The Planning Inspectorate

Appeal Decision

Hearing Held on 4 February 2019
Site visit made on 4 February 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2019

Appeal Ref: APP/R0660/W/18/3201548
Land adjoining Coppice Road, Higher Poynton, Stockport SK12 1SP

- 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 and Mrs Webb against Cheshire East Council.
- The application Ref 18/0601M, is dated 2 February 2018.
- The development proposed is erection of 2 detached bungalows, associated access and landscaping works.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 detached bungalows, associated access and landscaping works at land adjoining Coppice Road, Higher Poynton, Stockport SK12 1SP in accordance with the terms of application Ref 18/0601M, dated 2 February 2018 subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council say that had it been in a position to determine the planning application, it would have refused planning permission on the grounds that it would be inappropriate development in the Green Belt. They also state that the harm caused would not be clearly outweighed by other considerations so as to amount to very special circumstances to justify the development. This has informed my identification of the main issues.

3. The revised National Planning Policy Framework (NPPF) and the Housing Delivery Test measurement have been published since the date of the Hearing. Both main parties have been given the opportunity to comment on any relevant implications for the appeal. I have had regard to any responses and the NPPF in reaching my decision.

4. Objectors of the proposal say that no site notice was posted of the planning application when it was submitted to the Council for consideration. At the Hearing the Council provided photographic evidence that a site notice was posted at the site and that notification letters had been sent to neighbouring properties. I also have a copy of the letter sent to interested parties informing them of the appeal. On the evidence before me I am satisfied that measures were taken to inform local residents of the development proposal.

Main Issues

5. The main issues are:

   - Whether the proposal would be appropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies.
   - Would the harm, by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

6. The appeal site is located within the Green Belt. Paragraph 143 of the NPPF states inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF says the construction of new buildings in the Green Belt should be regarded as inappropriate. Exceptions to this include 'limited infilling in villages'. The terms limited and infilling are not defined in the NPPF.

7. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (CELP) does not support inappropriate development except in very special circumstances, in line with national policy. New buildings are inappropriate development in the Green Belt except, amongst other things, limited infilling in villages.

8. The CELP defines infill development as 'the development of a relatively small gap between existing buildings'. The MBLP defines infill development as 'the filling of a small gap in an otherwise built up frontage (a small gap is one which could be filled by one or 2 houses)'. At the Hearing the Council said that the MBLP provides a more detailed definition than the CELP, and that it does not contradict it. Nonetheless, I consider the MBLP definition to be more limiting than the definition attached to the more up to date policy.

9. At the Hearing the Council stated that what constitutes 'a relatively small gap' is contextual, whilst also referring to the MBLP which indicates that it was a gap that could accommodate 1-2 dwellings. I am also mindful of case law which advises that the physical circumstances of a site and its relationship to a settlement are relevant in considering whether a site should be deemed infill[1].

10. There is agreement between the main parties that the site is situated in a village. The difference between the parties is therefore whether or not the development can be reasonably considered to be infill. The appeal site is an irregular shaped vacant plot with a wide frontage which narrows towards the back of the site, beyond which is open countryside.

11. The site forms a gap between 2 residential dwellings, Birch Trees and Cornhill which are detached single storey properties. Whilst the size of the gap between the dwellings is notable, the proposed width of the 2 plots would be proportionate to neighbouring plots on that side of the road which characteristically are variously orientated and sit further back from the road than the more uniform layout of the higher density ribbon development on the opposite side of the road.

[1] Wood v Secretary of State for Communities and Local government [2014] EWHC 683 (Admin).

12. The 2 proposed dwellings would be positioned between buildings, even though the immediate neighbour, Cornhill stands further back than Hillside to its west and is obscured in view from the road due to vegetation. As acknowledged by the Council, the proposed dwellings would be appropriately located within the gap. Although the site adjoins open countryside at the rear, the development would not extend beyond the curtilages of the neighbouring properties or the agricultural building situated to the south.

13. Reference has been made to a previous appeal decision[2] to support the Council's case. I note the Inspector's comments about the size of the gap, but their decision was taken in the context of a much bigger development of 9 houses. Each case is determined on its own merits and paragraph 145 of the NPPF does not stipulate a specific size requirement with regards limited infilling in a village. Given the grain of the settlement pattern in that location and the nature of the site and scale of the proposed development, I am of the view that the scheme should be considered as limited infilling in a village. It would therefore not be inappropriate development in the context of paragraph 145 of the NPPF and there would be no conflict with local policy in this regard.

Other Considerations

14. Paragraph 144 of the NPPF states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

15. The appellants have put forward matters which they consider constitute very special circumstances needed to outweigh harm to the Green Belt. They are disputed by the Council. However, as I have found that there would be no harm to the Green Belt it is not necessary for me to consider the matters in any further detail.

Other Matters

16. The site would be accessed off Coppice Road, a road which objecting residents say is busy in the evenings and at weekends and suffers from high levels of on street parking. I note that the Highways Authority are of the view that the development would not pose a risk to highway safety, subject to the implementation of the scheme in accordance with the submitted plans in terms of access and off street parking provision. Given the small scale of the development, the acceptable proposed access and the provision of off street parking shown on the plans, I have no reason to disagree.

17. I note the concern of neighbouring residents regarding the ability of infrastructure to cope with the additional development, in particular the electricity supply and drainage. At the Hearing the Council said that infrastructure providers do comment on applications where there is concern about the ability of infrastructure to cope. No such representations have been received. It would be incumbent upon the appellant to work with infrastructure providers to ensure appropriate measures are put in place to address the infrastructure implications of the scheme. There is a lack of other substantive evidence which would lead me to draw a different conclusion.

[2] Appeal Ref: APP/R0660/W/15/3013616.

18. Whilst neighbouring residents referenced flooding in the area in 2016, the site is located in flood zone 1, the lowest risk of flooding. I am satisfied that any flood risk that would be generated by the development in terms of surface water runoff could be dealt with through an appropriately worded condition.

19. I note the mining heritage of the area and the popularity of the countryside setting for recreational purposes. However, I have been provided with limited evidence to indicate that either would be harmed by the development. Based on my observations on the site visit there would only be glimpsed views of the development from surrounding public footpaths. On Coppice Road landscaping would provide adequate screening for the scheme which would be viewed in the context of surrounding development. The Council has found no harm to the character and appearance of the area as a result of the design, height, scale and layout of the proposal. I have no reason to conclude otherwise and as such the development would not be an intrusion into the countryside.

20. Although concern has been raised by objectors that the development would set a dangerous precedent that would damage future opportunities to protect the historic value of the area, I have not identified harm from the development in that regard and as such I have no basis to find it would set a precedent for future harmful development. I consequently attribute this little weight.

21. A coal mining risk assessment has been undertaken, the findings of which require ground investigation work which can be addressed through an appropriately worded planning condition.

22. Reference has been made in objectors' statements to the high number of planning applications in the area which have been refused on grounds of harm to the Green Belt, highways and amenity to support objection to the development. I have limited details of these schemes in which to draw meaningful comparisons with the case before me. In any event, each case is determined on its own merits and my assessment is based on the information before me.

Planning Conditions

23. I have had regard to the conditions suggested by the Council and appellant and these were discussed at the Hearing. In some cases, I requested amendments to be agreed and submitted after the Hearing was closed. In attaching conditions I am mindful of paragraph 55 of the NPPF, which states that they should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the Council's and appellant's suggested conditions on this basis, and have made modifications where necessary in the interests of clarity.

24. In addition to the standard time condition I have imposed a condition specifying the approved plans in the interests of clarity. Ground contamination and soil testing conditions are necessary to prevent risk to the environment and to protect the living conditions of future occupants of the dwellings. A condition relating to surface water management is necessary to prevent an increase in flood risk following the development and to ensure the appropriate management of water. A materials condition is necessary to protect the character and appearance of the area. A condition on the method and timing of pile driving and adherence to the mitigation strategy of the Coal Mining Risk

Assessment is necessary to protect the living conditions of neighbouring and future occupants. A condition requiring the installation of broadband services is justified given the rural location of the development. A condition requiring the provision of electric vehicle infrastructure is justified to encourage the uptake of ultra-low emission vehicles.

25. Conditions 3 and 5 relate to pre-commencement activities. In each case I am satisfied that the conditions are necessary to make the development acceptable in planning terms and that it would have otherwise been necessary to refuse planning permission. The appellant has provided written agreement to the terms of these conditions.

26. The Council has suggested that Permitted Development rights should be taken away to stop any form of alteration or extension to the dwellings without planning permission. However, paragraph 53 of the NPPF advises that conditions should not be used to restrict national Permitted Development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) also advises that conditions restricting the use of permitted development rights will rarely pass the test of necessity and should be used in exceptional circumstances[3]. In this case exceptional circumstances have not been demonstrated.

Conclusion

27. For the reasons identified and having regard to all other matters, including the aforementioned concerns of local residents, the appeal is allowed.

K Ford

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs J Gregory MTCP (Hons) MRTPI	Urban Imprint
Mr B Phillips MTCP (Hons) MRTPI	Urban Imprint
Mr A Webb	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Keen	Planning Officer, Cheshire East Council

INTERESTED PARTIES:

Mr L Clarke	Poynton Town Council
Miss H Whitaker	Neighbouring Resident

[3] ID:21a-017-20140306

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1103.01 Rev D, 1103.02 Rev C, 1103.03 Rev A, 1103.04 Rev A, 1103.04 Rev A, 1103.05, 1103.06 Rev A, 1103.07 Rev A, 1103.08

3) Development shall not commence until:

(a) A Phase II ground investigation and risk assessment has been completed. A Phase II report shall be submitted to, and approved in writing by, the Local Planning Authority AND:

(b) If Phase II ground investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to, and approved in writing, by the Local Planning Authority.

If remediation is required, prior to the occupation of the development:

(c) The remedial scheme in the approved Remediation Strategy shall be carried out.

(d) A Validation Report prepared in accordance with the approved Remediation Strategy, shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the occupation of the development.

If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.

4) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site. Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority.

5) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly unless otherwise agreed in writing with the Local Planning Authority.

The development shall be completed in accordance with the approved details.

6) No development involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used in the construction of external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless any variation is agreed with the Local Planning Authority.

7) Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.

8) The construction of the new dwellings shall be carried out in strict accordance with the proposed mitigation strategy within the Coal Mining Risk Assessment submitted with the planning application.

9) Prior to occupation, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
The approved landscaping plan shall be completed in accordance with the following:-
a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations) d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

10) Unless otherwise agreed in writing, neither of the dwellings hereby permitted shall be first occupied until access to broadband services has been provided in accordance with an action plan that has previously been submitted to and approved in writing by the Local Planning Authority.

11) Prior to occupation Electric Vehicle Infrastructure to the following specification shall be provided: Overnight EVP for each dwelling (30A independent circuit preferred to allow fast charging capability). The infrastructure shall be maintained and operational in perpetuity.