



Appeal Decision

Site visit made on 7 October 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/A0665/W/19/3232921

Hanns Hall Livery, Hanns Hall Road, Neston CH64 2TQ

- 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 Brian Spencer against the decision of Cheshire West & Chester Council.
 - The application Ref 19/01429/OUT, dated 28 March 2019, was refused by notice dated 17 June 2019.
 - The development proposed is described as '6 custom built serviced plots on previously developed (brownfield) land'.
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Decision

1. The appeal is allowed and outline planning permission is granted for 6 dwellings at Hanns Hall Livery, Hanns Hall Road, Neston CH64 2TQ, in accordance with the terms of the application, Ref 19/01429/OUT, dated 28 March 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. The application was submitted with all matters reserved. The Council advise that layout was included in order to assess the impact on the Green Belt and the character of the open countryside and the Council considered layout during its determination of the application. The appellant has identified that the description of development includes layout on the appeal form and so I have dealt with the appeal on this basis, with matters relating to appearance, landscaping, access and scale reserved.
3. Notwithstanding the description of development set out in the heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the erection of 6 dwellings. The Council has dealt with the appeal on this basis and so shall I. For the decision, I have used the description provided by the Council on its decision notice, omitting those words which are not acts of development.
4. The Cheshire West and Chester Local Plan (Part 2)(CWCLP2) has been adopted since the Council made its decision on the proposed development¹. The appellant has had the opportunity to comment on this through the appeal.

¹ Adopted 18 July 2019

Main Issues

5. The site falls within an area of Green Belt. Accordingly, the main issues are:
- Whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework')(2019) and development plan policy; and
 - Whether the appeal site is a suitable location for the proposed development, having regard to access to local shops, community facilities and bus services and local and national planning policy; and
 - The effect of the development on the character and appearance of the area.

Reasons

Whether Inappropriate Development in the Green Belt

6. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145. One of the exceptions cited (g) is the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
7. Policy STRAT 9 of the Cheshire West and Chester Local Plan (Part 1) (CWCLP1)(2015) sets out the types of development that will be permitted within the countryside and, in respect of sites in the Green Belt, states that additional restrictions will apply to development in line with the Framework. Policies DM1 and DM19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (CWCLP2)(2019) also state that proposals for the development of land in the Green Belt must accord with Green Belt policy as set out in the Framework.
8. The appeal site is adjacent to a cluster of buildings which are located off Hanns Hall Road. There are a number of existing structures on site, including a substantial building predominantly constructed of breeze block and wooden cladding with a corrugated fibre roof. There is an extensive area of hardstanding, as well as a manège and paddocks.
9. My attention has been drawn to a definition of previously developed land contained within the Local Plan Part 2, which, it is asserted, excludes land used for the keeping of horses. The Framework defines previously developed land as '*land which is or was occupied by a permanent structure, including the curtilage of the developed land...This excludes...land in built-up areas such as residential gardens, parks, recreation grounds and allotments.*' it does not exclude land for the keeping of horses. The Council has confirmed it considers the appeal site comprises previously developed land and, given the definition contained within the Framework, I agree with its conclusion on this matter.

10. The proposed development would comprise six dwellings. The appellant has provided me with calculations which indicate that the area and volume of the proposed dwellings would be less than the existing building, which would be demolished. On the evidence before me, I have no reason to doubt that it would be possible to design dwellings which would result in an overall reduction of area and volume.
11. The appellant has drawn my attention to a number of appeal decisions and decisions made by the Council which considered the redevelopment of brownfield sites in the Green Belt. Whilst I agree that each case should be considered on its own merits, I also agree that it is not necessary, for the purposes of considering openness, for the layout of the proposed development to be the same as the buildings which are to be demolished, nor is it necessary for the proposed dwellings to reflect the adjacent courtyard development.
12. Although the layout plan shows that the proposed dwellings would encroach onto an area of existing hardstanding which is absent of any building, views of the buildings from outside of the site would not significantly change as the buildings would be viewed against the context provided by other buildings, including dwellings, located off Hanns Hall Road. Furthermore, since the application is in outline, scale is a reserved matter, the precise volume which would be occupied by the proposed dwellings would be subject to change. As such, any encroachment onto land which is currently absent of buildings would have a negligible effect on openness.
13. Thus, the appeal scheme would have no greater impact on the openness of the Green Belt than the existing development and would not be inappropriate development in the Green Belt. There would therefore be no conflict with Policies STRAT 9 of the CWCLP1 and DM1 and DM19 of the CWCLP2 or the Framework in this respect.

Suitability of location

14. Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 10 of the CWCLP1 all seek to ensure new development is located so it is accessible to local services and facilities, amongst other things. To achieve this, Policy STRAT 2 seeks to direct new housing to identified settlements whilst Policy STRAT 8 states that within the rural area, the Council will support development that serves local needs in the most accessible and sustainable locations. Policy R1 of the CWCLP2 identifies Willaston as a local service centre and Policy STRAT 8 of the CWCLP1 identifies Neston as a key service centre.
15. The appeal site is adjacent to a cluster of dwellings located off Hanns Hall Road, between Neston and Willaston and for the purposes of applying policy is located in countryside. There is a footpath, which I was able to walk during my site visit, which runs along the northern side of Hanns Hall Road from the appeal site into the settlement of Willaston and a number of bus stops in the vicinity of the site.
16. Policy STRAT 9 sets out the types of development that will be permitted within the countryside, including replacement buildings. Policy DM1 of the CWCLP2 states that proposals for residential development in the countryside will be determined in line with the criteria set out in Local Plan (Part Two) Policy DM19. The proposed buildings would replace the existing buildings on site and, as such, would be supported by Policy STRAT 9 of the CWCLP1 and Policy DM19

of the CWCLP2 subject to meeting certain criteria. The Framework also supports the development of brownfield land².

17. Policy DM19 of the CWCLP2 supports the replacement of buildings on previously developed land where: there is good access to public transport; it is located within reasonable walking distance of local services and facilities along a safe route, amongst other things. Although the appeal site is detached from the settlement of Willaston, it is within walking distance of its facilities and services, which I saw include a primary school, shops and community facilities. As such, future occupants of the proposed dwellings would be able to walk to Willaston to meet many of their day-to-day needs. I also saw that there are a number of bus stops in close proximity of the site, as well as bus stops in Willaston itself, which would enable future occupants to use public transport to access services and facilities further away.
18. As such, although the appeal scheme would not accord with Policies STRAT 2 and STRAT 8 of the CWCLP1, there would be no conflict with Policies STRAT1, DM19 in this respect, or Policy STRAT10 of the CWCLP1 which seeks to ensure that new development is located so as they are accessible to local services and facilities by a range of transport modes.
19. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Although the appeal site is not within Willaston, since future occupants would be likely to utilise facilities and services within the village and as a consequence, enhance the vitality of the settlement. This is a matter which weighs in support of the appeal scheme.

Character and appearance of the countryside

20. The appeal site is located in the countryside, adjacent to a number of residential properties which the Council advise have been converted from former farm buildings. Although the livery building is substantial, it is not a dominant feature in the landscape due to its setback from the road, intervening vegetation along Hanns Hall Road and Damhead Lane and intervening buildings to the west.
21. Policies ENV 6 of the CWCLP1 and DM3 of the CWCLP2 both seek to ensure that development respects local character, amongst other things. Policy DM1 of the CWCLP2 states that proposals for residential development in the countryside will be determined in line with the criteria set out in Policy DM19 of the CWCLP2. Policy DM19 of the CWCLP2 supports the replacement of buildings on previously developed land where it does not result in the loss of buildings that contribute to the rural character of an area; and the design and layout of the development fully reflects the rural character of the area and does not 'urbanise' the countryside, amongst other things.
22. The proposed dwellings would be set back from Hanns Hall Road, around an internal access road. The setback from the road and the intervening vegetation would ensure that the proposed dwellings would not appear intrusive in the landscape. Appearance, scale and landscaping would be reserved matters, consequently the height and design of the buildings would be subject to

² Paragraphs 63, 68, 117, 118, 119, 137

change. Nevertheless, I consider it possible to design dwellings which would not appear obtrusive in the landscape or out of keeping the countryside setting.

23. Thus, I conclude that the appeal scheme would not harm the character and appearance of the countryside and there would be no conflict with Policy ENV6 of the CWCLP1 and Policies DM1, DM3 and DM19 of the CWCLP2, the requirements of which are set out above.

Other Matters

24. Concern has been raised regarding the effect of additional housing on existing amenities, particularly since Willaston has lost a number of shops and services over the last seven years. I have no substantive evidence that existing services would be unable to cope with the additional demand generated by the appeal scheme. Furthermore, additional demand for facilities in the village which remain could help ensure their retention, preserving the vitality of the village.
25. The appellant has submitted the appeal scheme on the basis that it would comprise custom self-build plots and has drawn my attention to a number of appeal decisions where this matter was found to weigh in support of the proposals. However, no mechanism is before me which would ensure the appeal site is developed in this way and, as such, I am unable to afford this matter weight. Whilst I note the comments made by the Council in respect of appeal decision APP/A0665/W/19/3226848, the provision of self-build dwellings has not been determinative in this case.

Conditions

26. I have considered the conditions put forward by the Council and other parties against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for consistency, clarity and omitted others. Since the application is in outline, I have included conditions relating to the submission and timing of reserved matters applications and the commencement of development. I have not imposed conditions to secure details which would be addressed at the reserved matters stage, including landscaping. In the interests of protected species, I have included conditions to ensure that the development is carried out in accordance with relevant mitigation measures proposed in the Ecological Survey.
27. The Council has suggested the inclusion of a condition to remove rights, as permitted by the Town and Country Planning (General Permitted Development)(England)Order 2015 (as amended). The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not persuaded on the evidence before me that it is necessary to restrict permitted development rights since such rights would already be reasonably controlled by conditions set out in the aforementioned Order.
28. The Council has suggested a condition to ensure the proposed dwellings would meet the higher National Housing Standard for water consumption of 110 litres per person per day. However, I have no substantive evidence that there is a need to go beyond the requirements set out within Building Regulations. As such, I am not persuaded that such a condition would be reasonable in this instance.

Planning Balance and Conclusion

29. There would be environmental and economic benefit from redeveloping previously developed land. It is asserted that new houses at the nearby Palladian site means that additional housing in the area is not required. However, given the Government's objective of significantly boosting the supply of homes I consider that the proposal would deliver moderate social benefits through the provision of 6 dwellings.
30. I acknowledge that there would be some policy conflict with Policies STRAT 2 and STRAT 8 of the CWCLP1 and Policy R1 of the CWCLP2 which seek to direct development towards identified settlements. However, the village of Willaston would be accessible on foot or by bicycle and bus services would be within walking distance of the proposed dwellings, there would therefore be sustainable transport opportunities. As such, I consider the policy conflict would be minor, and the proposal would accord with the development plan as a whole.
31. For the reasons given above, and having regard to all matters raised, the appeal is allowed subject to the conditions set out in the schedule below.

M Savage

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the location plan and drawing number HHL/401 but only in respect of those matters not reserved for final approval.
- 5) Prior to the felling of trees T1, T2 or T3, as identified within the Ecology Survey and Assessment dated April 2018, a scheme of soft felling measures, which shall be prepared by a suitably qualified ecologist, shall be submitted to and agreed in writing by the local planning authority. The agreed soft felling measures shall be implemented during the felling of trees T1, T2 or T3.
- 6) The development hereby approved shall be carried out in accordance with the ecological mitigation measures set out in Paragraph 5.6.1 of the We Know Services Ecology Survey and Assessment dated April 2018.
- 7) No building, demolition or vegetation clearance shall be carried out on the site between 1st March and 31st August inclusive in any year, unless the site is surveyed for nesting birds by a qualified ecologist prior to their removal. If nesting birds are found, a scheme to protect nesting birds shall be submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved scheme.
- 8) The development hereby approved shall not be occupied until a scheme showing suitable locations for the provision of compensatory nesting features for Swallow has been submitted to and approved in writing by the local planning authority. No residential unit shall be occupied until the approved nesting features have been installed in accordance with the approved scheme. Thereafter, these features shall be retained.
- 9) The development hereby approved shall not be occupied until a scheme for the provision of at least one bat box within the site has been submitted to and approved in writing by the local planning authority. No residential unit shall be occupied until the bat box/es have been installed in accordance with the approved scheme. Thereafter, these boxes shall be retained.

End of Schedule