
Appeal Decision

Site visit made on 23 January 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 31st January 2017

Appeal Ref: APP/R0660/W/16/3161870

2 Rose Cottage, Monks Lane, Acton, Cheshire, CW5 8LW

- 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 and Mrs Price against the decision of Cheshire East Council.
 - The application Ref: 16/3977N dated 14 August 2016, was refused by notice dated 10 October 2016.
 - The development proposed is erection of 1 No house and garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with approval sought for the means of access at this stage. Layout, appearance, landscaping and scale are reserved matters. An indicative site layout plan has been submitted which I shall treat as being for illustrative purposes only.

Main Issue

3. The main issue in this case is whether or not the proposal would represent a suitable and accessible site for new housing, having regard to local and national policies and the principles of sustainable development.

The Policy Context

4. The development plan comprises saved policies from the *Borough of Crewe and Nantwich Replacement Local Plan 2011* (LP). The appeal site forms part of the large garden of No 2 Rose Cottage and is outside the confines of the settlement boundary of Acton as defined on the LP Proposals Map.
5. LP Policy NE.2 says land outside the settlement boundaries will be treated as open countryside, where only development essential for agricultural purposes or other specified uses appropriate to a rural area will be permitted. It is no part of the appellant's case that the proposal would satisfy any of these criteria. The policy does however allow for exceptions to be made where there is an opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage. The explanatory text explains that within the countryside there are numerous small settlements which do not justify the drawing of settlement boundaries, but where they may be genuine opportunities for infilling. Saved LP Policy RES.5 refers back to this exception in

Policy NE.2, and has similar criteria concerning other development which may be permitted in the countryside.

6. The parties have also referred to a number of policies in the emerging *Cheshire East Local Plan Strategy Submission Version March 2014* (CELP), of which Policy PG5 (Open Countryside) is the most directly relevant. This too includes an exception permitting the infilling of a small gap in an otherwise built up frontage with one or two dwellings. The CELP is currently undergoing Examination and is thus at an advanced stage in its preparation. As such, and in line with paragraph 216 of the Framework I have given moderate weight to this policy. However, as this is not yet part of the Development Plan, I have assessed the proposal primarily against the saved LP policies and the policies in the Framework, which are material considerations of considerable importance.
7. The *Acton, Edleston & Henshull Neighbourhood Plan* has been mentioned by the Council. However, as it is at an early stage of preparation, it cannot be afforded any weight at this time.

Reasons

8. The appellants say the appeal site possesses the key characteristics required to accord with the exception permitted by Policy NE.2 in that the presence of houses to either side denotes a built-up frontage and that the gap of about 40m is consistent with the plot widths of the houses to either side.
9. I accept that there is no definition in the policy of what constitutes either a 'small gap' or an 'otherwise built up frontage'. However, to my mind the presence of two widely spaced properties to either extremity of the site, in an area of very sporadic residential development, does not suggest an 'otherwise built up frontage'. Indeed, beyond Rose Cottage there are no other dwellings further east on this side of Monks Lane until the edge of Acton is reached. The character of the immediate area is predominantly rural, and the presence of a small cluster of dwellings around the junction of Monks Lane and Cuckoo Lane does not afford it any built-up character or help to justify the proposal in any way. Nor am I persuaded that the width of the frontage, which is substantial and fronted by vegetation, could reasonably be considered a 'small gap'.
10. The appellant has referred to appeal decisions elsewhere in the District where permission was granted for residential development in what are seen as comparable situations. With regard to 'otherwise built-up frontages', I have been referred to two cases. Firstly, at Elton Lane, Winterley¹, the Inspector concluded that the appeal site was part of a continuously built up frontage, and it is evident from the site plan that there is substantial continuous development on Elton Lane to either side of that site. Secondly, at Newtown Road, Sound², the Inspector concluded that that the site was part of a cluster of roadside dwellings and would continue the linear built form along the frontage. This contrasts with the appeal before me, where there are just single properties on either extremity of the site, well away from the closest settlement of Acton.
11. The appellant has also referred to cases where the question of what might constitute a 'small gap' has been considered. Firstly, an earlier proposal for a dwelling on the appeal site³. The Inspector on that occasion dismissed the

¹ Ref: APP/R0660/W/14/3001214: Land adjacent to Elton Lane, Winterley, Sandbach

² Ref: APP/R0660/A/12/217303: Land off Newtown Road, Sound, Nantwich

³ Ref: T/APP/K0615/A/99/1020309/P: Land adjacent to Rose Cottage, Wrexham Road, Acton

appeal, concluding that although in his view the proposal could be regarded as infilling, it would nonetheless still be unacceptable due to being part of an isolated group of houses in the countryside. Significantly however, that appeal was assessed against a previous Local Plan when different local and national policies were in force. Secondly, again in relation to the Winterley appeal, the Inspector simply noted that what might constitute a 'small gap' has to be considered in its context, and the context in that case was that the site was part of 'an otherwise built up frontage'. Finally, I have been referred to a delegated decision at Worleston⁴ where the application related to part of a 57m open frontage. However, and similar to the Winterley case, the frontage along Rookery Park Drive was considered to be otherwise continuously developed.

12. Therefore, whilst I note these examples, there are clear differences and distinctions to be made, as summarised above. In any event, each application and appeal falls to be considered on its own merits.
13. Furthermore, Paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It clearly states that isolated new homes in the countryside should be avoided unless there are special circumstances. In general, new development is most appropriate where there is access to services, opportunities for employment, and alternative modes of transport other than the private car. A wide range of such services and opportunities for employment are available in the town of Nantwich, approximately 2.3 miles from the site. Other, more limited facilities are available in Acton including a primary school, church and village hall. Although I note there is a bus stop near the site used by a number of fairly frequent services. However, the destinations served are limited, and it is still likely that the majority of trips made by future residents would be made by private car. Although the proposal would not by itself generate large amounts of traffic, the cumulative impacts of allowing such developments in countryside locations would increase the number of unsustainable journeys made.
14. I therefore conclude on this issue that the proposal would not represent a suitable and accessible location for new housing having regard to local and national policies and the principles of sustainable development. It would conflict with LP Policies NE.2, RES.5 and National planning policy in the Framework.

Whether Sustainable Development - Planning Balance and Conclusion

15. Paragraph 14 of the Framework indicates that where relevant development plan policies are out-of-date, the presumption in favour of sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. Paragraph 49 says 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. Whilst the Council has proposed a mechanism to achieve a five-year supply of housing through the CELP process, at present it acknowledges that it cannot currently demonstrate a five-year supply of deliverable housing sites, although I have been given no information regarding the extent of the shortfall.

⁴ Ref: 16/2141N: Land to the east of Worleston Lodge, Main Road, Worleston

17. I have concluded that the proposal would conflict with LP Policies NE.2 and RES.5, and these are restrictive policies which seek to limit housing development in the countryside outside settlement boundaries. As such, they have the effect of constraining the supply of housing land and so for the purposes of this appeal should be regarded as relevant policies for the supply of housing. However, although these policies are currently out-of-date, this does not mean they no longer apply. Indeed, as the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, they should be given significant weight. However, they clearly carry less weight than they would if there were a five-year supply housing supply.
18. It is therefore necessary to determine whether the proposal is sustainable in the wider realm in the context of the Framework taken as a whole. Paragraph 7 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The provision of new housing would represent a social benefit, albeit a very modest one. In addition I accept that there would be some support for local services and amenities amounting to an economic benefit, although the effect of this small scale proposal would be limited.
19. In terms of the environmental role, I have concluded that the site would not be in an accessible location, would conflict with saved LP Policies NE.2 and RES.5, and so would contribute towards a pattern of development which the Council's policies and the Framework seek to resist.
20. The Council has indicated that the proposed dwelling could be accommodated without causing significant harm to the character and appearance of the landscape, and I note that the majority of trees and the roadside hedgerow would be retained. Based on my own observations, whilst the proposal would inevitably change the open character of the site, I find no reason to disagree with that conclusion. However, these are neutral lack-of-harm factors which do not weigh in favour of the proposal. Overall, the proposal would not make a significant contribution to either the social or economic dimensions of sustainable development and would be inconsistent with the environmental dimension.
21. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of Paragraph 14 of the Framework does not indicate that permission should be granted, as the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
22. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR