
Appeal Decision

Site visit made on 14 March 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 24 March 2017

Appeal Ref: APP/R0660/W/16/3165887

Pear Tree Cottage, Cuckoo Lane, Acton, CW5 8LL

- 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 Tony Masters against the decision of Cheshire East Council.
 - The application Ref 16/4482N, dated 12 September 2016, was refused by notice dated 7 December 2016.
 - The development proposed is the erection of up to 3 dwellings with primary access defined up to 20 metres and ancillary facilities and associated infrastructure.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Tony Masters against Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was made in outline with all matters reserved except for access. A proposed layout has been submitted but this is only for indicative purposes. I have dealt with the appeal on this basis.

Main Issues

4. The main issues are (i) whether the proposed development is sustainable in respect of its location; and (ii) the effect of the development upon the character and appearance of the countryside.

Reasons

Policy Background

5. The site is outside of any development boundary defined by the Crewe and Nantwich Replacement Local Plan 2011(LP). LP Policies NE.2 and RES.5 indicate that all land outside the settlement boundaries will be treated as open countryside where development is limited.
 6. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. This is set out at paragraph 14 of the Framework and indicates that where relevant housing supply policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably
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outweigh the benefits, when assessed against the policies in the Framework as a whole. Paragraph 7 of the Framework establishes the three dimensions to sustainable development; economic, social and environmental.

7. The Council has confirmed that it cannot demonstrate a 5 year housing land supply (HLS). Therefore, the relevant policies for the supply of housing, including LP Policies NE.2 and RES.5 are out of date. That said, whilst I cannot give these policies the full weight of the development plan, this does not mean that they are irrelevant or should be disregarded.

Locational Sustainability

8. Both the Council and the appellant have referred to the North West Sustainability Checklist in assessing the locational sustainability of the site. According to the Council there is only a bus stop and a primary school within an acceptable distance from the site. Whilst the bus stop is a short distance away, and provides services to Crewe and Chester, stopping at Nantwich and Tarporley, the Council say that these services are only hourly. The appellant has not provided any evidence to dispute this frequency and I consider, therefore, that the site has access to infrequent bus services and is not well served by public transport. I note the appellant's comments that the site is some 2.17 km to the Nantwich settlement boundary – this does not tell me how close amenities are, but in any event, I consider 2.17 km to be a long walking distance especially for the elderly and small children.
9. The appellant indicates that there is also open space, a mobile library, a primary school, a community centre and a public right of way within 1 km of the site. However, a mobile library will clearly have limited accessibility and I do not consider a public right of way to be "service" as such. Therefore, the site is remote from day to day services such as shops, medical facilities, secondary schools, public transport connections, leisure centres, pubs, restaurants, etc.
10. The appellant argues that Pear Tree Cottage is as sustainable as other sites in Hankelow and Brereton Heath where planning permission for housing was allowed on appeal.¹ However, the Inspector for the site in Hankelow found that the development would be served by viable alternative modes of transport to a car. The Brereton Heath appeal was very different to the current appeal proposal, for example, the scheme proposed a children's equipped play area on the site which would benefit existing residents. It was also proposed to provide a bus shelter and new footpath outside of the site to enhance sustainability. The contribution to the housing supply was also greater.
11. Other appeal decisions have been mentioned by the appellant. The Newcastle-under-Lyme² appeal is within a different local authority area and the site was within a village where there was a village hall and a pub. In the appeal in Haslington³, the site was served by frequent bus services. The Clitheroe appeal⁴ was for a completely different scheme - 270 dwellings and a doctor's surgery. The Stoke-on-Trent⁵ appeal did not have locational sustainability as a

¹ Appeal Ref: APP/R0660/A/13/2190651 and 2192192 respectively

² APP/P3420/W/16/3155596

³ APP/R0660/W/15/3138296

⁴ APP/T2350/A/11/2161186

⁵ APP/R0660/W/16/3156493

main issue. Therefore, none of the quoted appeal decisions are directly comparable to the one before me and I have determined this one on its own particular merits.

12. Given the lack of day to day services within walking distance and the limited access to public transport, I conclude that the proposed development would not be locationally sustainable and would conflict with Paragraph 17 of the National Planning Policy Framework which says that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

Character and Appearance

13. The site is currently used as a garden to Pear Tree Cottage. It is bound by some residential land and fields and is located on the edge of a small and sporadic group of dwellings set within a wider area of open countryside. The general vicinity has an open and rural character.
14. There is dispute between the parties as to whether the use of the land as a garden is lawful. I have a copy of a planning permission for a change of use to garden land but there is no plan to show the extent of the land to which the permission pertains. In any event, whether or not the land has a lawful use as a garden is not critical to my reasoning as the main characteristic of the site is its open and undeveloped nature.
15. The construction of a dwelling or dwellings would encroach upon the undeveloped land and would introduce built development where currently there is none. This would have an urbanising effect upon the countryside and would erode its open and rural character.
16. The appellant has submitted a Landscape Character Appraisal which concludes that the field pattern and hedgerow structure of the local context will remain intact and that it is likely that the proposal would become assimilated into the landscape due to proposed mitigation measures, i.e., trees and hedges. However, the retention of the field pattern and hedgerow structure of the wider area and screening of the development would not overcome the actual loss of the open landscape.
17. I note the appellant's comments regarding infill. Policy NE.2 describes this as a "small gap with one or two dwellings in an otherwise built up frontage". However, given the long distance between Pear Tree Cottage and the barns to the other side of the site; the large size of the site; and the sporadic nature of surrounding development, I consider that the development would not fall into the definition of "infill". The site is not a small gap in an otherwise built up frontage.
18. I conclude that the proposed development would harm the character and appearance of the countryside. Consequently, it would conflict with LP Policies NE.1 and RES.5 which, in combination, seek to protect the open countryside.

Other Matters

19. I note the proposals to improve the access and to improve a very short section of footpath outside of the site but these benefits do not outweigh the harm I have identified.

Planning Balance

20. The development would have an economic benefit due to the short term construction period. It would have some social benefit by the provision of dwellings. However, it would result in substantial environmental harm due to its impact upon the character and appearance of the countryside and the generation of car journeys which would contribute to carbon dioxide and other emissions. This harm outweighs the small contribution the development would make to the supply of housing. Overall, the proposal would not constitute sustainable development as defined by the Framework.
21. I have taken into account all other matters, including representations by interested parties but none outweigh my overall conclusions.

Conclusion

22. Taking into account all the above factors, I conclude that the appeal should fail.

Siobhan Watson

INSPECTOR