HOU8 was not in force at the time of the application, I must make my decision on the basis of current policy position. The appellant has had the opportunity to respond to the Council's position as part of the appeal process, including having sight of Policy HOU8. This 6 month period has now passed, and the evidence before me suggests that only 56% of the proposed dwellings are NDSS compliant. While the remainder would fall short by less than 10sqm, this nevertheless would result in harm to the living conditions of future occupiers, which would also weigh against the development.

Planning Balance and Conclusion

48. I have found that the proposal would not result in harm to the living conditions of residents of No. 2 Heath Close with regard to outlook or privacy, to the living conditions of residents of Wrights Lane with regard to noise and disturbance, or to highway safety. These are examples of a lack of harm, which is neutral in the

planning balance. Even when taken together with the other matters outlined above, including the highlighted modest benefit of the turning circle, this would not outweigh the harm identified with regard to the conflict with Policy LPS53 of Local Plan, the character and appearance of the area, housing mix, open space provision and the living conditions of future residents with regard to internal floorspace provision.

49. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR

Richborough