
Appeal Decision

Site visit made on 10 October 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 4th December 2017

Appeal Ref: APP/A0665/W/17/3179365

Abbeythorne, Dalefords Lane, Marton, Winsford, CW8 2BW

- 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 Ms P Baddeley against the decision of Cheshire West & Chester Council.
 - The application Ref 17/00040/OUT, dated 6 January 2017, was refused by notice dated 27 March 2017.
 - The development proposed is the construction of one dwelling (resubmission of outline application Ref: 15/04679/OUT).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters except access reserved for future consideration. However, an indicative plan showing the siting of a dwelling was provided as part of the planning application, to which I have had regard.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would be a suitable site for development having regard to sustainable patterns of development, with particular reference to whether it is previously developed land and its access to services and facilities; and
 - The effect of the proposal on the character and appearance of the surrounding area.

Reasons

4. The appeal site is an area of open land to the rear of Abbeythorne Cottage a detached dwelling which forms part of a row of properties fronting Dalefords Lane. It is within the settlement boundary for Marton and comprises a maintained area of grass with boundary hedgerows and trees. A container is sited there which is used to store garden machinery and tools. A proposal for a bungalow on the site was dismissed on appeal¹ in 2002 and a subsequent more recent outline planning application for a dwelling was refused in 2016.

¹ APP/L0635/A/01/1078016

Sustainable patterns of development

5. Policy STRAT1 of Part One of the Cheshire West and Chester Council Local Plan (Local Plan) sets out a number of sustainable development principles. These include, amongst other things, to encourage the use and redevelopment of previously developed land and buildings in sustainable locations that are not of environmental value (bullet point 5).
6. The appellant considers that the site is previously developed land by virtue of it being garden land that is outside the built-up area. Annex 2 of the National Planning Policy Framework (the Framework) defines previously developed land² and states that land in built-up areas such as private residential gardens is excluded from the definition.
7. The appeal site was formerly part of the garden area of Abbeythorne. It has been fenced off and separated from the replacement dwelling there (Abbeythorne Cottage) for some time (the Council advises at least since 2005) and is in different ownership from it. Thus, as things stand it is no longer part of Abbeythorne Cottage's garden or curtilage and appears very much separate from it. On this basis the Council does not regard the site to be brownfield land. On the other hand, the appellant argues that its use as garden land has not been abandoned and is capable of continuing without the need for planning permission. I note that despite being divorced from any dwelling, the site is being used by the appellant for the storage of garden machinery and saw at my visit that it is well maintained as lawn with hedges and shrubs and so has the general appearance of garden land.
8. Notwithstanding this disagreement between the parties, even if the site were to be regarded as a private residential garden, to avoid being excluded from the definition of previously developed land in the Framework, the site must be outside the built-up area. I am mindful that a definition of 'built-up areas' is not provided in the Framework. The appellant argues that the site is outside the built-up area of Winsford in an area characterised by a single form of ribbon development. That said, it is nevertheless within the settlement boundary for Marton, and as the former garden of Abbeythorne, forms part of the well-established linear development of houses along Dalefords Lane. There are existing residential properties to either side of the site, and on the other side of Dalefords Lane, and it is not in the open countryside. In this context it seems to me that the appeal site is in what could reasonably be regarded as a built-up area.
9. As such I do not regard the site to be previously developed land. Thus, in this regard, the proposal would not be supported by bullet point 5 of Local Plan Policy STRAT1, nor by the Framework's core planning principle to encourage the effective use of land by reusing land that has been previously developed.
10. Turning to access to services and facilities, bullet point 3 of Local Plan Policy STRAT1 seeks to locate new housing with good accessibility to existing or proposed local shops, community facilities and primary schools with good connections to public transport. Local Plan Policy STRAT2 considers strategic development and sets out the settlement hierarchy. It indicates that development will be focused in a number of key service centres, with an appropriate level of development brought forward in smaller rural settlements

² Land which is or was occupied by a permanent structure, including the curtilage of the developed land

which have adequate services and facilities and access to public transport. Although these local service centres will be identified in the emerging Part Two of the Local Plan, the Council confirms that Whitegate and Marton will not be one of them. I appreciate that Part Two of the Local Plan is of only very limited weight due to its early stage of preparation, and I also note the appellant's point that its approach to local service centres is subject of objections.

11. Even so, the appellant accepts that Whitegate and Marton is reliant on facilities and services that are accessed within the Sandiway and Cuddington settlement. The submitted Design and Access Statement lists the distances in miles to various facilities and these are not refuted by the Council. The appellant considers that the site provides walking and cycling access to a public house, primary school, church, and village/community hall. Whitegate primary school is indicated to be 1.4 miles from the site and the appellant refers to a safe walks to school club along Cinder Hill (estimated by the appellant to be a few hundred yards to the east of the appeal site).
12. However, there are no footpaths or street lights on Dalefords Lane in the vicinity of the appeal site. This being so, and given the distances involved, I am not convinced that even that limited range of facilities described would be likely to be accessible from the appeal site on foot (particularly in bad weather and at times of darkness). In any event, a wider range of services and facilities is further away. The appellant considers that these are in Sandiway (1.1 miles from the site) and Cuddington (1.2 miles) (where there is a railway station at Hartford).
13. Although the appellant refers to a bus stop located adjacent to the site (with buses travelling along Dalefords Lane in both directions at regular intervals), it has not been put to me what services (apart from the school buses which pass the site) operate from there. The Council considers that the nearest bus service runs on Chester Road over a mile to the north west. On this basis, I do not regard the site's connections to public transport to be good.
14. Taking all these factors into account, although there would also be some opportunities for cycling, in practical terms I consider that the future occupiers of the proposed house would have few alternatives to the use of a private vehicle to meet their day to day requirements.
15. I have had regard to the appellant's view that there is a degree of acceptability that trips to local shops and services in rural areas would mostly be by car, and the appeal decision she refers to in this regard. I appreciate that in this instance driving distances to the nearby local services and facilities (including bus journeys to school) would not necessarily be long. I am also mindful of the advice at paragraph 29 of the National Planning Policy Framework (the Framework) where the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
16. However, even in this overall context, I cannot see that the proposal would minimise the need to travel or reduce reliance on the car. This reliance of the future occupiers of the proposed house on the use of the private car to meet their day to day household needs would be at odds with the aim of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be made sustainable.

17. I therefore conclude on this main issue that the proposal would not be a suitable site for development having regard to sustainable patterns of development, with particular reference to whether it is previously developed land and its access to services and facilities. This would be contrary to Local Plan Policy STRAT1 and the aims of the Framework as set out above.

Character and appearance

18. Although matters of appearance and scale are reserved for future consideration, the appellant advises that the dwelling would be sensitively designed and utilise locally sourced materials. This could be secured at reserved matters stage. The Council agrees that the dwelling could be designed to be inkeeping with the character of the area. The site is well contained and screened by substantial existing trees and hedgerows on its boundaries. It is within the settlement boundary and accordingly relates closely to the existing adjacent built form and residential enclave to the north.
19. That said, Marton is a linear settlement characterised by well-spaced dwellings fronting Dalefords Lane. The proposal would introduce a dwelling behind this frontage in a backland position. Although there is a detached house at Birchdale to the rear, this is separated from the ribbon development on Dalefords Lane by an open field and sits very much apart from it and surrounded by countryside. Backland development is not generally a characteristic of the area. Against this backdrop, the introduction of a dwelling on the appeal site would undermine the established pattern of development nearby and detract from the character and form of this part of the settlement.
20. A public footpath runs alongside the site down the existing access track and to its rear. The boundary hedgerows and trees screen views of the site including those from the open countryside to the south. Even so, the proposed house would be visible through the site entrance on the access track and from the footpath there. Its position to the rear of the other houses on Dalefords Lane would be appreciated and the introduction of additional built development would urbanise the currently open character of the site. Although I accept that the site does not appear as part of the surrounding countryside, I agree with the findings of the previous Inspector that the proposal would undermine the predominantly rural feel of this part of the access track and public footpath. This would be to the further detriment of the character and appearance of the area.
21. I therefore conclude on this main issue that the proposal would be harmful to the character and appearance of the surrounding area. This would be contrary to Local Plan Policy ENV6 which requires development to respect local character and achieve a sense of place. It would be at odds with saved Policy BE1 of the Vale Royal Borough Local Plan which expects development to take account of the characteristics of the development site and its relationship with its surroundings (xi), and be compatible with the local character and encourage local distinctiveness (xii). It would also conflict with Policy 4 of the now 'made' Marton and Whitegate Neighbourhood Plan (Neighbourhood Plan) which seeks to resist proposals that have a significant detrimental impact on the rural character of the parish.

Other matters

22. The proposal was prepared based on the appellant's agents understanding of similar applications in the area. The Council raises no objections to the scheme in terms of its impact on the living conditions of nearby occupiers, the amount of amenity space that would be provided, highway safety, ecology and protected species, flood risk, drainage or trees. The absence of harm in these regards counts neither for, nor against the proposal.
23. The appellant refers to the Marton and Whitegate Village Design Statement (VDS) and its support for small scale housing development including limited infill. However, I am conscious that the VDS also advises that development should be of a scale and design which does not harm the character of the surrounding area. For the reasons given above, that would not be the case in this instance.
24. The appellant refers to other developments nearby (some of which were permitted on appeal) including an example on Dalefords Lane that I saw at my visit. However, I am not aware of the full circumstances that led to those developments and so cannot be sure that they are the same as in the case before me. I confirm in any event that I have considered the appeal proposal on its own individual planning merits.
25. I have also had regard to an appeal decision³ in the Vale of Glamorgan referred to by the appellant. Whilst I acknowledge that not all rural housing is by definition 'unsustainable' in that case the Inspector found that the proposal would contribute to meeting affordable housing need and involve the use of previously developed land. She concluded that these other aspects of sustainable development weighed heavily in favour of that proposal. Those are not the circumstances in this appeal. As such, this adds no weight in favour of the appeal scheme.

The planning balance

26. Whilst I note the appellant's reference to the presumption in favour of sustainable development, I have seen nothing to demonstrate that the development plan is absent, silent or that the relevant policies are out of date. As such I do not regard the tilted balance at paragraph 14 of the Framework to apply in this instance. Nevertheless it is necessary to undertake the normal planning balance, and I have had regard to the three strands of sustainability set out at paragraph 7 of the Framework in doing so.
27. The Council states that it has a 5 year supply of housing sites and the appellant does not dispute this. Nevertheless, as a small windfall site the proposal would contribute to housing land supply and boost housing growth in line with the Government's objectives. In particular the appellant argues it would meet local needs and provide the right sort of housing required in the area. The scale of the building could be secured at reserved matters stage and the appellant indicates that it would be a bungalow with a maximum of 3 bedrooms and would enable the appellant to downsize. This would be in the spirit of the Neighbourhood Plan which recognises the need for smaller dwellings as set out in Policy 1 and would contribute to housing mix and variety as supported by the Local Plan.

³ APP/Z6950/A/16/3160995

28. The appellant confirms that the site is available, free of constraints, suitable and achievable. It would be a self-build construction (built by the appellant's son) and I appreciate the support afforded to such projects by the Government. It would be occupied by a local resident from the community in Northwich (the appellant) and designed to a high standard including assisted living facilities to allow occupation to continue as long as possible. The proposal would generate local investment and jobs in the construction phase, including the use of locally sourced materials and suppliers and would support the economy. The future occupier would also support local shops and services on an ongoing basis and contribute to village life. Additionally the proposal would generate Council Tax revenue and a New Homes Bonus payment to the Council. These are all benefits of the scheme that would accord with the economic and social roles of sustainable development described at paragraph 7 of the Framework. They count in favour of the development.
29. However, in terms of the environmental role of sustainable development, the proposal would be harmful to the character and appearance of the area and so would fail to contribute to protecting and enhancing the natural and built environment. The reliance of the future occupiers on the private car to meet their day to day needs would also run contrary to mitigating and adapting to climate change would fail to support the process of moving to a low carbon economy. As such, I do not regard the proposal to constitute sustainable development. I also consider that given the limited scale of the proposal for a single dwelling, the contribution that the benefits outlined would make, would not be great. Consequently, they would be insufficient to outweigh the harm I have identified.
30. I note the appellant's view that to leave the site 'sterilised' and undeveloped serves no practical planning purpose. However, this is not a reason to allow development that would be harmful and contrary to the development plan.

Conclusion

31. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR