
Appeal Decision

Site visit made on 26 May 2020 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/A0665/W/20/3247387

Land opposite 12 West View Road, Norley, Northwich WA6 8NR

- 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 Mr Tony Wakefield against the decision of Cheshire West & Chester Council.
 - The application Ref 18/04381/FUL, dated 09 November 2018, was refused by notice dated 8 November 2019.
 - The development proposed is the erection of no.2 infill residential plots with associated access and infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of no.2 infill residential plots with associated access and infrastructure at land opposite 12 West View Road, Norley, Northwich WA6 8NR, in accordance with the terms of the application Ref 18/04381/FUL, dated 09 November 2018, subject to the conditions in the Schedule at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The Council's decision notice refers to Policy STRAT5 of the Cheshire West and Chester Local Plan (Part 1). However, this policy concerns sites which fall within Northwich and adjacent settlements, as defined within the explanation text. The appeal site does not fall within any of the referenced settlements therefore I do not consider this policy to be relevant in the consideration of this appeal.

Main Issue

4. The main issue is whether the appeal site is a suitable location for the development having particular regard to the settlement strategy and accessibility to shops and services.

Reasons

5. The appeal site is an area of land located on the southern side of West View Road, close to the village of Norley. West View Road is an unadopted cul-de-sac serving a limited number of properties of varying size and character.

Residential properties lie to the north, east and west of the site and there are open fields to the south beyond a row of mature trees.

6. The appeal site is also located within the Green Belt, which washes over the village of Norley. The Government attaches great importance to the Green Belt and inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. As set out in the National Planning Policy Framework (the Framework), new buildings are regarded as inappropriate except in certain circumstances, including limited infilling in villages as indicated in paragraph 145(e). Policy STRAT 9 of the Cheshire West and Chester Council Local Plan, Part One, Strategic Policies (the 'LP1') sets out guidelines for development in the Countryside and Green Belt, specifying certain types of development which may be granted. The justification to the policy refers to limited infilling in villages and is therefore consistent with the Framework.
7. The Council have found that the appeal site does not fall within a village and thus considers that the limited infilling in villages exception of the LP1 and the Framework does not apply. I acknowledge that the appeal site lies outside the settlement boundary of Norley. However, it abuts it and I note that the development of other properties along West View Road is relatively continuous, particularly along the north side. Furthermore, the proposal is for two dwellings which would fill the appeal site and much of the undeveloped gap on this stretch of the south side of West View Road. Therefore, having regard to the scale and location of the proposal, I find that it would represent limited infilling in a village and thus falls within LP1 exceptions and paragraph 145(e) of the Framework. Therefore, this proposal would not be inappropriate development within the Green Belt. I note that the Council does not disagree. On that basis there is no need for me to further consider the effect of the proposal on the openness of the Green Belt nor whether there are special circumstances necessary to justify the development.
8. The Council are concerned that the appeal site is not an accessible location for residential development, having regard to the strategy of LP1 Policy STRAT 1 to locate new housing with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport. LP1 Policy STRAT 2 goes on to set out a settlement hierarchy for the borough which development should be brought forward in line with. Norley is identified as a local service centre through policy R1 of the Cheshire West and Chester Council Local Plan, Part Two, Land Allocations and Detailed Policies (the 'LP2').
9. However, as noted, the appeal site lies outside the settlement boundary of Norley, therefore for development plan purposes it falls within a countryside location. LP1 Policy STRAT 9 seeks to protect the character and beauty of Cheshire's countryside by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. It is a criteria-based policy, setting out the circumstances where development within the countryside will be permitted. This is supported by Policy DM19 of the LP2. Accordingly, the appeal proposal is contrary to policies STRAT2 and STRAT 9 of the LP1 and policies R1 and DM19 of the LP2 in so far as they restrict development outside settlement boundaries.

10. Nevertheless, LP1 Policy STRAT 8 concerns proposals within the rural area and notes that new development that serves local needs in the most accessible and sustainable locations to sustain vibrant rural communities will be supported. Whilst the appeal site falls within the countryside for development plan purposes, it directly abuts the settlement boundary of Norley and is adjacent to other housing. It is within close proximity to a hub of development in the village centred around a public house and village store and there are a number of other facilities and services within Norley, including a primary school, church and village hall, all within close walking distance from the appeal site. Additionally, the site lies in close proximity to a bus stop which provides a connection to the town of Northwich and key service centre of Frodsham. Whilst development in Norley is largely linear along the main highways through the village, including School Bank off which West View Road is located, taking the above into consideration, the appeal site visually and functionally appears as part of the village.
11. Consequently, I consider that whilst the site lies outside the settlement boundary of Norley, it is not in an isolated location as it is located in close proximity to a range of everyday services and facilities thus helping reduce the reliance on private vehicles. The proposal would therefore constitute an accessible form of development and would accord with the locational requirements of the development plan to locate new development in accessible locations within or on the edge of settlements. Accordingly, in that respect the proposal is in accordance with Policy LP1 Strat 1 and STRAT 8.

Other Matters

12. Concerns have been raised by third parties that the proposal for two large detached dwellings does not meet the housing needs of Norley as identified within the Norley Neighbourhood Plan (the NP). Whilst the Council have not referred me to the NP, I have been provided with a copy and I have taken it into consideration. The policies do not have a specific requirement for a certain size of dwelling, but rather they seek to ensure a mix of housing. I acknowledge the findings of the Norley Housing Survey Report (March 2014) for the need for 8 low cost market houses and 4 affordable houses in the first five years of the plan, although this is now several years old and I understand a new survey has been carried out. While I acknowledge the need for low cost and affordable housing, the policies of the NP do not preclude or give guidance on larger dwellings. I note that the Council has recently approved planning permission for a large detached dwelling at the appeal site. Accordingly, I am not persuaded that the proposal would be contrary to the NP on account of the size or affordability of the dwellings.
13. I acknowledge the representation made by the Council's highway specialist with regard to highway safety, whose concerns are supported by neighbouring occupiers. However, the Council does not appear to endorse the concerns as they have not been raised within their delegated officer report or cited as a reason for refusal. Nevertheless, I acknowledge that West View Road is narrow, particularly towards the junction and it is near a bend along School Bank. However, the proposal represents a net increase of one dwelling over that already approved. Accordingly the proposal would generate a limited amount of traffic over the course of the day. Adequate parking space to serve both units would be provided within the site.

14. There is no convincing evidence before me that the operation of the highway, which already serves a number of residential properties is compromised by the narrowness of the road. I noted that speed limits along School Bank are reduced to 20mph therefore vehicles would be travelling at lower speeds. Thus, I am not persuaded that any vehicles waiting to enter West View Road would act as an undue hazard for road users. For vehicles leaving West View Road, whilst I noted the reduced visibility along School Bank, given the reduced speed limit along this stretch, I am not convinced that the need to edge out slowly onto School Bank would compromise highway or pedestrian safety.
15. Furthermore, whilst part of West View Road is one vehicle wide, this short stretch is straight thus allowing clear views of approaching vehicles along its length. Despite concerns from neighbouring occupiers, I have not been provided with any substantive evidence of accidents or collisions. Therefore, I am not convinced that additional traffic on the road as a result of this development would likely increase the risk of accidents and thus harm highway safety.
16. The Council indicate that the current housing land supply position is in excess of the required five-year period, however I have not been provided with any evidence relating to housing land supply. Nevertheless, even if the Council can demonstrate a five year supply of housing land, there is nothing in the Framework to indicate that the presence of a five year land supply should act as a cap on housing development and in the context of the Framework's desire to significantly boost the supply of housing, the scheme would still make a small contribution to the housing supply for the area.
17. I acknowledge the concerns that some disruption in terms of noise and traffic may arise during construction of the proposed development. However, the construction period would be limited given the scale of the proposed development therefore any adverse effects would be short-term.
18. No specific objection has been raised by the Council to the effect of the development on the character and appearance of the area however I note the concerns raised by third parties that the proposed dwellings would not reflect the character of properties along West View Road. I acknowledge that the proposal is for two large detached dwellings which would be modern in appearance. Whilst the massing of the proposal may not reflect that of surrounding properties, as there is a variety of building styles along West View Road there is no reason to conclude that the proposal would be detrimental to the character or appearance of the immediate locality or village as a whole.
19. Additionally, concerns regarding the effect on the living conditions of neighbouring occupiers, in terms of outlook and privacy are not supported by the Council. The proposed dwellings would be positioned opposite existing habitable room windows however, the separation distance would be sufficient so as not to create an overbearing sense of enclosure or result in significant overlooking.
20. I acknowledge concerns that protected species are present in the area, particularly to the land and ponds beyond the appeal site. I have not been provided with substantive evidence to this regard and I note the findings of the Ecology Survey and Assessment, September 2018, which indicates that the presence of great crested newts and adverse effects on individual newts and their habitats as a result of the proposals are reasonably discounted.

Planning Balance

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As discussed above, the proposal conflicts with policies STRAT2 and STRAT 9 of the LP1 and policies R1 and DM19 of the LP2 only in so far as they restrict development outside settlement boundaries.
22. However, whilst the appeal site falls outside the defined settlement boundary, I have found that it is physically and functionally part of the settlement and moreover, is not inappropriate development in the Green Belt in policy terms. The site is in an accessible location close to everyday shops and services and public transport. Whilst I note the Council's contention that it can deliver a 5 year housing land supply, this should not be regarded as a ceiling to development. The proposal would provide two new dwellings to support the supply and mix of housing in the local area and there would be limited economic benefits from the investment in the construction of the dwellings and subsequent occupation and spending associated with future residents.
23. Taking all the above into consideration, the harm that would arise from the conflict with policies outlined above would not significantly and demonstrably outweigh the benefits. Consequently, the proposal benefits from the presumption in favour of sustainable development and material considerations indicate that planning permission should be granted.

Conditions

24. The Council has suggested a number of conditions in the light of the appeal being allowed. The appellant has not objected to the suggested conditions, however I have altered the wording where necessary to better reflect the advice set out in the Planning Practice Guidance concerning the use of planning conditions, without changing their overall intention.
25. In the interests of proper planning and to provide certainty, I have imposed the standard time limit condition and have specified the approved plans. Conditions concerning external materials and boundary treatments are necessary in the interest of the character and appearance of the area. It is also necessary that suitable measures are in place to protect retained trees.
26. It is necessary to withdraw permitted development rights to enlarge the dwellings or provide additional buildings or structures within their curtilage to protect the openness of the Green Belt and the character and appearance of the area.
27. Conditions requiring compliance with reasonable avoidance measures relating to great crested newts and the submission and agreement of external lighting in the interests of commuting and foraging bats are not necessary as the technical evidence indicates the site is of low suitability and thus their presence is discounted.
28. I have considered the Council's suggested conditions relating to electric vehicle charging points and to water consumption. However, I do not have any evidence as to how the use of the charging points or consumption of water would be enforced and as such these conditions are not necessary in order to make the development acceptable.

Conclusion and Recommendation

29. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed and planning permission is granted subject to the conditions in the attached Schedule.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

30. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed and planning permission is granted subject to the conditions in the attached Schedule.

Susan Ashworth

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: L01, LS01, P01, P02, SC01
- 3) Full details of the materials to be used in the construction of external surfaces of the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to any above ground construction works being carried out. Development shall be carried out in accordance with the approved details.
- 4) Full details of all boundary treatment shall be submitted to and approved in writing by the local planning authority prior to any above ground construction works being carried out. Development shall be carried out in accordance with the approved details.
- 5) A scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboriculture method statement) in accordance with Clause 7 of British Standard BS5837:2012 - Trees in Relation to Construction Recommendations - shall be submitted to and approved in writing by the local planning authority prior to any above ground construction works being carried out. These measures shall be carried out as described and approved.
- 6) No retained tree as shown on the approved plans shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of occupation of the building, without the prior written approval of the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order

revoking and re-enacting that Order with or without modification), no development consisting of the enlargement of the dwellinghouses hereby approved or the provision of any building or enclosure incidental to the enjoyment of the dwellinghouses within Class A and Class E of Part 1 to Schedule 2 thereof shall be carried out without the prior grant of planning permission.