

Appeal Decision

Site visit made on 4 October 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 9th November 2016

Appeal Ref: APP/A0665/W/16/3154492

**Land adjacent to The Pump House, Frog Lane, Handley, Milton Green
CH3 9DN**

- 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 A Moore against the decision of Cheshire West & Chester Council.
 - The application Ref 15/03654/OUT, dated 3 September 2015, was refused by notice dated 14 January 2016.
 - The development proposed is six dwellings and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Moore against Cheshire West & Chester Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline with all matters reserved. However, the decision notice, and the appeal form, both indicate that access is to be determined at this stage. I have determined the appeal on this basis, treating the plan which shows the layout of the site as indicative other than in relation to the site access.

Main Issues

4. The main issues in this appeal are:
 - Whether or not the site represents a suitable location for housing having regard to local and national policies, and the principles of sustainability;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether or not the proposal makes adequate provision for affordable housing.
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Reasons

Whether a suitable location for housing

5. In order to protect the intrinsic character and beauty of the countryside, Policy STRAT 9 of the *Cheshire West and Chester Local Plan (Part One) (adopted January 2015)* (CWCLP) and Policy HO 7 of the *Chester District Local Plan (adopted May 2006)* (CDLP) seek to restrict the forms of development that are allowed. Policy HO 7 defines open countryside as that part of the rural area beyond the edge of the existing built form of any settlement. No settlement boundary is defined for Milton Green in either the CWCLP or the CWLP. As such the edge of the built form of the hamlet is a matter of judgement.
6. Milton Green is a small hamlet located either side of the A41 and its junctions with Chapel Lane and Frog Lane. The appeal site forms part of the large front/side garden of The Pump House. To the north lie buildings forming part of Milton Green Farm, to the south, on the other side of Frog Lane, lies "The Firs", and to the west are the host property and another residential property also accessed from Frog Lane, that are located within the core cluster of development that forms the hamlet. Whilst beyond the eastern boundary is agricultural land, the site is clearly separated from this by boundary hedging and trees. This boundary hedging, and that along Frog Lane, means that the site clearly appears as part of the garden area of the host property rather than part of the agricultural land that surrounds the village. Consequently, I consider that the site is within the existing built form of the settlement, and does not form part of the open countryside.
7. Policy HO 5 of the CDLP indicates that within the built-up envelope of settlements, proposals for residential development on land not allocated for such purposes will be permitted only after considering the availability and suitability of previously developed sites, and subject to a number of specified criteria.
8. The Council's Housing Land Monitor 2015-2016 identifies that the former highways depot site on Chapel Lane is a potential housing site, although the document does not include it in its 5 year deliverable supply. Other than this I have not been provided with any evidence regarding the availability and/or suitability of previously developed land within Milton Green. Nevertheless, this does indicate that long term growth within the hamlet can be provided on previously developed land.
9. There is no evidence to indicate that there is insufficient infrastructure capacity, and the site is not allocated for any other purpose in either the CDLP or the CWCLP. Whether the scale and type of development is appropriate for its location, and the effect of the proposal on the character and appearance of the area is addressed in the second main issue.
10. Milton Green is a largely residential hamlet with a car dealership being the only service or facility. To the north is situated a farm shop and café but this is not open in the evenings. Although within walking distance of the site, the lack of a continuous pavement and lighting between the site and the shop, together with the speed and volume of traffic on the A41 means this is not an attractive pedestrian or cycling route.

11. Tattenhall contains a greater range of services and facilities including a primary school. However, the main services and the primary school are located at a distance that most people, and especially those with young children, are more likely to drive, even though Frog Lane is designated as a cycle route. Whilst Milton Green is served by a reasonable bus service during the daytime that links it to larger centres, the frequency is such that it is unlikely to be able to be used for trips such as taking children to the primary school or attending medical appointments. Moreover, there is no service in the evenings which would make residents reliant on the private car for trips at these times.
12. Given the limited services within Milton Green, future residents would have to travel outside the hamlet to meet the majority of their basic needs, and they would, to a large extent, be dependent on the private car to do so. As such, the site is not well located in relation to access to jobs, shops and other services by modes other than the private car. As a result, the proposal would not accord with the criteria in Policy HO 5 for development within the built-up envelope.
13. To promote sustainable development in rural areas paragraph 55 of the *National Planning Policy Framework* (the Framework) indicates that housing should be located 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). Whilst the Framework does accept that development in one village may support services in a village nearby, I have concluded that future residents would largely be reliant on the private car to do this, which would increase the amount of unsustainable journeys made.
14. Therefore, I consider that the site does not represent a suitable location for housing having regard to the local and national policies outlined above.

Character and Appearance

15. The appeal site forms part of the garden area of the host property. At present part of the site is used as a paddock, and the rest is a more formal garden area. The eastern and southern boundaries are enclosed by hedging which clearly identifies the land as part of the domestic curtilage and separates the site from the agricultural land beyond.
16. As a result of the proposed development the currently open nature of the land would be lost. However, as it would be located on garden land, and has built form to three sides, it would not extend the built form of the village into the open countryside or result in the urbanisation of land that is at present agricultural fields.
17. The scale, layout, and type of housing are matters that are reserved for future consideration, although six dwellings are proposed on the site. Housing in the hamlet varies in scale, and whilst the site would be more densely developed than other sites on Frog Lane, the scale, density and type would not necessarily be inappropriate for its location, and would potentially add variety to the mix of house types in Milton Green.
18. Consequently, I consider that the proposed development would not harm the character and appearance of the area. As such there would be no conflict with

Policy ENV2 of the CWCLP which seeks to protect and wherever possible enhance landscape character and local distinctiveness.

Affordable Housing

19. Policy SOC1 of the CWCLP requires that in rural areas sites that have a capacity of three or more dwellings or comprise an area of 0.1 hectares or more should provide affordable housing or site up to a target of 30%. The Council has indicated that there is a clear need for affordable housing in the locality with an annual need for 11 units.
20. To this end the appellant has submitted a signed Unilateral Undertaking that would ensure the provision of 1 dwelling on the site as an affordable unit. The Council has argued that this would fall considerable short of the 30% target set out in Policy SOC1 of the CWCLP which would require 1.8 dwellings, and which should be provided by a combination of on-site provision and a financial contribution towards off-site provision. However, the appellant has argued that as the policy requires provision up to 30%, the provision of 1 house would comply with the policy.
21. Following the Court of Appeal judgement in May 2016¹, the *Planning Practice Guidance* (PPG) was updated to indicate that contributions for affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. The government policy is clearly a material consideration of significant weight, and the Council has not suggested any reason why this change of national policy should not apply to the appeal proposal, to which it is clearly relevant.
22. In any event, given the proposal complies with local policy, and the general need to increase housing, the provision of a single unit is a benefit of the scheme. Whilst I note the comments of the Council regarding the wording of the Unilateral Undertaking, I am satisfied that it would ensure that an affordable housing unit was provided as part of the development.

Other Matters

23. My attention has been drawn to other housing schemes within the hamlet that have been allowed. I do not have the full details of the circumstances that led to these proposals being considered acceptable, but note that they were at a time when the Council could not demonstrate a 5 year housing land supply, as is the case now. As such, the circumstances of these cases are not directly comparable with those which apply in this appeal. I have in any case, reached my own conclusions on the appeal proposal on the basis on the evidence before me.
24. As part of the appeal scheme it is proposed to increase the width of Frog Lane along the site frontage. Whilst this would improve the access to the site, and traffic movements along the road in general, there is nothing to indicate that these works are essential to provide adequate access for the development. As such I give this benefit little weight.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

25. The construction of the new houses would provide some work for local contractors, and spending by new residents would also be beneficial to the local economy. Although the layout and design of the scheme is not to be determined at this stage, I note that it is considered that the proposed houses could be accommodated without causing any harm to the living conditions of nearby residents. In addition there is no objection to the proposal in terms of biodiversity, impact on trees, or flood risk. However, an absence of harm with regard to these matters is a neutral factor.

Conclusion

26. Bringing these points together, in the scheme's favour it would provide some new market and affordable housing, and would have some limited economic and highway benefits. However, the houses would not be well located in relation to access to jobs, shops and other services, and so would contribute towards an unsustainable pattern of development, which both national and local policies seek to resist. Whilst I have given weight to the benefits of the scheme, I conclude that in this instance they would be outweighed by the adverse impacts. Consequently, the proposal would not represent sustainable development.

27. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR