The Planning Inspectorate

Appeal Decision

Site visit made on 14 August 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2018

Appeal Ref: APP/A0665/W/18/3202053
Land west of Tattenhall Road, Tattenhall, Cheshire, CH3 9NA

- 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 Ashley Wall against the decision of Cheshire West & Chester Council.
- The application Ref 13/01329/OUT, dated 24 August 2017, was refused by notice dated 13 February 2018.
- The development proposed is for a residential development of up to 30 dwellings, public open space, access and associated works.

Decision

1. The appeal is dismissed

Procedural Matters

2. Outline planning permission is sought, but with all matters reserved, except for access. I have determined the appeal on this basis.

3. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. I have had regard to the Revised Framework in reaching my decision.

Main Issue

4. The main issue is whether the site is an appropriate location for housing, having particular regard to safeguarding the countryside and ensuring a viable and sustainable pattern of settlements; and, the effect on the character and appearance of the surrounding area.

Reasons

Sustainable location

5. The development plan comprises the Cheshire West and Chester Local Plan (CWCLP) which was adopted in 2015. Although the CWCLP supersedes some policies from previous local plans, some policies from the Chester District Local Plan (CDLP) have been saved for use until such a time as Part 2 of the CWCLP is capable of taking effect.

6. Policy STRAT 1 of the CWCLP establishes the presumption in favour of sustainable development and sets out a number of sustainable development principles. Policy STRAT 2 provides the requirement for at least 22,000 new dwellings over the LP period (2010-2030). It includes a settlement hierarchy with the majority of new development being directed to the four main

settlements of Chester, Ellesmere Port, Northwich and Winsford. To maintain the vitality and viability of the rural areas an appropriate level of new development will be focused on the Key Service Centres (KSC), which include Tattenhall. The third tier of the local service centres are to be identified in the Land Allocations and Detailed Policies Plan (LP Part 2). The Policy also says that further sites will be identified through the LP (Part 2) and/ or Neighbourhood Plans.

7. Policy STRAT 8 deals with the rural area and establishes that there will be provision for at least 4,200 dwellings. It sets out the minimum amount of residential development that each KSC will accommodate and the relevant figure for Tattenhall is 250 dwellings. Policy STRAT 9 seeks to protect the intrinsic character and beauty of the countryside and sets out the types of development that will be permitted. Policy STRAT 10 concerns transport and accessibility and includes provisions that development should be required to be safely and satisfactorily accommodated within the existing or proposed highway network, make appropriate provision for access to alternative modes to the car and take into account the safety of all road users in the design and layout. Policy HO7 of the CDLP seeks for new dwellings not to be allowed in the open countryside, without specific justification.

8. The Tattenhall Neighbourhood Development Plan (TNDP) was made on 4 June 2014, and recognises the benefits of housing growth but wishes it to take place in a sensitive and incremental manner so as to meet the needs of the community whilst respecting the character of the village and the qualities that make it special. Policy 1 of the TDNP allows proposals of up to 30 homes on land within or immediately adjacent to the built up part of the village. There are also requirements to provide an appropriate housing mix, respect or enhance the natural and built environment and retain the village's sense of place. Policy 2 includes a number of criteria which seeks to ensure that development respects local character, local distinctiveness and a sense of place, amongst other things.

9. The 'made' TNDP is part of the statutory Development Plan. It is a statutory requirement that decisions are to be made with regard to the Development Plan unless material considerations indicate otherwise. Of course, the Neighbourhood Plan must comply with strategic policies in 'higher order' plans, but otherwise the intention of the Localism Act and of Government policy is that it should give expression to the planning aspirations of local communities enabling them to exercise some control over how the settlements in which they live should respond to the development needs in the locality.

10. In the Officer Report it confirms that Tattenhall does not currently benefit from a settlement boundary, as a former Chester District settlement. The proposal is located on part of a larger parcel of agricultural land in the open countryside, which has been categorised as Grade 3b, and is laid grass and used for grazing purposes. Additionally, the scheme would include 33% affordable housing and public open space. The area of the appeal site extends to approximately 6.3hectares.

11. Both parties have referred to various other applications and/or appeal decisions, which I have noted. Some are located in different areas to the appeal site and are not subject to the same policies. Accordingly, I find little within these cases which would lead me to alter my conclusions in this case.

Particular attention has been drawn by all parties to the planning application (12/02352/OUT) for 137 dwellings, which incorporated the current appeal site, and therefore raised similar issues. Additionally, I have noted the comments received from the Inspector and the Secretary of State in reaching their recommendation and decision respectively. I consider this to be relevant in the determination of this appeal, and forms a material consideration, which I give moderate weight. Furthermore, I acknowledge that the appeal proposal was amended in June 2014 reducing the number of dwellings proposed from 70 dwellings to 'up to 30 dwellings'.

12. The 2018 Annual Monitoring Report illustrates that 129 net dwellings have been completed within Tattenhall resulting in a residual requirement of 121 net dwellings. Extant planning permissions account for 78 dwellings, and there is an outstanding need for at least 13 additional dwellings to achieve the Local Plan (Part One) requirement. I recognise that it is the Council's intention to ensure that this requirement is met in full through the LP Part Two, although this would not automatically preclude the approval of other residential development. However, the Council indicates that they can currently demonstrate a five year supply of deliverable housing land as required by the Framework. Whilst there may be some disagreement on the actual figure, the appellant does not dispute this.

13. For all of these reasons, the site does not constitute an appropriate location for housing, having particular regard to safeguarding the countryside and ensuring a viable and sustainable pattern of settlements. Therefore the scheme conflicts with Policy STRAT9 of the CWCLP, and Policy HO7 of the CDLP. It also fails to accord with paragraph 170 of the Framework which, amongst other things, states that decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside.

Character and appearance

14. The site is located adjacent to the Greenlands residential area, which is defined by Keys Brook, where there are some trees with Tree Preservation Orders. The appeal site and the surrounding area comprises agricultural land, which is bounded by hedgerows/trees. The appellant submitted a Landscape and Visual Appraisal 2017 (LVA) with the application. I also viewed the site from the majority of locations identified in the LVA. I note the conclusions of the LVA, but I consider that the development of the appeal site would have a detrimental effect on users of Tattenhall Road, the public footpath (FP8) and local residents, through its urbanisation and the resultant effect this would have on views over the appeal site, which have not been affected to a great extent.

15. I am unable to share all of the main findings of the appellant's detailed LVA. The proposed tree planting programme would not significantly soften the resultant appearance of the proposal or provide adequate screening. I do agree that there would be adverse landscape and visual effects caused by the proposal, but do not agree that the planting scheme, which would take 10 years to mature, would provide suitable or sufficient mitigation to counteract the harm created by the residential development on this site. Even though these effects would be relatively localised, there would still be an unacceptable adverse effect.

16. Whilst the proposal is for outline permission only, the effect of erecting up to 30 dwellings on this site, and the associated domestic paraphernalia, that would be associated with a residential development can still be determined. The site's existing connection to surrounding fields and countryside means it has value in terms of its contribution to the overall landscape and scenic beauty of the area. This would be significantly eroded as a result of any form of residential development.

17. For all of these reasons, the site does not constitute an appropriate location for housing, having particular regard to the effect on the character and appearance of the countryside. Therefore the scheme conflicts with Policies ENV2 and ENV6 of the CWCLP, and Policy 1 and Policy 2 of the TNDP.

Other Matters

18. I have had regard to no adverse comments being received from the other statutory consultees, including the Local Highway Authority. However, I have considered the development on its own merits and concluded there would be harm to the countryside through unsustainable development. A lack of harm associated with highways is a neutral factor that weighs neither for nor against the development.

19. The CWCLP and TNDP were adopted relatively recently, and there is little evidence to suggest that either its policies, or those 'saved' in the CDLP, are not in accordance with the Framework. Neither have I any substantive evidence to conclude that the policies are out of date as a result of housing land supply issues. I therefore give full weight to these policies in the planning balance. The emerging Local Plan, Part Two – Land Allocations and Detailed Policies Publication Plan, September 2017 (CWCLP2) is in the process of examination, but has yet to be adopted by the Council. Consequently, the weight that I can attach to the policies contained within the emerging plan is limited.

20. Whilst I acknowledge there would be economic and social benefits resulting from the development, including the provision of affordable housing, public open space and various financial contributions, they are not sufficient to outweigh the harm identified above. My finding remains for the reasons indicated that the site does not accord with the Council's housing strategy. Additionally, concerns have been expressed by neighbouring occupiers, Tattenhall Parish Council and Friends of Tattenhall. However, I have concluded that such matters would not affect the conclusions I have reached on the main issues.

Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Whilst I acknowledge the factors in favour of the development, those considerations do not outweigh the presumption against the development arising from the development plan. The appeal is dismissed.

W Johnson

INSPECTOR