
Appeal Decision

Site visit made on 31 August 2016

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/R0660/W/16/3152225

Land east of Rushcroft, Congleton Road, Sandbach CW11 4SP.

- 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 The Dale Land Trust against the decision of Cheshire East Council.
 - The application Ref: 16/0574C, dated 4 February 2016, was refused by notice dated 28 April 2016.
 - The development proposed is residential development comprising up to 7 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development comprising up to 7 dwellings on land east of Rushcroft, Congleton Road, Sandbach CW11 4SP in accordance with the terms of the application, Ref: 16/0574C, dated 4 February 2016, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by The Dale Land Trust against Cheshire East Council. This application is the subject of a separate decision.

Main Issue

3. The main issue in the appeal is the effect of the proposed development on the character and appearance of the landscape.

Reasons

Background

4. In this case the development plan is the Congleton Borough Local Plan First Review of 2005 (LP) and the Sandbach Neighbourhood Development Plan of 2016 (NP). I am informed that in each of these documents the appeal site lies outside the identified settlement boundary. The Council is preparing a new Cheshire East Local Plan (eLP). The appeal site also falls outside the settlement boundary in this document. However, given its stage of preparation (revised strategy for consultation with examination expected to resume soon) the eLP can be afforded little weight.
 5. It is common ground that the Council cannot demonstrate a 5 year supply of deliverable housing land, as required by the National Planning Policy Framework (NPPF). As such policies relevant to the supply of housing should not be considered to be up to date (NPPF paragraph 49). It has been determined in case law since the publication of the NPPF that policies which seek to restrict housing by identifying settlement boundaries are relevant
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policies even though they may also have a role in protecting the countryside. This is a matter which has been examined by the courts on a number of occasions, and I cannot of course depart from what is settled law. Hence I can only conclude here that the policies relevant to the supply of housing, notably those cited in the reason for refusing planning permission (Policy PC3 of the NP, and Policy PS8 of the LP) are not up to date even if recently adopted. However, that does not mean that the policies are irrelevant, but that the weight attaching to them is tempered by their being deemed to be not up to date.

6. The fact that the policies are not up to date brings into play paragraph 14 of the NPPF. If the development is found to be sustainable then it is expected that planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. With that in mind I turn to the main issue.

Character and appearance

7. The appeal site forms part of a grass field within a gently undulating landscape on the edge of Sandbach. The area is also notable for the relatively generous presence of trees in this locality, and overall the landscape is pleasant and pastoral, with fields mainly delineated by hedges and fences. The appeal site assists in providing an attractive entrance to the town. But that is not to say that this particular location is devoid of other influences. The highway from which access would be taken is a main road into Sandbach, and there is housing directly opposite. A little further to the east is the development at Park House, which in turn is adjacent to a busy road junction and close to garage premises and a junction of the M6. Hence the character hereabouts is heavily influenced by urban forms of development.
8. In that context the development of a small number of dwellings (up to 7 as proposed) would add to the urban influence, and remove a section of the pastoral landscape at the very edge of the town. In my judgement, though, it would not make a significant difference to the overall character of the landscape. There would be an increase in urban form, but the character of the attractive entrance to Sandbach could be retained with careful design. The NP landscape character assessment identifies the value of the tree lined corridors leading into the town, with views into the countryside at the edge of the settlement. In my judgement these features could be retained so that the character of the locality would be little altered.
9. The appearance of the locality would inevitably change. But again the change would be localised. There is no footpath alongside the highway adjacent to the site, so any current visual appreciation takes place from the southern side of Congleton Road. From there the eye is drawn to the more distant vistas, and these would be interrupted for a short distance. But in the wider landscape a small group of well designed dwellings would make limited difference to the overall appearance and visual qualities of the locality.
10. The appeal has been accompanied by different versions of an illustrative scheme which indicates how the site could be developed. These are not part of the formal application, which is made in outline and seeks approval only for the access at this stage. I am therefore satisfied that any design and layout matters, including the number of dwellings appropriate to the site, could be addressed at reserved matters stage.

11. Sustainability has 3 dimensions, these being economic, social and environmental. The Appellant sets out how the development would provide modest improvement in economic activity and I agree that this is a reasonable conclusion. It is also important to recognise the social benefit of the provision of houses in an area lacking an adequate supply. In addition, as I have set out above, environmental impact would be minimal. For these reasons, coupled with the location of the site on the edge of the settlement, within reasonable distance of many local amenities, and with an access which would be acceptable in highway terms, I am satisfied that this site can be regarded as sustainable.
12. The development would conflict with the development plan policies which seek to restrict development in this location, but in light of the lack of a 5 year housing land supply those policies can only carry limited weight. In relation to design and landscape policies the fact that I am satisfied that there would be little impact, and the opportunity to ensure a well designed scheme which responds to its context, means that I find no conflict with Policy GR1 of the LP and Policy PC2 of the NP.
13. As a result of the proposal falling within the definition of sustainable development paragraph 14 of the NPPF is engaged. I have found that the impacts of the proposal would not be significant and that there would be no conflict with those development plan policies which carry full weight (LP Policy GR1 and NP Policy PC2). Settlement boundary policies carry limited weight for the reasons set out. The minor impacts identified would not be materially harmful to the character and appearance of the landscape and such impacts would not significantly and demonstrably outweigh the benefits of development, when assessed against the policies of the NPPF as a whole. I therefore conclude that the proposal should be permitted.

Other Matters

14. A number of local residents, and the Town Council, have objected to this proposal. I understand the concerns expressed, especially in view of the very recently made Neighbourhood Plan. However, the fact remains that in the absence of a 5 year housing land supply any development plan policy which is relevant to the supply of housing must be deemed to be out of date. That in turn reduces the weight to be attached to it. I acknowledge that the NPPF indicates at paragraph 198 that where a neighbourhood plan is in place planning applications should not normally be permitted where there is conflict with the plan. However in this case the NP policy relating to the settlement boundary is out of date and, subject to ensuring good design at reserved matters stage, I have not found conflict with the objectives relating to landscape protection.
15. With regard to specific matters raised I observe first that the site is not located in the Green Belt. I note the concerns in relation to traffic and congestion, but there is no objection raised from the Highway Authority, and the few traffic movements from a small development would be unlikely to make any difference to the current situation. I understand the fears that allowing this development may lead to further application on land to the north or east. Were such applications to come forward they would have to be determined on the circumstances pertaining at that time. Further comments suggest that there are already sufficient permissions in place to meet the indicative housing target for the town, but housing targets are not upper ceilings and can be exceeded.

16. A number of other appeal decisions have been brought to my attention. To an extent these reflect the changing legal framework within which decisions relating to housing provision are made. This is particularly so with the decision made in relation to the larger site at Congleton Road to the west. My interpretation of policy at that time has been superseded by subsequent court judgements. In addition each case cited deals with a different proposal which has specific considerations. I therefore find the appeal decisions provided to be of limited assistance in determining this appeal.
17. I have been provided with information that this site has been considered as suitable and available for development in the 2013 Strategic Housing Land Availability Assessment. Whilst this may be so, it does not mean that the site is automatically acceptable for development. It must be assessed in light of the specific impacts which would ensue, and this is the exercise I have carried out above.
18. None of the other matters addressed above is sufficient to outweigh the considerations which are determinative in this appeal.

Conditions

19. The Council has suggested a number of conditions in the event of planning permission being granted. These have been commented upon by the Appellant. Apart from the 'standard' outline conditions I agree that it is reasonable and necessary to impose conditions dealing with measures for the protection of biodiversity. However, many of the conditions suggested, which relate to matters covered by Building Regulations or detailed design, are not necessary as they would be addressed at later design stages. However it is reasonable to include a condition clarifying what matters should be included within any future reserved matters application(s) with regard to boundary treatments because of the location of the site on the edge of Sandbach. I also agree with the Appellant that the requirement for an environmental management plan has not been demonstrated for what is likely to be a relatively small development should it be implemented.

Overall Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The details required by condition 1) above shall include the position, design, materials and type of boundary treatment to be erected, installed or planted.
 - 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 3822/03; 3822/07 (in relation to access details only and not the layout of the dwellings on site).
 - 6) Prior to the removal of any vegetation between 1 March and 31 August in any year a detailed survey shall be carried out to check for nesting birds. Where nests are found in any hedgerow, tree, scrub or other habitat to be removed a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any works in the exclusion zone take place.
 - 7) No development shall take place until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds has been submitted to and approved in writing by the local planning authority. The approved features shall be installed as approved and thereafter retained.
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