

Appeal Decision

Hearing held on 24 January 2017

Site visit made on 24 January 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 6th February 2017

Appeal Ref: APP/A0665/W/16/3155442

Goostrey Business Park, New Platt Lane, Allostock, Northwich, Cheshire CW4 8NN

- 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 P Holland against the decision of Cheshire West & Chester Council.
 - The application Ref 15/04269/OUT, dated 16 October 2015, was refused by notice dated 3 February 2016.
 - The development proposed is residential development and associated works including demolition of existing buildings.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development and associated works including demolition of existing buildings at Goostrey Business Park, New Platt Lane, Allostock, Northwich, Cheshire CW4 8NN in accordance with the terms of the application, Ref 15/04269/OUT, dated 16 October 2015, subject to the conditions set out in Annex A.

Procedural Matter

2. The application was submitted in outline with the means of access to be determined at this stage. I have dealt with the appeal on this basis treating the plans which show the layout of the site as illustrative apart from the position of the access.

Main Issue

3. The main issue in the appeal is whether or not the proposal represents sustainable development having particular regard to national and local policies for the location of new housing in the open countryside.

Reasons

4. The appeal site comprises a single storey commercial building, and associated hardstanding, that is largely unused apart from storage of a variety of materials. It is located in the open countryside. In order to protect the character and appearance of the countryside both national and local policies seek to restrain new development in such areas unless it meets certain criteria.
 5. Policy STRAT 9 of the *Cheshire West and Chester Local Plan (adopted January 2015)* (CWCLP) seeks to resist new development within the countryside to that
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- which requires a countryside location and which cannot be accommodated within identified settlements. However, it does indicate that certain types of development will be permitted within the countryside. This includes replacement buildings. Policy GS5 of the *Vale Royal Local Plan First Review (adopted June 2006)* (VRLP) also indicates that new buildings are not allowed in the countryside unless provided for through other policies of the local plan.
6. The appeal scheme would replace the existing commercial building with a small number of dwellings. Although not for the same use, neither the wording of STRAT 9, nor the supporting text, indicates that this is necessary. In addition, whilst layout and scale are to be determined at a later stage, the illustrative plans indicate that the development would be likely to result in a significant reduction in the hardstanding, and only modest increases in the footprint and volume of the buildings on the site.
 7. The Council argued that all the types of development listed in the policy are only permitted if their use requires a countryside location that cannot be accommodated within an identified settlement. As such, they considered that although the proposal is for replacement buildings, as its use does not need a countryside location and could be accommodated within settlements, it would not accord with the policy.
 8. However, in my opinion, whilst the first paragraph of the policy sets out a general presumption against the majority of new development in the open countryside, the second paragraph then sets out exceptions to this general presumption. Unless specifically mentioned, as in the first bullet point in this paragraph, I consider that the requirements of the first paragraph do not apply to these types of development. Thus, in being a scheme to provide replacement buildings of a similar overall size and scale on the site, the appeal scheme would constitute a type of development permitted in the countryside by this policy.
 9. STRAT 9 also indicates that the development must be of an appropriate scale and design to not harm the character of the countryside. The surrounding area is largely agricultural, with some small areas of woodland. There are a number of small pockets of residential and commercial uses, particularly along the A50. The unkempt appearance of the site and the building, and the miscellany of open storage, currently detracts from the character of the countryside. Although the scale and appearance of the buildings are matters for future consideration, I am satisfied that a scheme could be accommodated on the site that would not be out of character with its countryside location, and would visually be an improvement on the existing use.
 10. Therefore, I am satisfied that the proposal would accord with Policies STRAT 9 and in being allowed for by this policy, which is the up to date policy that has replaced other policies in the VRLP that relate to development within the countryside, it would also accord with GS5.
 11. A core planning principle of the *National Planning Policy Framework* (the Framework) is to focus development in locations which are, or can be made, sustainable. With the aim of promoting sustainable development in rural areas, paragraph 55 directs housing to areas where it will enhance, or maintain, the vitality of rural communities, and isolated new homes are to be avoided, unless there are special circumstances. In general, the pattern of development should seek to minimise the length of journeys to work, schools

- and other services, facilitating the use of alternative modes of transport to the private car (paragraph 30 and 37).
12. This is also reflected in Policy STRAT 1 of the CWCLP which, in providing a framework of locally specific sustainability principles, amongst other things, indicates that new housing should be located where there is good accessibility to existing or proposed local shops, community facilities and primary schools, and with good connections to public transport.
 13. It is accepted that the site does not lie within a settlement boundary. However, it is approximately 1km from the edge and 2.5km from the centre of Goostrey which is defined as a local centre in the emerging Cheshire East Local Plan, and which has a range of shops and facilities, including a primary school and a train station. The majority of the main services are not within walking distance of the site, but they would be within cycling distance. Whilst the road linking the site to Goostrey has no pavements or lights until the edge of the village, it is not unduly narrow, has good forward visibility, and is relatively lightly trafficked. As such, the lack of pavements or lighting would not necessarily be a deterrent to walking or cycling.
 14. In addition, there is a convenience store located on the A50 within walking distance of the site, and I note that there is a pavement along one side of this road, even though there is no street lighting. A greater range of services and facilities, including employment areas, banks, medical centres and larger supermarkets are available in Holmes Chapel which is around 3.25km from the site. A limited bus service, available from near the site, means that at least at certain points of the day, these facilities can be accessed by means other than the private car.
 15. The Framework acknowledges that the opportunities to travel by sustainable means, and to minimise journey lengths, will vary from urban to rural areas. Despite not being within a settlement, future occupiers would not have to travel a significant distance to be able to meet the majority of their day to day needs, and would not be entirely dependent on the private car to do so.
 16. Furthermore, although little used at present, the site could still be used for commercial purposes, which could attract significant daily vehicular movements to the site. As a consequence, I agree with the appellants' highway evidence, that the proposal would not generate any more movements, and could in fact lead to a significant reduction in such movements. In addition, as the appellants are happy to accept a condition limiting the number of dwellings to 5, the levels of traffic movements would be no different to those created by the scheme to convert the buildings into 5 dwellings that has recently been approved on the site¹.
 17. Overall Policy STRAT 1 seeks to enable sustainable development. Both it, and the Framework (paragraph 7), identify that there are 3 dimensions to sustainable development: economic, social and environmental.
 18. Whilst the proposal would lead to the loss of an employment site, it would not result in the loss of any jobs as the only people who occasionally work there are based at the main site of the paint business. Moreover, although marketed both informally for some years, and formally for the last couple of years, the

¹ Application Reference 16/03425/FUL

appellants evidence shows that there is very little interest in the site for commercial uses, and it is considered that its poor location, and the state of the buildings is such that its continued use for employment purposes is not commercially viable. This has not been disputed by the Council, and I see no reason to come to a different conclusion.

19. The construction of the new dwellings would enhance the economy of the area by the creation of jobs associated with the construction phase, and the spending by new residents would also be beneficial to the economy of the area. Whilst the modest scale of the development would limit these contributions, nonetheless, overall, the proposal would have positive economic benefits.
20. Notwithstanding the Council can currently demonstrate a 5 year housing land supply, in the context of the Framework's desire to significantly boost the supply of housing, the scheme would still make a small contribution to the housing supply for the area. Moreover, future occupiers would help to maintain the vibrancy of local services. Therefore, the proposal would be sustainable in terms of the social dimension.
21. The proposal would result in the redevelopment of previously developed land, and the Framework seeks to make effective use of land by giving strong support to the reuse of such land. It is also agreed that subject to conditions, the scheme would not have a detrimental impact on wildlife or biodiversity. In fact, by reducing the amount of hardstanding covering the site, it would be likely to bring about enhancements in this respect. Whilst it is proposed that the houses would be energy efficient, and it was suggested that it would be more cost effective to provide such homes by way of new buildings rather than by the conversion of the existing buildings, no firm evidence was provided to support this claim. Nevertheless, overall I consider the proposal would have positive environmental benefits.
22. All in all, I consider that the proposal would not conflict with Policy STRAT 1 of the CWCLP. As the site is located in the open countryside rather than within a settlement, it may technically be regarded as "isolated". However, in this case the site has relatively good accessibility to services and facilities, and the proposal would not necessarily result in any increase in the number of traffic movements to and from the site. Moreover, the proposal would involve the redevelopment of a previously developed site in accordance with the development plan, and would have very similar sustainability impacts to the conversion scheme for which permission has already been granted. These are important considerations which would outweigh any potential conflict with paragraph 55 of the Framework.

Other Matters

23. I note the concern of the Parish Council that insufficient parking would be provided and that the houses would not be the smaller affordable homes required by young families in the area. However, the layout of the site and the scale and the design of houses are not matters to be determined at this stage, although I am satisfied that the site is large enough to provide adequate levels of parking.

Conclusion and Conditions

24. Overall, having had regard to local and national planning policies for the location of new housing in the open countryside, I consider that the proposal would represent sustainable development. Therefore, I conclude the appeal should be allowed.
25. In addition to the standard implementation and reserved matters conditions, it is necessary for the avoidance of doubt, to define the plans with which the scheme should accord. In order to ensure the development does not exceed the threshold for the provision of affordable housing it is necessary to condition the maximum combined floorspace, and the number of houses that can be built on the site.
26. Given the findings of the Preliminary Risk Assessment and the sensitive nature of the end use, I consider it would be appropriate to have a condition to further assess the potential for contamination, and to outline measures of how any contamination would be dealt with. In the interest of the character and appearance of the area a condition to ensure the protection of the trees that surround the site is necessary.
27. For ecological reasons, conditions are required to protect and ensure adequate mitigation is carried out for protected species. To ensure the satisfactory drainage of the site it is necessary to control details of the drainage systems.
28. The Planning Practice Guidance indicates that conditions to restrict permitted development rights should only be used in exceptional circumstances. In the absence of such justification and as the layout, scale and appearance of the dwellings are still to be determined I am not persuaded that it is necessary to remove the permitted development rights as suggested by the Council. As the other conditions suggested by the Council relate to matters that are reserved for future consideration, I consider that it is not necessary to apply them at this stage.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Caroline Payne	Emery Planning
John Hunter	Kings Chambers
Peter Holland	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ben Kettle	Senior Planning Officer, Cheshire West and Chester Council
Rob Charnley	Principal Planning Officer, Cheshire West and Chester Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Skeleton Submission submitted by the appellant

Annex A

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 three years from the date of this permission.
- 3) The development hereby permitted shall commence not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Red edged Proposed Scheme Drawing – Calder Peel September 2015, but only insofar as it relates to the means of access.
- 5) The reserved matters application shall propose no more than 5 dwellings and no more than a maximum combined gross floorspace of 1000 sqm (gross internal area).
- 6) No development shall take place until a site investigation of the nature and extent of contamination on the site has been carried out in accordance with a methodology which has been previously submitted to, and approved in writing by, the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins.

Where relevant contamination is identified during the site investigation, a report specifying the measures necessary to suitably remediate this, and safeguard the development, shall be submitted to, and approved in writing by, the local planning authority before any development begins.

The site shall then be remediated in accordance with the approved remediation measures, and written confirmation that the work has been completed shall be provided to the local planning authority prior to occupation commencing.

Any contamination that is found during the course of construction of the approved development, that was not previously identified, shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until additional measures for the remediation of this source of contamination has been submitted to, and approved in writing by, the local planning authority.

- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan), and the appropriate working methods (the arboricultural method statement), in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to, and approved in writing by, the

local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

- 8) No vegetation clearance shall be carried out on the site between the 1st March and 31st August inclusive, unless the site is surveyed for breeding birds, and a scheme to protect breeding birds is submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 9) The development hereby permitted shall be carried out in accordance with the recommendations of the Whistling Beetle Bat Report August 2015 and the Whistling Beetle Ecology Report (incorporating Badger survey and Great Crested Newt breeding suitability assessment of adjacent waterbodies) January 2016.
- 10) Prior to the first occupation of any part of the development hereby permitted, bat boxes shall have been installed at the site in accordance with a scheme that has first been submitted to, and approved in writing by, the local planning authority. The bat boxes installed in accordance with the approved details shall then be retained in that condition thereafter.
- 11) Foul and surface water shall be drained on separate systems.
- 12) No development shall take place until a surface water drainage scheme, based on the hierarchy of drainage options in the Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) has been submitted to, and approved in writing by, the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development shall proceed in accordance with the approved scheme.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements, to secure the operation of the scheme throughout its lifetime.