
Appeal Decision

Site visit made on 14 July 2020

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 4 August 2020

Appeal Ref: APP/A0665/W/19/3243475

Land adjacent to 613 Chester Road, Cuddington, Northwich, CW8 2EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ideal Care Homes Ltd and Renew Land Developments Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref. 19/00124/FUL, dated 9 January 2019, was refused by notice dated 28 June 2019.
 - The development proposed is erection of a 3 storey, 66 bed care home for older people, with associated car parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural

2. In its appeal statement the Council has confirmed that, following further submissions by the appellants, it is satisfied that potential issues related to ecology could be satisfactorily resolved through the imposition of a suitable condition and so it is no longer pursuing its second reason for refusal. I have taken this into account.
3. In support of the appeal proposal the appellants have provided a formally completed unilateral undertaking (UU), pursuant to section 106 of the *Town and Country Planning Act 1990*. I have also taken this into account.

Main Issues

4. I consider that the main issues in this case are the effect of the proposal on the character and appearance of the surroundings, the effect on highway safety and, if there is harm, whether there are other considerations sufficient to justify the grant of planning permission.

Reasons

Character and appearance

5. The appeal site comprises: an area of grassland, the treed northern boundary of which fronts onto the southern side of Chester Road; and, an accessway that also serves a small group of timber clad, single-storey buildings, which appear to be used as a stables and outlet for pet food and plants, which are located immediately to the west of the main site area.

6. The reasoned justification for Policy STRAT 9 of the *Cheshire West & Chester Council Local Plan (Part One) Strategic Policies, 2015* (LP1) confirms that 'The Council will identify settlement boundaries for ... Key Service Centres ... through the *Local Plan (Part two) Land Allocations and Detailed Policies, 2019* (LP2). Where there is a need to accommodate development on the edge of a settlement then the boundary will be drawn to reflect this. Land beyond these settlement boundaries will be classed as countryside and subject to the requirements of Policy STRAT 9'. The boundary of the Cuddington and Sandiway Key Service Centre (KSC) defined by LP2 has not been drawn to include the appeal site. In the vicinity of the site, the KSC boundary runs along the southern side of a large housing estate that fronts onto the northern side of Chester Road. It follows that the appeal site is classed as countryside under the terms of the LP2; this is a matter accepted by the appellants. The appeal site is not one of the Local Green Spaces designated and protected by the *Cuddington Parish Neighbourhood Plan 2015-2030, February 2019* (NP), all of which are located within the boundary of the Key Service Centre.
7. Although there are a small number of two-storey dwellings to the southwest of the stables and beyond them single and two-storey buildings that form part of Blakemere Village, they are set well back from the road and largely screened from view from the highway by trees, such that they have little visual impact in the context of views from Chester Road and from within the boundary of the Key Service Centre. To the east of the appeal site, a ribbon of two-storey detached dwellings fronts onto the southern side of Chester Road. In comparison with development on the opposite side of the highway within the KSC, they appear to occupy more spacious plots and to represent a lower density pattern of development. The closest of these dwellings to the appeal site is No. 613. The western side boundary of that property is separated from the eastern boundary of the appeal site by a public right of way linking Chester Road to Kennel Wood, which abuts the southern boundary of the site. I understand that Kennel Wood has a non-statutory designation as a 'Local Wildlife Site' and it is well used for recreational purposes.
8. Travelling westwards along Chester Road past No. 613, the countryside appears to open out with views across the appeal site towards Kennel Wood, followed by a small area of woodland fronting the highway and then an expanse of grassland separating Chester Road from development within Blakemere Village. I consider that when seen from public vantage points thereabouts, the area along the southern side of Chester Road to the west of No. 613, which includes the appeal site, generally has the appearance of verdant open countryside, which contributes positively to the character and appearance of the surroundings and the setting of the KSC. Furthermore, the absence of built development within the site contributes to the positive sense of relative isolation experienced when walking through the neighbouring section of Kennel Wood.
9. LP1 Policy STRAT 9 indicates that the intrinsic character and beauty of the Cheshire countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. It identifies a number of types of development that will be permitted within the countryside, which do not include developments of the type proposed. Furthermore, in common with NP Policy 5, LP1 Policy STRAT 9 seeks to ensure that development would be of a scale and design which would not harm the character of the countryside. LP1 Policy ENV 2 indicates that

development should take account of the characteristics of the site, its relationship with its surroundings and where appropriate views into, over and out of the site. LP1 Policy ENV 6, LP2 Policy DM 3 and NP Policy 15 seek to ensure that development respects local character, and NP Policy 1 indicates that development should respect the landscape setting of Cuddington Parish. These Policies are consistent with the *National Planning Policy Framework* (the Framework), which indicates that policies should recognise the intrinsic character and beauty of the countryside and seeks to ensure that development is sympathetic to local character, while not preventing appropriate innovation or change (such as increased densities).

10. The proposed building would have a chevron shaped floor plan. At the eastern and western ends of its front building line, it would be setback from Chester Road by a similar distance to the setback of the frontage of No. 613, while towards the middle of the building the setback would be greater. However, the building would be three-storeys high and, according to the appellants' estimate, it would be around 65 metres wide, extending across approximately half the width of the site (east-west). I acknowledge that: within the site, some space would remain around the building; the architectural detailing, including a range of materials and steps in the façade and roof, would give the impression that the building is made up of a series of different blocks; and, that the visual impact of the scheme would be softened to some extent by surrounding trees. Nonetheless, I consider that, due to its substantial scale and massing, the building would dominate the site. When seen from nearby public vantage points, including along Chester Road, the housing estate to the north and within the neighbouring woodland, it would have the appearance of an overbearing and obtrusive addition to the locality; incongruous in the context of the neighbouring more modest one and two-storey buildings. Furthermore, the proposed development, which would also include a significant area of car parking to the west of the building, would undoubtedly urbanise the site. Whilst it would not block or impinge on the specific internal townscape views and external landscape vistas that NP Policy 6 seeks to safeguard, it would cause material harm to the character of the countryside thereabouts and the landscape setting of the KSC.
11. I conclude that the proposal would cause significant harm to the character and appearance of the surroundings and in this respect would conflict with LP1 Policies STRAT 9, ENV 2 and ENV 6 as well as LP2 Policy DM 3, NP Policies 1, 5 and 15, and the Framework.

Highway safety

12. The footways within the appeal site would be laid out so as to provide pedestrian access at the northeastern corner of the site, close to the point at which the public right of way that runs alongside its eastern boundary meets the A556, Chester Road. At this point on the highway there is a pedestrian island refuge to facilitate crossing Chester Road. A footway runs along the opposite side of the highway and a footpath leads directly into the neighbouring area of the KSC.
13. The *Stage 1 Road Safety Audit* (RSA), undertaken on behalf of the appellant, identifies that the A556, is a relatively busy road subject to a 40 mph speed limit in this location. I saw that the alignment of the highway is such that the sightlines in each direction, available to pedestrians waiting to cross, extend for

some distance. However, it does not automatically follow that pedestrians would have sufficient time to cross, a matter that would depend on the gaps between passing vehicles and their speed, rather than the sighting distance along the highway. I saw that traffic tends to be platooned in both directions, as identified by the RSA; a pattern of traffic which to my mind is likely to be caused by the signal-controlled junctions further to the west and east along the highway. The RSA suggests that during busier periods these conditions could make it difficult for less mobile or elderly pedestrians associated with the proposal to safely cross the highway.

14. The appellants' specialist highway consultant, Cameron Rose Associates Limited (CR), has indicated that there have been no recorded personal injury accidents associated with the crossing point in the last 5 years, a position which appears to be confirmed by information provided by the Cuddington Residents group, which identifies a small number of accidents some distance away. However, I give only limited weight to the historic record. In my judgement, given the care home nature of the proposal, the scheme would be likely to result in a notable increase in the number of less mobile and elderly people using the crossing to move between the appeal site and the KSC, some of whom may be residents and others visitors. Having crossed the road at this point a number of times during my site visit and seen others do so, I share the concern expressed by the RSA and consider that, without mitigation, the scheme would be likely to result in a significant increase in the risk of accidents associated with the use of the crossing.
15. However, the RSA recommends that a suitable pedestrian crossing assessment should be undertaken to determine the appropriate level of crossing provision and, if necessary, improvements should be made. CR has suggested that a Pelican crossing may be considered to be an appropriate form of upgrade in this location and that the appellants have indicated they would be willing to upgrade the crossing if necessary. Against this background, CR has recommended that the investigation and any upgrading works identified as being necessary should be secured by a condition that requires any associated works to be completed before first occupation of the scheme. I have also had regard to the view of the Council that in this case, with particular reference to assumed footfall at the crossing inclusive of the effects of the appeal scheme, it is unlikely that a signal-controlled crossing would be justified with reference to its assessment criteria for such facilities. However, I give the Council's position little weight, as no formal assessment has been undertaken.
16. To my mind, with reference to CR's suggestion, the means to provide safe passage is likely to exist and the uncertainty associated with delivery could be addressed by condition. In order to ensure that the proposal would be acceptable in terms of its effect on pedestrian safety, it would be necessary to impose a condition that requires a suitable pedestrian crossing assessment to be completed and the means formally established to secure the provision of any necessary improvements before the commencement of the development. In my view, this could be achieved through the imposition of a Grampian style condition, prohibiting the commencement of the development until these matters are resolved.
17. Vehicles would access the site using the existing access from Chester Road that serves the stables. Some improvements would need to be made, as indicated by the Local Highway Authority (LHA) and some local residents. For example, I

consider that it would be necessary to trim back low level tree growth that overhangs the verge along the frontage of the site, in order to provide adequate intervisibility between drivers emerging from the site and those approaching along the highway and manoeuvring to or from other nearby junctions. However, in my judgement, the necessary junction improvement works could be secured through the imposition of suitable conditions. This is a view shared by the LHA. Furthermore, I agree with the LHA that the levels of car ownership likely to be associated with care home residents would be relatively low and the vehicle trip rate associated with the proposal would be unlikely to have a significant impact on the flows or operation of the busy A556. Under these circumstances, the effect of the use of the proposed vehicular access on highway safety would be acceptable.

18. I have had regard to the concern raised that the scheme may result in overflow parking within the housing estate that adjoins the A556, to the north of the appeal site. To my mind, overflow parking, were it to occur, would be unlikely to be significant, given that the proposed level of car parking provision within the site would accord with the Council's *Car Parking Supplementary Planning Document*, as confirmed by the LHA. Furthermore, from what I saw of the road layout within the neighbouring estate, it would be likely to accommodate on-street parking that may arise from time to time from the proposed development without difficulty.
19. I conclude overall that, subject to conditions, the effect of the proposal on highway safety would be acceptable and in this respect it would accord with LP1 Policy STRAT 10, LP2 Policy T 5, NP Policies 18 and 19 as well as the aims of the Framework regarding highway safety and safe access.

Other considerations

20. The appellants consider that there are exceptional circumstances in this case, which warrant the grant of planning permission. This is based on their views that there is a demonstrable need for the proposed care home capacity, it should be met on a site related to the Cuddington and Sandiway KSC, and the appeal site is the most sequentially preferable site for it.
21. The appellants have provided their *Carterwood Report, June 2018*, in support of their need case. The methodology used compares demand, based on Census 2011 population projections and elderly population growth rates, against supply, taking account of currently registered market standard elderly care home beds and possible new care home beds associated with extant planning permissions. It estimated that in 2019 there would be a rural area shortfall of 128 beds and the shortfall would be significantly greater if the whole of the Council's area is taken into account. Looking forward, the report suggests that the level of undersupply would be likely to remain significant unless there is a substantial increase in new provision. The Council has confirmed that it does not dispute the figures presented.
22. Turning to how the need should be met. In keeping with the aims of the Framework, LP1 Policy SOC 3 indicates that in order to support mixed, balanced and sustainable communities, the Council will seek to provide a mix of housing types, and proposals for new housing should take account of the needs of that particular area and especially of the provision of small family homes and a range of accommodation types to meet the long term needs of older people. This aim is echoed by NP Policy 12. LP2 Policy DM 20 indicates that proposals

for residential development must take account of the housing needs of the local area to ensure a range of house types, tenures and sizes are provided across the borough. It requires applications for major residential development to demonstrate how the requirements of an ageing population will be addressed. Furthermore, of particular relevance to the type of development proposed, LP2 Policy DM 26 indicates that proposals for new specialist accommodation, including nursing homes and elderly persons' accommodation, within identified settlements to meet the needs of vulnerable and older people will be supported where the requirements of relevant development policies can be met. The Council has indicated that the intention of the Development Plan is to meet the need for the type of residential accommodation proposed in this case as part of its overall housing supply and, with reference to the above Policies, it appears to me that that is the case.

23. I have had regard to the appellants' view that the Plan has failed to make provision for new accommodation of the type proposed in relation to the Cuddington and Sandiway KSC, as the only sites there identified by the Development Plan as commitments/allocations have been developed without any. Furthermore, with reference to their *Sequential Assessment of Alternative Development Sites* (SA), of the 14 sites identified they consider that the appeal site is the most sequentially preferable location in or around the KSC to site accommodation of the scale and type proposed.
24. However, firstly, the housing Policy provisions set out above do not require a particular mix of accommodation on all sites. LP2 Policy DM 20 indicates that the Council will work with the developer to agree a suitable housing mix taking full account of the characteristics of the site and viability considerations. Secondly, I understand that there are a number of existing care homes within/local to the Cuddington and Sandiway KSC and the Plan does not require a particular quantum of specialised accommodation in particular locations.
25. In keeping with the aims of the Framework, LP1 Policy STRAT 2 indicates that to maintain the vitality and viability of rural areas, an appropriate level of new development will be brought forward to support new homes and economic and social development. Whilst in this context the Development Plan offers some support for development associated with relatively sustainable locations in the rural area, such as Cuddington and Sandiway, the support is qualified. The Policy indicates that development will be focussed in Key Service Centres, a position echoed by LP1 Policy STRAT 8. The appeal site is not within the KSC.
26. I acknowledge the reasoned justification for LP1 Policy STRAT 2 anticipates that the release of greenfield sites will be required especially within the rural area. However, the Policy itself indicates that to deliver the levels of development outlined, a number of key sites have been identified and further sites will be identified through LP2 and/or neighbourhood plans. The appeal site has not been identified for development by LP2. Furthermore, LP2 Policy R 1 states that new housing development outside but adjacent to a Key Service Centre boundary will only be supported in limited identified circumstances, such as where the site has been allocated through a neighbourhood plan. The appeal site has not been allocated for development by the NP and there is no evidence before me to show that the proposal falls within any of the other limited circumstances. For other development in the countryside LP2 Policy R 1 refers to LP1 Policy STRAT 9. LP2 Policy DM 26 also confirms that new specialist care

facilities outside settlement boundaries will be resisted in line with LP1 Policy STRAT 9.

27. The reasoned justification for LP1 Policy STRAT 9 indicates that the Council will identify settlement boundaries for Key Service Centres through the LP2 and where there is a need to accommodate development on the edge of a settlement then the boundary will be drawn to reflect this. As has already been identified, the boundary of the KSC has not been drawn to include the appeal site. Furthermore, with reference to the first main issue, I have concluded that the scheme would conflict with LP1 Policy STRAT 9.
28. Therefore, whilst I acknowledge that, consistent with the Framework, the Development Plan supports the release of greenfield sites on the edge of settlements in certain circumstances, it appears to me that those circumstances do not apply in this case. Against this background, I conclude that the release of the predominantly greenfield appeal site for the purpose proposed would conflict with LP1 Policies STRAT 2, STRAT 8, STRAT 9, LP2 Policy R 1 and Policy DM 26, which deals specifically with residential accommodation of the type proposed.
29. Furthermore, for a number of reasons, I am not convinced that the identified need would be unlikely to be met without the appeal scheme. Firstly, the Council has stated that its *Housing Land Monitor Review, November 2018*, included for care home schemes such as that comprising the appeal proposal and it indicated that the Council was able to demonstrate a housing land supply in excess of 7 years. These matters are not disputed by the appellants.
30. Secondly, the SA recognises that there are a number of other Key Service Centres within the Council's rural area which, in comparison to Cuddington and Sandiway, are not constrained as much by Green Belt and other factors, and have been allocated a greater level of growth over the Plan period. However, its search is focussed solely on Cuddington and Sandiway, potentially missing more preferable sites in other locations in the rural area. My attention has been drawn to a small number of cases in which planning permission has recently been refused for care home schemes on sites in the Council's rural area. However, I do not know the full circumstances of those cases and, based on the limited information before me, in my view, it does not automatically follow that there is a shortage of suitable sites. I consider overall, that limited weight is attributable to the SA.
31. Finally, I note that planning permission was granted for a 68-bed care home facility in Rudheath in February 2019, which the appellant estimates is only around 7 miles from the site. I give little weight to the appellants' assertion that people resident in the Council's rural area would prefer to occupy a care home within the rural area, rather than one within any of the nearby urban areas, as there is little evidence to support it.
32. The scheme would provide residential accommodation of a type for which there is a need in both the rural area and wider borough, gaining some support from LP1 Policy SOC 3, LP2 Policy DM 20, NP Policy 12 and the Framework. Nonetheless, there is no compelling evidence before me to show that it could not be delivered through the existing housing land supply and without the Policy conflicts identified above. Furthermore, the scheme would not fit within the limited circumstances in which LP2 Policy DM 19 supports residential development in the countryside.

33. The appellant has estimated that the scheme would result in the creation of the equivalent of 48 full time jobs. In this respect it would gain some support from LP1 Policy ECON 1 and the Framework, which give encouragement to the generation of new employment.
34. Nonetheless, I conclude that the weight attributable to this and the other considerations put forward by the appellants is greatly limited by the identified conflicts with Development Plan Policy and the housing land supply position.

Other matters

35. The Council has confirmed that the concerns expressed in its second reason for refusal have been satisfactorily addressed by the additional information provided by the appellants in support of this appeal. This included a *Preliminary Ecological Appraisal* (May 2019) as well as site specific surveys related to bats, badgers and birds, together with a *Biodiversity Enhancement Plan*. Whilst I have also had regard to the general concerns raised by others, I give greater weight to the detailed assessment of the Council's Natural Environment Officer (NEO) regarding the likely effects of the proposal on biodiversity. Having taken account of the reports submitted and Natural England's standing advice, the NEO is satisfied that, subject to the imposition of conditions, the interests of protected species can be satisfactorily safeguarded and that the measures set out in the *Biodiversity Enhancement Plan* would achieve net gains for biodiversity, as required by the Framework. I have no compelling evidence to the contrary. I conclude therefore, that the effect of the appeal scheme on biodiversity would be acceptable and, in relation to this matter, it would not conflict with LP1 Policy ENV 4, LP2 Policy DM 44, *ODPM Circular 06/2005*, the *Natural Environmental and Rural Communities Act 2006*, the *Conservation of Habitats and Species Regulations 2017* or the Framework.
36. In support of the appeal proposal, the appellants have provided a formally completed UU, the purpose of which is to make provision for £33,264 to be paid towards the expansion of local health infrastructure upon which future residents of the proposed care home would be likely to rely. Having had regard to the supporting evidence provided by the NHS Vale Royal Clinical Commissioning Group, I am satisfied that the contribution would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Furthermore, it would accord with the requirements of LP1 Policy SOC 5 and LP2 Policy DM 29 as regards meeting the health needs of residents.
37. The rear garden of No. 613 is clearly visible to pedestrians passing by on the footpath that runs alongside its western boundary. Whilst the eastern elevation of the proposed building would contain a number of windows over 3 floors facing towards the rear garden of No. 613, in my judgement, it would be sufficiently distant so as not to have an unacceptable impact on the levels of privacy currently enjoyed by residents of that neighbouring dwelling.

Conclusions

38. I have found that, subject to conditions, the effect of the appeal scheme on highway safety would be acceptable. However, I conclude on balance that this, the other considerations identified by the appellants and the other matters raised, whether considered individually or cumulatively, would be significantly and demonstrably outweighed by the harm that the proposal would cause to

the character and appearance of the surroundings. I conclude on balance, having regard to the economic, social and environmental effects of the proposal, that it would conflict with LP1 Policy STRAT 1 and the Development Plan taken as a whole, and would not amount to sustainable development under the terms of the Framework.

39. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR