The Planning Inspectorate

Appeal Decisions

Site visit made on 8 July 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal A Ref: APP/R0660/W/20/3249291
Holly Cottage & Collingwood, Wrenbury Heath Road, Wrenbury Heath, Cheshire CW5 8EQ

- 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 P Cole against the decision of Cheshire East Council.
- The application Ref 19/3632N, dated 31 July 2019, was refused by notice dated 7 October 2019.
- The development proposed is the erection of three, two storey detached dwellings following demolition of two existing bungalows with siting and access to be considered with all other matters reserved.

Appeal B Ref: APP/R0660/W/20/3249293
Holly Cottage & Collingwood, Wrenbury Heath Road, Wrenbury Heath, Cheshire CW5 8EQ

- 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 P Cole against the decision of Cheshire East Council.
- The application Ref 19/3633N, dated 31 July 2019, was refused by notice dated 15 October 2019.
- The development proposed is the erection of four, two storey detached dwellings following demolition of two existing bungalows with siting and access to be considered with all other matters reserved.

Decision

1. Appeal A is dismissed.

2. Appeal B is dismissed.

Procedural Matter

3. Both appeals are submitted in outline. Consideration of access and layout form part of the proposals, with appearance, landscaping and scale reserved for future approval. The submitted plans for the two appeals show how three and four properties respectively could be accommodated on the site, with full details of the proposed access. I have treated additional details on the plans, such as roof forms and landscaping, as being indicative.

Main Issues

4. For both appeals, the main issues are:

- whether the proposed development would provide a suitable site for housing, having regard to the effect of the proposal on i) the character and appearance of the area, and ii) access to local services and facilities; and
- the effect of the proposal on protected species.

5. For Appeal B only, there is an additional main issue concerning the effect of the proposal on the living conditions of the occupiers of Heath Cottage and The Anchorage, with particular regard to outlook, privacy and overshadowing.

Reasons

Character and appearance

6. The appeal site is located within a row of properties which front onto Wrenbury Heath Road. The existing bungalows on the site, known as Collingwood and Holly Cottage, are proposed to be demolished and the two plots, which have substantial rear gardens, would be combined to allow for the provision of three or four two storey detached dwellings (Appeal A and B respectively).

7. Policy PG6 of the Cheshire East Local Plan Strategy 2017 (CELPS) defines open countryside as the area outside of any settlement with a defined boundary. Whilst it is not in an isolated location, the appeal site is outside the village of Wrenbury and is treated as open countryside within the development plan.

8. The purpose of Policy PG6 is to preserve the countryside by restricting development to that which is appropriate to a rural location. The policy sets out a number of circumstances in which development may be acceptable, including criterion 3.i, which provides for limited infilling in villages, and the infill of a small gap with one or two dwellings in an otherwise built up frontage elsewhere.

9. The site is not within a village so the first part of criterion 3.i does not apply. If the existing houses were to be removed as proposed, then a gap would be formed in the built up frontage. Policy PG6 is quite specific that infill development would involve one or two dwellings, but Appeal A would involve replacing the existing two dwellings with three along the frontage, so would not fully comply with criterion 3.i. However, even if Appeal A was considered to be infill, Policy PG6 states that to be acceptable, development must also comply with other relevant Local Plan policies, with particular attention to be paid to preserving and enhancing the appearance and distinctiveness of the countryside.

10. Despite the built development on either side of the road, the section of Wrenbury Heath Road in the vicinity of the appeal site has retained a spacious and rural character. This owes much to the spacing of the properties in relation to the road and each other, and the predominance of bungalows rather than houses. There is no clear front building line although the bungalows are generally set back from the road by a similar distance, behind front gardens. Although the plot sizes vary somewhat, the bungalows appear fairly regular in their spacing, many of them having driveways or passageways at the side which provide gaps between them. The two storey houses, which are generally positioned closer to the road, are mainly clustered around a short cul-de-sac to the east of the appeal site.

11. Given the mix of house types in the area, the provision of two storey houses would not necessarily be out of character along Wrenbury Heath Road. However, both Appeal A and Appeal B would alter the balance of the immediately surrounding area so that it become mostly houses, rather than bungalows, which would significantly increase the built up feeling of this section of the road.

12. Like the other properties fronting onto Wrenbury Heath Road, Collingwood and Holly Cottage both have long back gardens. The plot associated with Collingwood widens towards the rear, but along the road frontage, the plots of both bungalows are of a comparable width to others along the street. The replacement of the two bungalows with three houses, as proposed in Appeal A, would result in narrower plot sizes than those in the surrounding area. Although the footprint of the houses is shown on the submitted plan as being of a similar width to the adjacent two storey property, Heath Cottage, the proposed houses would be more closely spaced than those around them.

13. Owing to the long back gardens, the overall density of development in Appeal A would be acceptable. However, the increased height of the properties compared with the existing situation, combined with the narrower plot sizes and the closer spacing of the proposed houses, would significantly increase the built up nature of this section of Wrenbury Heath Road, reducing the feeling of spaciousness and eroding the open, rural character of the area to a harmful degree.

14. In Appeal B, two dwellings would be erected along the existing built up frontage, but the proposal would involve an additional two dwellings to the rear, so would not comply with the requirements of Policy PG6 criterion 3.i either.

15. The rear two dwellings would be sited behind the main building line along Wrenbury Heath Road in land which, although part of residential gardens, is nonetheless open and contributes to the spacious, rural character of the area. I acknowledge that development along the short cul-de-sac to the east protrudes to the rear of Wrenbury Heath Road by a similar distance to the appeal proposal, but the existence of that small cluster of houses does not justify further development which would contribute to the erosion of the countryside, which Policy PG6 seeks to protect.

16. Appeal B would retain two properties along the frontage but the proposed houses to the rear would be accessed via a separate track and would involve a form of tandem development. This arrangement would fail to reflect the character of the area, in which all the properties have active frontages onto the road, including those around the cul-de-sac to the east of the appeal site. Whilst the density of development of Appeal B would be comparable to that of the nearby cul-de-sac, it would not reflect the majority of properties in the surrounding area, which have long back gardens. The proposed tandem development would fail to reflect the established character of the surrounding built environment, and would not comply with the requirements of paragraph 127 of the National Planning Policy Framework (the Framework).

17. The hedges and other planting within the front gardens of many of the properties contributes significantly to the green and rural character of the area. Both Appeal A and Appeal B show parking areas at the front of the properties, rather than at the sides. This arrangement would not be unusual within the

streetscene, and the houses in both appeals would be set back from the road with ample space to accommodate parking. However, the submitted plans for both schemes show significant areas of hardstanding to the front of the houses, which would limit the scope for landscaping along the frontage. This is particularly the case for Appeal A, in which most of the front garden area would be used for parking. I acknowledge that other properties in the area have given over their front gardens for parking and that there would be scope for some landscaping along the front boundary, however this would be limited. For Appeal A in particular, the large areas of hardsurfacing in front of the houses would further contribute to the erosion of the green and rural character of the area.

Access to local services and facilities

18. CELPS Policy SD1 sets out the principles for sustainable development in Cheshire East, which include prioritising development in the most accessible and sustainable locations. Policy PG2 of the CELPS sets out the settlement hierarchy for the borough, and paragraph 8.33 explains that, by locating the majority of new development in the larger settlements, the aim is to enable the maximum use of existing infrastructure and reduce the need for travel by car.

19. The appellant has drawn my attention to comments made by the Council in respect of a previous application on the same site for six dwellings[1], concerning the locational sustainability of the site, and in particular the suggestion that the majority of services can be reached via a short bus journey to Wrenbury or Nantwich.

20. I note that there are bus stops on Nantwich Road, close to the junction with Wrenbury Heath Road, but information about the frequency and destination of services has not been provided. Whilst I acknowledge that some journeys may be undertaken by bus, this depends on the level of services and may well be limited. Owing to the distance from the village and the lack of pavements along Nantwich Road, walking is unlikely to be a realistic option for many journeys. Taking these factors into account it seems likely that the majority of trips to reach local services and facilities would be made by private car. The site does not, therefore, represent one of the most accessible and sustainable locations, to which Policy SD1 prioritises growth.

21. The site is in existing residential use and falls within the definition of previously developed land as contained in the glossary of the Framework. Framework paragraph 117 and Policies SD1 and SE2 of the CELPS promote the efficient use of land and encourage the redevelopment of previously developed land and buildings. However, paragraph 13.16 of the explanatory text to Policy SE2 recognises that not all areas of previously developed land will be suitable or appropriate for built development, nor for the whole curtilage to be developed. The classification of the land as previously developed does not, therefore, override other objectives of Policy SD1, which include prioritising growth in the most accessible and sustainable locations, or the provisions of Policy PG6 in respect of preserving the countryside.

22. I conclude that both Appeal A and Appeal B would fail to provide a suitable site for housing, having regard to the effect of the proposal on the character and appearance of the area and access to local services and facilities.

[1] Planning application 16/3018N

23. Both appeals conflict with CELPS Policy PG6 and Saved Policy RES5 of the Crewe and Nantwich Replacement Local Plan 2005 (CNRLP), which seek to preserve the Cheshire countryside through restricting new housing development, and WNP Policy HOU2, which requires that new residential development outside the settlement boundary complies with Policy PG6.

24. There is further conflict for both appeals with CELPS Policies SD2 and SE1 which require, amongst other considerations, that development contributes positively to the character and identity of the area in terms of its relationship to neighbouring properties, the street scheme and the wider neighbourhood. Conflict also exists with WNP Policy LC1, which has similar objectives, and contains the additional requirement that off road parking is well integrated with the development it serves and is visually unobtrusive.

25. For both appeals there is also conflict with CELPS Policy SD1, which promotes development in the most accessible and sustainable locations.

26. Conflict also exists with the Cheshire East Residential Design Guidance SPD 2017, which requires that proposed development on previously developed land and infill sites has regard to its context, using indigenous character to inform the design process.

Protected species

27. As part of the planning application, the appellant provided a phase 1 ecological survey (Ecological Appraisal, November 2018) which identified the presence of bats at Holly Cottage and some suitable habitat for nesting birds. In light of anecdotal evidence indicating the presence of Great Crested Newts (GCN) at a pond in the field behind the site, an additional ecological report was submitted by the appellant in March 2020. This report sets out the steps that would be taken, under a district level licence from Natural England, to provide reasonable precautions for securing the safety of individual newts during work on site. However, no survey was carried out to establish the presence or otherwise of GCN at the site.

28. Circular 06/2005[2] states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or habitat, and makes clear that the presence or otherwise of any protected species, and the extent that they may be affected by the proposed development, should be established before planning permission is granted.

29. The Circular says that surveys should only be required where there is a reasonable likelihood of species being present, but from the information provided it seems that that GCN may be present in the pond close to the site. As such, a survey would be necessary to establish their presence or otherwise on the site. That survey should be undertaken during the application stage, and there is nothing to suggest that any exceptional circumstances exist in this case which would justify any alternative approach.

30. In the absence of a survey to establish the presence or otherwise of GCN, I conclude that insufficient information has been provided to establish the effect of the proposal on protected species. As such, for both appeals there is potential conflict with CELPS Policies SD1, SE2 and SE3 and WNP Policy LC3,

[2] Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

which seek to protect the natural environment, protect previously developed land with high biodiversity value, and promote the conservation and enhancement of biodiversity. There is also potential conflict with Saved Policies NE5 and NE9 of the CNRLP regarding the protection of nature conservation habitats and protected species, and with Section 15 of the Framework concerning the need to minimise impacts on biodiversity.

31. The Council has also referred to CNRLP Policy NE8 in its decision notices for both appeals, but this relates specifically to identified sites of local importance for nature conservation. As there is no suggestion that the appeal site falls within such a designation, this policy does not apply to either of the appeal proposals.

Living conditions (Appeal B only)

32. The appeal is in outline with matters of layout included, so I have based my assessment of the appeal on the position of the proposed houses shown on the submitted plans.

33. The submitted plan shows a reasonable separation being retained between the proposed houses and the boundary with the long rear garden of Heath Cottage. This shared boundary is formed of tall shrubs which, assuming they were retained, would provide significant screening between the proposed houses and the rear garden of Heath Cottage. Details of scale and appearance are reserved for future approval, but given the length of the rear garden of Heath Cottage, the degree of separation proposed and the existing landscaping along the boundary, I am satisfied that the proposal could be designed so that it would not be overbearing in relation to the rear gardens of Heath Cottage.

34. The proposed dwellings are shown on the submitted plan as being closer to the shared boundary of The Anchorage than would be the case for Heath Cottage. Whilst existing boundary trees would help to provide screening, particularly during the summer months, the vegetation along the shared boundary with The Anchorage is not continuous. The proposed development would introduce a significant new built form close to the shared boundary which would be readily visible from the house and rear garden of The Anchorage. Although the detailed design is reserved for future determination, the erection of a two storey property in this position would be overly dominant when viewed from the rear garden of The Anchorage, causing harm to the outlook of occupiers.

35. The proposal would have the potential to introduce overlooking to the garden area of The Anchorage from upper floor windows. I acknowledge that any overlooking is likely to be at an oblique angle, but given the proximity of one of the proposed two storey houses to the shared boundary and the limited screening, it is likely that there would be some degree of overlooking and loss of privacy, resulting in additional harm to the living conditions of occupiers of The Anchorage.

36. The substantial vegetation along the shared boundary with Heath Cottage and the greater distance between the proposed houses and the shared boundary, would limit overlooking to the garden area of Heath Cottage. Taking these factors into account I am satisfied that the houses could be designed so as to avoid causing undue harm to the living conditions of the occupiers of Heath Cottage with regard to privacy.

37. Given the orientation of the site and the relative siting of the proposed houses in relation to Heath Cottage and The Anchorage, any overshadowing is likely to be limited and restricted to the rear parts of the gardens, furthest away from the dwellings. As such, the proposals would not cause undue harm as a result of overshadowing or loss of light.

38. I conclude that Appeal B would cause harm to the living conditions of the occupiers of The Anchorage in relation to outlook and privacy. As such, Appeal B conflicts with CNRLP Saved Policy BE1, which protects the amenities of occupiers of adjacent properties by reason of visual intrusion, and Section 12 of the Framework which also requires a high standard of amenity for existing users.

Other matters

39. Both proposals would make a small contribution to housing needs and to the mix of housing in the local area, and I acknowledge the appellant's comments that the Council's ability to demonstrate a five year supply of deliverable housing sites should not be read as a ceiling for development. However, the matters do not justify allowing harmful development which would fail to comply with the up-to-date development plan.

40. The proposed houses in Appeal A would not cause harm to the amenity of neighbouring occupiers, and both appeals would have a neutral impact on flooding, landscape, trees, air quality and contaminated land, but these factors are not sufficient to overcome the harm which I have identified.

Conclusion

41. For the reasons given, I conclude that both Appeal A and Appeal B are dismissed.

R Morgan

INSPECTOR