
Appeal Decision

Site visit made on 25 April 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 8th June 2017

Appeal Ref: APP/A0665/W/17/3170561

The Cedars, Old Hall Street, Malpas, SY14 8NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McCarthy & Stone Retirement Lifestyles Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 16/02002/FUL, dated 11 May 2016, was refused by notice dated 16 January 2017.
 - The development proposed is the demolition of existing building and associated outbuildings and erection of Retirement Living housing (category II type accommodation) communal facilities, landscaping and car parking.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by McCarthy & Stone Retirement Lifestyles Ltd against Cheshire West & Chester Council and is the subject of a separate Decision.

Main Issue

3. The main issue in this case is the effect of the proposal on the character and appearance of the surrounding area, including its impact on the significance of the Malpas Conservation Area, a designated heritage asset.

Reasons

4. The appeal site comprises a vacant and dilapidated dwelling set within substantial grounds. It is located toward the southern edge of Malpas and adjoins residential properties to the north and a large detached dwelling (The Hollies) to the south. There are open fields to the east. The front part of the site adjacent to Old Hall Street is within the Malpas Conservation Area. This covers much of the attractive rural village and is centred around its historic core. As predominantly open and undeveloped garden land, the appeal site, along with the other open land surrounding the village, contributes to the rural setting of Malpas and plays a role in defining the character of the area, which is part of the Conservation Area's significance as a heritage asset. Although most of the site is outside the Conservation Area, it nevertheless forms part of its immediate setting. Paragraph 132 of the National Planning Policy Framework (the Framework) advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
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5. Policy BE1 of the Malpas and Overton Neighbourhood Plan (Neighbourhood Plan) requires new development to be a positive addition to the existing built form. The supporting text explains that development should reflect the existing characteristics of Malpas. It states that a defining feature of the area is the strong relationship between the settlements and the surrounding countryside. It also recognises that views into the village from the countryside play an important role in defining the sense of place.
6. The Malpas Character Study, prepared to support the Neighbourhood Plan, establishes a number of different character areas. The appeal site falls within Character Area 9, Old Hall Street and is also considered as Sample Site 4, Southern Area. It is recognised as being characterised by a more rural feel, with properties set within their own plots further back from the street edge, often with heaving planting at the roadside. The buildings generally are of a more agricultural arrangement of L-shapes and courtyards. New development is encouraged to have heavy vegetation to the roadside, with two to three storey development set back from the roadside.
7. The proposal was reduced in scale during the Council's consideration of the planning application and would provide 12 one bedroom and 15 two bedroom units in a two storey building. The accommodation would be managed and self-contained and is intended for owner occupiers over 60 years old. I appreciate that the appellant is a market leader in this type of specialist housing and the successful model (which requires internal communal space and full wheelchair accessibility) gives rise to higher density development and necessitates a relatively large single block form of development.
8. The proposed two storey building has been designed with a rural approach in mind to resemble a farmhouse at the front of the site on Old Hall Street with agricultural barns/outbuildings to the rear. It would be made up of different complementary elements with various roof lines. Local materials and building methods would be incorporated and the different elements of the scheme and its four elevations are intended to have a strong relationship with each other. There are other examples of this form of development on the edge of the village.
9. The main western section of the building would be slightly taller due to its location on higher ground and steep pitched roof. The off-centre gable, simple porch entrance and use of chimneys aim to achieve a well-proportioned frontage to Old Hall Street that reinforces its role as the farmhouse element of the scheme. The building would be set back from the main road to align with the existing building line and screened by the existing mature frontage trees which would be retained and supplemented with additional planting. This would provide a relatively discreet site entrance from Old Hall Street from where the building would not be prominent.
10. That said, even taking into account the functional requirements of the intended accommodation, the proposed building would be of a substantial size. It would extend well back towards the rear of the site a good deal beyond the existing bungalow and the rear of neighbouring The Hollies. It would cover much of the eastern half of plot and bring development close up to boundaries of the site leaving only limited space around the building.

11. At 60 dwellings per hectare the proposal would be of a density significantly higher than that of the surrounding area. The adjacent residential estate to the north is estimated to be 20 dwellings per hectare and the average density in the Character Area varies from 15 to 20 dwellings per hectare. Accordingly the Neighbourhood Plan expects new development of no more than 20 dwellings per hectare here.
12. I accept that long wide buildings would be typical a farmyard group. Variations in the proposal's roof line along with its stepped elevations and roof features break up its appearance and the design of the proposed eastern elevation facing the open countryside is deliberately understated. Despite these factors, it seems to me that the building would essentially be a large and continuous single block of two storey development. Whilst I note the appellant's view that the concept is a design philosophy rather than a literal attempt to recreate a farm complex, I have some sympathy with the Council's concern that the modest glazed gaps between the elements of the building would do little to break up its bulky and singular form. The proposal would be much bigger and more densely developed than any existing buildings in the Character Area and out of step with the established pattern of development nearby.
13. Moreover, although the site is within the extent of the village, it is a parcel of predominantly open garden land on the edge of Malpas and is recognised in the Neighbourhood Plan for its rural feel. It adjoins open fields to the east, and despite being separate from them, relates closely to the wider countryside and contributes to the open surroundings of the village. The appellant's Heritage Statement acknowledges that the setting of the Conservation Area is extensive and includes much of the surrounding countryside which affords views of it from approach roads from most directions and from the network of public footpaths that traverse the surrounding farming landscape.
14. On the approach to the village along the public footpaths to the south east the proposal would be seen in the lower foreground as part of a fairly broad panorama and against the backdrop of the elevated village. Even so, it would introduce development much closer to the countryside on a significantly larger scale than currently exists in the area and lead to the loss of open land on the edge of village. Its long and unbroken rear elevation and the substantial depth of its side elevation would be evident from the public footpaths and to my mind would be appreciated as a considerable intrusion of built development. This would be so despite the proposed planting on the eastern boundary where low level screening is intended to allow views from the proposed building to the open countryside to be retained.
15. The submitted Landscape and Visual Impact Appraisal accepts that there would be a high visual change from Malpas Footpath 4 to the east of the site, which would be reduced to a medium change following the proposed mitigation planting, but would nevertheless still have a moderate-substantial effect.
16. The proposal would also be visible to a lesser extent in views on the approach to the village from the south along Old Hall Street. These would be limited to some degree by existing roadside hedgerows and trees. The proposal also includes additional planting to south boundary of the site which is intended to provide a strong vegetated buffer. Even so, some intermittent views of the proposal's long side elevation extending well back from the road into the site would be possible particularly during the winter months.

17. I have had regard to the current overgrown condition of the site and appreciate that the derelict wooden clad building is in a state of disrepair. That said, it is a modest structure positioned centrally in the site and set well back from its boundaries with the countryside. As things stand it is not prominent and does not detract from the character and appearance of the area to any great degree.
18. Leaving the site in its present state is not an option for the appellant and I am aware that outline planning permission for a residential development of up to 6 dwellings was approved on the site in 2015. Thus, the principle of residential development on the site has been established and there is no dispute between the parties concerning its general suitability for residential development. Nevertheless, any such development of the site for 6 dwellings would not be a substantial as the proposal now before me. Even if the houses were not to follow the farmstead design approach, I am not convinced that they would have a greater impact on the character and appearance of the area than the appeal scheme. As such, this fallback position is insufficient to justify the proposal.
19. Bringing matters together, due to its considerable scale and massing the proposal would be at odds with the existing development nearby and the rural character of the area. It would stand out as an unduly large and dominant structure that would detract from the site's edge of the village location and undermine the rural feel of its surroundings. I am not persuaded that it would be seen as part of the existing built up area, or form part of the wider prospect of the village. Rather, it would appear as a prominent and unsympathetic intrusion that would fail to enhance local distinctiveness.
20. The Council raises no objections in terms of the impact of the proposal on the setting of the listed buildings referred to by the appellant and I see no reason to come to a different view. Nevertheless, the proposal would lead to significant development on the edge of the village on a site that is partly within the Conservation Area itself but also relates closely to the adjoining countryside and forms part of the Conservation Area's setting. The Neighbourhood Plan recognises that a defining feature of the area is the strong relationship between the settlements and the surrounding countryside and that views into the village from the countryside play an important role in defining the sense of place.
21. In my view, for the reasons given, the proposal would seriously detract from the rural setting of the village and the Malpas Conservation Area, which form part of the significance of this heritage asset. Paragraph 131 of the Framework indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Paragraph 132 advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area (as described at paragraphs 133 and 134 of the Framework), the harm caused would be material. That the Council's Conservation Officer raised no objections to the proposal does not alter my view.
22. I therefore conclude that the proposal would cause harm to the character and appearance of the area, and would have a detrimental impact on the significance of the Malpas Conservation Area, a designated heritage asset.

23. This would be contrary to Policy ENV5 of the Cheshire West and Chester Local Plan (Part One) (Local Plan) which requires development to safeguard or enhance heritage assets, and respect and respond positively to designated heritage assets and their settings, avoiding loss or harm to their significance. It would conflict with Local Plan Policy ENV6 which requires high quality design and development that is inkeeping with the character of its surroundings and that achieves a sense of place through appropriate layout and design.
24. The proposal would be at odds with Neighbourhood Plan Policy BE1 which requires new development to be a positive addition to the existing built form and states that achieving this will involve full consideration of a number of factors including the scale of development, density of development, integration with existing surrounding buildings, impacts on the significance of heritage assets, impacts on the setting of the heritage assets and impacts on views and the existing relationship with the countryside (amongst other things).
25. It would fail to support Neighbourhood Plan Policy BE2 which states that the design of new buildings must reflect the character of Malpas and Overton, should conserve and enhance the historic environment, including the setting of heritage assets, where appropriate, and indicates that reference should be given to the Malpas Character Study. It would not comply with Neighbourhood Plan Policy H4 which states that the character of new housing development should reflect the organic growth of Malpas to date, and that development should conserve and enhance the historic environment, including the setting of heritage assets where appropriate. It would also undermine the core planning principle of the Framework of preserving the significance of designated heritage assets.

Other matters and planning balance

26. The Council advises that it has a 6.38 year supply of deliverable housing land and the appellant does not dispute this matter. In the absence of any evidence to the contrary, and in the context of paragraph 49 of the Framework, I see no reason why the Councils' relevant policies for the supply of housing should not be considered up-to-date. Accordingly, I have had regard to the third bullet point of paragraph 14 of the Framework. However, since I have concluded that the proposal is in conflict with the development plan, paragraph 14 of the Framework, and the presumption in favour of sustainable development, does not apply. As such the weighted balance at the fourth bullet of paragraph 14 does not come into play in this appeal.
27. Nevertheless, the standard planning balance remains relevant, and it is also necessary to weigh the harm to the significance of the Malpas Conservation Area against the public benefits of the proposal (as required by paragraph 124 of the Framework). Therefore, I have considered the proposal against the three limbs of sustainable development set out at paragraph 7 of the Framework to determine whether the development is sustainable and have also assessed its benefits.
28. With regard to the economic role of sustainable development, the proposal would be located on the edge of the village and would increase economic activity and support shops and services in Malpas. Residents would be within walking distance of them and have a high propensity to shop locally. The development would create construction jobs and use local companies (the appellant estimates that around 120 people would be employed). Once

completed the scheme would employ a house manager and maintenance staff. Additionally the housing market would be revitalised through the release of under occupied family housing and equity into the economy. These are all benefits of the scheme which are supported by paragraph 18 of the Framework and the Government's commitment to securing economic growth in order to create jobs and prosperity, and I afford them moderate weight. Thus, the proposal would contribute to building a strong, responsive and competitive economy and accord with the economic dimension of sustainable development.

29. In terms of the social role of sustainable development, the proposal would widen housing choice and provide specialist homes for older people for which there is an identified national and local need.
30. The Framework seeks to boost significantly the supply of housing (paragraph 47). It also looks to deliver a wide choice of high quality homes, widen opportunities for home ownership, and create sustainable, inclusive and mixed communities and requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, such as older people (paragraph 50).
31. Planning Practice Guidance (the Guidance) recognises that the need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households. The appellant refers to a number of other reports and information from various sources to demonstrate the national need for housing such as that proposed. These include correspondence between the Chairman of the House Builders Federation and the Government, the announcement of the CLG Select Committee of an inquiry into housing for older people, and The Housing White Paper (Fixing Our Broken Housing Market, February 2017).
32. In terms of the local situation, the appellant's submitted Social Needs Report identifies a growing need for specialist older person's accommodation in Malpas. In particular it refers to additional demand for specialised accommodation that can be owner occupied to reflect current tenure preferences in the area. Local policy and strategic plans recognise the ageing of the area's population (it has a high proportion of over 65's compared to the national average) and acknowledge the need to provide options for older people.
33. The Council's Strategic Housing Market Assessment highlights a demographic shift over the next few decades with the number (and proportion) of older people increasing. Local Plan Policy STRAT8 supports development that serves local needs in rural areas in the most accessible and sustainable locations to sustain vibrant rural communities. Local Plan Policy SOC3 concerns housing mix and highlights the need for the provision of a range of accommodation types and the requirement to meet the long term needs of older people. Neighbourhood Plan Policy H3 advises that the needs of older people should be addressed. The appellant also refers to some local support for this type of accommodation in the village, including at pre-application stage.
34. The proposal would allow residents to maintain an independent lifestyle in a safe secure environment with the possibility of companionship. Its location with good access to services and facilities would allow older local people to downsize and remain part of the community close to friends and family. These

factors would in themselves lead to health and well-being benefits for the future occupiers. The proposal would also reduce pressure on public health care, including demand for early transfers to more complex and expensive forms of provision (such as homes providing personal and nursing care) and public health professionals could visit a number of residents in a single visit. Additionally, the proposal would make a contribution towards the provision of affordable housing via a planning obligation.

35. These are considerable benefits of the scheme which weigh significantly in its favour. The proposal would support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and as a result would meet the social role of sustainable development.
36. Turning to the environmental role of sustainable development, the appellant argues that the site is previously developed and that the proposal is therefore supported by paragraph 111 of the Framework. However, I am mindful that the Glossary at Annex 2 of the Framework excludes from the definition of previously developed land, land in built up areas such as private residential gardens. Despite its permission for residential development, that development has not taken place and I do not regard the site to be previously developed. Consequently this factor cannot be counted in its favour.
37. That said, I accept that the site is within the settlement boundary where development is supported by the Council's established development strategy and Local Plan and Neighbourhood Plan policies. Additionally, the proposal would meet Lifetime Homes standards and the appellant indicates that it would provide energy efficiency advantages over open market schemes. The proposal would also provide a contribution to open space improvements nearby.
38. Nevertheless, I have found that the proposal would cause harm to the character and appearance of the area, and would have a detrimental impact on the significance of the Malpas Conservation Area. The Framework establishes at paragraph 132 what when considering the impact of a proposed development on the significance of a heritage asset great weight should be given to the asset's conservation. As such, the proposal would fail to contribute to protecting and enhancing our natural, built and historic environment and would not meet the environmental role of sustainable development.
39. The proposal would incorporate crime prevention measures and cause no harm to the living conditions of nearby occupiers. The absence of harm in these regards counts neither for, nor against the scheme.
40. I appreciate that planning officers recommended the proposal for approval, and note the appellant's view that the discussion at the committee meeting in particular centred on car parking issues and highway safety. Despite the concerns of local residents and the Parish Council the Highway Authority raises no objections to the proposal and the planning application was not refused on highway grounds. The absence of harm in this respect is also neutral in the balance. I am aware of the appellant's view that the planning committee 'fell back' on to a design based reason for refusal due to its subjectivity. Be that as it may, I confirm that I have considered the proposal on its own merits, and made my own assessment as to its potential impact.

41. The appellant refers to an appeal¹ for a similar scheme elsewhere. I have not been provided with any further information regarding that development but I note that in contrast to the proposal before me, the Inspector in that case found that the development proposed would at least preserve the character and appearance of the Conservation Area and accord with the development plan. Consequently, I am not persuaded that it is directly comparable with the appeal scheme. In any event, each planning application and appeal must be determined on its own individual merits. As such, I do not regard this development to add any material weight in favour of the appellant's case.
42. Taking all these matters into account (including the current state of the site and the fallback position of the permitted houses), even when considered together, in my view the public and other benefits of the scheme are insufficient to outweigh the harm that I have identified and I do not regard the proposal to be sustainable development. The proposal would not be in accordance with the development plan as a whole and, in the absence of material considerations to indicate otherwise, planning permission should not therefore be granted.

Conclusion

43. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.
44. Whilst I have had regard to the submitted planning obligation, since I am dismissing the appeal on its substantive merits, it has not been necessary for me to reach a finding on it in relation to the tests set out at paragraph 204 of the Framework.

Elaine Worthington

INSPECTOR

¹ APP/G5189/W/16/3155059