
Appeal Decision

Site visit made on 8 May 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 9th June 2017

Appeal Ref: APP/R0660/W/17/3169453
138 Main Road, Shavington CW2 5DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr I Gamble against the decision of Cheshire East Council.
 - The application Ref 16/4597N, is dated 31 August 2016.
 - The development proposed is construction of 3 detached 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with approval sought at this stage for appearance, layout and scale. Access and landscaping are reserved for future consideration. Drawings showing a block plan and a tree survey site plan were submitted with the application and I have had regard to these in determining the appeal.
3. During the course of the appeal a Supreme Court judgement was issued concerning the interpretation of paragraph 49 of the National Planning Policy Framework (the Framework) and its relationship with paragraph 14 of the Framework.¹ Both parties have had the opportunity to comment on the implications of this judgement to the present case which I have taken into consideration in my reasoning.

Background and Main Issue

4. Whilst the appeal is made against the failure to give notice within the prescribed period of a decision on an application for planning permission, the Council has provided an appeal statement in which it sets out its concerns.
5. The appeal site is located within the settlement boundaries of Shavington, to the rear of 138 Main Road. The Council has accepted the principle of residential development in this location, though expresses concerns about the form of the current proposal. The Council also accepts that it cannot currently demonstrate a five year supply of deliverable housing land, as required by paragraph 47 of the Framework.

¹ [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin).

6. The policies referred to by the Council in this case relate to design and appearance. As they do not seek to restrict the supply or location of housing they should be given full weight. Policy SD 2 within the emerging Cheshire East Local Plan (CELP) is also referred to. This document has been through an Examination in Public and its provisions are broadly consistent with the Framework in requiring development to respect local character and identity. In accordance with paragraph 216 of the Framework I give moderate weight to this Policy.
7. Therefore, on the evidence before me, the main issue is the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

8. The character of this part of Main Road is varied, with traditional cottages located in good sized plots alongside terraced and semi-detached properties, and including more modern housing development. There is little consistency of layout, with a variety of plot sizes and configurations in evidence. Whilst the road frontage has reasonably strong and consistent building lines, the area behind is typically dominated by garden areas and has a more spacious and verdant character.
9. The appeal site is located directly behind the Village Hall and is bound by development on all sides. Whilst access is a reserved matter, the indicative drawings illustrate that this would pass to the side of 138 Main Road, a traditional eighteenth Century cottage.² It is also relevant to note that No 138 Main Road, the Village Hall and Church to the east are all locally listed buildings.
10. The plans illustrate three detached properties arranged in an arc within this broadly rectangular plot. The westernmost property would be tightly aligned with the north western site boundary, the easternmost property would be located tightly against the north eastern boundary, and the central property positioned so that the front of the property would be snugly adjacent to its neighbours. This configuration, whilst allowing for a greater degree of separation of the properties from each other to their rear, would lead to a sense of overcrowding at their frontages. Part of the ground floor of each dwelling would include car ports, and this element would be set back from the main frontages, however the first floors would be full width meaning that there would be little or no discernible gap between these buildings when viewed from within the site. This would give the development an unacceptably oppressive and cramped appearance.
11. Whilst the visibility of the dwellings would be limited in public views from Main Road, they would nonetheless be seen in some viewpoints from the north, particularly as the plans indicate that some of the existing vegetation in the northern part of the site would be removed to accommodate a widened access. They would also be seen as part of the setting of the existing cottage and Village Hall. In this respect the overcrowded appearance of the site would contrast with the currently green and open backdrop to these buildings, which is consistent with the more spacious layout typically found behind the Main Road frontage, to an unacceptable degree.

² Existing approval for a new vehicular access to the site ref: P05/1391

12. Whilst the appellant suggests that the local listing of these buildings affords them a lower status than that of designated heritage assets, the Framework supports the conservation and enhancement of both designated and non-designated heritage assets. In this respect paragraph 135 states that in applications that affect non-designated heritage assets directly or indirectly, a balanced judgement will be required having regard to the scale of any harm or loss to the significance of the heritage asset. In this case I consider the harm arising to the setting of these buildings to be less than substantial, and as such it is appropriate to weigh this against any public benefits arising from the proposal. I will return to this matter in the concluding section.
13. The pre-application advice given in this case related to a somewhat different plot configuration.³ The Council advised at that stage that the layout illustrating four semi-detached dwellings was broadly suitable, though noting that there may have been issues achieving the required spacing standards and parking with this layout. I note that the current reduction from four to three units has allowed parking issues to be addressed. Nevertheless, in the earlier layout what appear to be more modest dwellings set at right angles to each other were set further back into the plot and further away from the north eastern and north western site boundaries. This illustrated that there would be a greater sense of spaciousness around and to the front of these dwellings, so that the plot would appear less congested than with the current scheme.
14. The appellant has sought to respond to the pre-application comments relating to design and layout. In terms of the materials proposed and general appearance, some attempt has been made to reflect the local vernacular. The appellant also points to paragraph 65 of the Framework, which states that planning permission should not be refused for development which promotes high levels of sustainability because of incompatibility with the existing townscape. Nevertheless I have also considered paragraph 64 of the Framework which states that permission should be refused for poor design that fails to take opportunities available for improving the character and quality of an area. My view is that in the present case, accepting that the principle of development is not disputed, the concerns about the pattern and form of this proposal are such that paragraph 64 is of greatest relevance.
15. The appellant also notes a recent approval for an apartment block on Main Road. Whilst I do not have the full details of this case before me, I have already noted the strong building lines to the road frontage which could allow for more significant built form to be accommodated. I also note the appellant's frustration regarding the Council's lack of engagement in discussions about the proposal. Nevertheless my determination must be made on the merits of the scheme before me.
16. Finally, the appellant questions the relevance of design concerns in the context of an outline planning application. However, as at this stage approval is sought for appearance, layout and scale, it is appropriate to consider such matters.
17. I conclude on this matter that the proposal would have a detrimental effect on the character and appearance of the site and surrounding area. In this respect it would conflict with the Borough of Crewe and Nantwich Replacement Local Plan 2011 Policy BE.2 and the CELP Policy SD2, which, taken together, seek to

³ PRE/0542/14

ensure that development is of a high standard of design that contributes positively to local character and distinctiveness.

Planning Balance and Conclusions

18. In the context of the lack of five year supply of housing land in this case, and as there are no specific policies that indicate development should be restricted and permission refused in principle, the proposal must be considered against the Framework paragraph 14, 4th bullet point. That is, would any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appellant also notes the presumption in favour of sustainable development set out in paragraph 15.
19. Looking at the benefits of this scheme, the provision of new housing would provide social benefits in terms of the increase in the overall supply of housing and the modest expansion of the local community. In economic terms there would be short term economic gain through the provision of construction jobs, and a modest increase in support for local services and facilities. However, whilst the proposal would support environmental matters by being highly energy efficient, there would be conflict in terms of local character and appearance, including the setting of locally listed buildings.
20. Looking at the planning balance overall, I attach moderate weight to the relatively small contribution which would be made to the supply of housing in the Borough. None of the other factors carry more than limited weight in favour of the proposal, particularly as the principle of development on this site has been accepted. Balanced against this, I have found that due to the poor quality design and the lack of consideration of its context, this development would cause environmental harm. Therefore the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and the proposal would not therefore represent sustainable development.
21. For the reasons given above, as material considerations do not indicate that I should conclude other than in accordance with the development plan taken as a whole, the appeal is dismissed.

AJ Mageean

INSPECTOR