



Appeal Decision

Site visit made on 25 August 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2020

Appeal Ref: APP/A0665/W/19/3241633

Land at the Fox and Barrel Public House, Cotebrook, Tarporley, CW6 9DZ

- 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 Clay Rose Homes Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 19/01315/OUT, dated 26 April 2019, was refused by notice dated 14 October 2019.
 - The development proposed is erection of four dwellings.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Cheshire West & Chester Council against Clay Rose Homes Ltd. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development given above is taken from the Decision Notice. This reflects amendments that were made to the scheme at application stage and the application was determined on this basis.
4. The application is in outline with all matters reserved for future consideration except for the means of access. Drawings showing an indicative layout and appearance of the development were submitted with the application, and I have had regard to these in determining this appeal.
5. The Council originally refused planning permission on 3 grounds. The third reason for refusal stated that insufficient information had been provided in relation to the impact on the quality of the public water supply, given the proximity of abstraction boreholes. Subsequently, however, the appellant submitted a Drainage Report together with supporting technical information. The Council now considers that this matter could be addressed by a suitably worded planning condition, and I see no reason to take a different view.
6. The appellant has submitted a Unilateral Undertaking (UU) in relation to the proposed affordable housing units. The UU is signed and dated, and I have taken it into account in reaching my decision.

Main Issues

7. The main issues are:

- (a) Whether this would be an appropriate location for residential development with regard to accessibility to services, facilities, and public transport, and the provisions of the development plan, and;
- (b) The effect of the development on the character and appearance of the area.

Reasons

Appropriate location for residential development

- 8. Policy STRAT 2 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (2015) ('CWCLP1') sets out a locational approach to new development based on a settlement hierarchy. In addition, Policy STRAT 1 seeks to locate new housing in accessible locations close to shops, community facilities, primary schools, and public transport.
- 9. Policy STRAT 8 and Policy R 1 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (2019) ('CWCLP2') identify a series of key and local service centres in the rural areas. Settlements that are not identified in these policies are within the countryside for planning purposes. In this regard, Policy STRAT 9 of the CWCLP1 restricts new development in the countryside, subject to a number of specific exceptions. Policy DM 19 of the CWCLP2 also allows the redevelopment of land identified on the Council's Brownfield Land Register.
- 10. Whilst Cotebrook is clearly a village, it is not identified as either a key or local service centre under Policy STRAT 8 or R 1. The appeal site is also not listed on the Council's Brownfield Land Register, and so the development would not accord with Policy DM 19. Nor would it meet any of the exceptions set out in Policy STRAT 9. However, it would not be an isolated home in the countryside for the purposes of paragraph 79 of the National Planning Policy Framework ('the Framework').
- 11. In terms of accessibility, there are some facilities in Cotebrook including a church, village hall, hairdressers, café and public houses. There is also a very small shop attached to a petrol filling station approximately 500 metres to the north of the site. However, this mainly sells items to cater for passing motorists, such as snacks, drinks, newspapers, and magazines, etc. Whilst it has a deli counter and sells a small number of grocery items, the range is very limited. It is therefore unlikely that future occupiers would make use of this shop other than on an occasional basis.
- 12. Instead, future occupiers would need to travel in order to meet their day-to-day needs and to access facilities, shops, and public transport connections. The nearest settlement that contains a range of facilities is Tarporley, which is around 2.8 miles away via the A49. However, the A49 is not a pleasant route to walk along given the speed and volume of traffic, and it would be potentially unsafe to do so given the lack of a continuous pedestrian footway. Whilst the appeal site is close to a national cycle route, that does not lead to Tarporley. Moreover, the speed and volume of traffic along the A49 is likely to discourage cycling along it. I further note that primary schools and some other facilities are located around 2 miles away in Eaton and Utkinton, however, given the

distance to those settlements future occupiers would be likely to drive to them, particularly for primary school drop offs.

13. In terms of access to public transport, Cotebrook does not benefit from a regular scheduled bus service. Whilst there are some community transport initiatives, these operate for limited hours on weekdays only, and on a 24 hour advance booking basis. In these circumstances, I consider that the site has poor accessibility to services, facilities, and public transport. Future occupiers of the development would therefore be heavily reliant on a private car.
14. Paragraph 78 of the Framework states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It states that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. In this regard, it states that where there are groups of smaller settlements, development in one village may support services in a village nearby. In this case, however, there is no persuasive evidence before me that the development would support local services. Indeed, given the likely dependency on car travel, it would encourage trips further afield to larger centres rather than to more limited local outlets. Whilst paragraph 103 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, in this case, the development would have poor accessibility even for a rural site. Separately, paragraph 84 of the Framework relates to rural business and community needs rather than to housing.
15. The appellant has submitted a critique of the Council's Local Service Centre Methodology (2016), which formed part of the evidence base for the examination of the CWCLP2. However, that document was presumably scrutinised by the examining Inspector, who must have concluded that it was robust. The CWCLP2 was found to be sound and now forms part of the development plan for the area. I see no reason to revisit the evidence base underpinning it.
16. It is asserted that as the Policies Map is not a development plan document, it should only be regarded as a tool to assist in guiding development and should not be treated as definitive. However, in this case, the appeal site is some distance from the nearest key or local service centre. No minor revision to the nearest settlement boundary would include the appeal site.
17. My attention has been drawn to 3 recent dismissed appeal decisions. Of these, appeal Ref APP/A0665/W/19/3241527 also related to a site in Cotebrook, just a short distance from the current appeal site. That Inspector concluded that the site would not be in a suitable location for residential development given its accessibility and development plan policy. Given the proximity of that site to the current appeal proposal, I attach significant weight to that Inspector's findings. Conversely, the other 2 cases are not within the vicinity of the appeal site, and it is unclear to what extent those locations are directly comparable. However, I note that appeal Ref APP/A0665/W/19/3224145 states that the road network linking that site to nearby bus stops had a suitable footway and / or wide grass verges, which is not the case here. Moreover, appeal Ref APP/B3438/W/18/3211000 related to a site that was within 1.5 miles of settlements that contained a range of shops and services. On the evidence before me, those cases appear to be dissimilar to the current proposal.

18. For the above reasons, I conclude that the development would not be an appropriate location for residential development with regard to accessibility to services, facilities, and public transport, and the provisions of the development plan. It would therefore be contrary to Policies STRAT 1, STRAT 2, and STRAT 9 of the CWCCLP1 (2015), and Policy DM 19 of the CWCCLP2 (2019). It would also conflict with the rural housing aims in the Framework.

Character and appearance

19. The appeal site consists of a public house car park and areas of woodland and planting. It is located in a prominent position next to the A49, towards the northern edge of the village.
20. The pattern of development in the vicinity is more dispersed than the village core to the south, with open gaps between properties and mature trees and planting fronting the road. The appeal site forms one such gap between the public house and a bungalow to the north. Whilst layout and appearance are reserved matters, the development would almost certainly involve the infilling of this gap with 2 storey properties. This would result in a more intensive and urban form of development than is characteristic of the surrounding area. Moreover, the development would be particularly prominent given that the buildings on either side are only single storey in height, and the appeal site is elevated relative to the pub. Whilst part of the site currently consists of hardstanding, this area is screened in most views by boundary trees and planting, and it does not significantly detract from the area.
21. The submitted drawings and Tree Survey & Preliminary Arboricultural Plans¹ indicate that the development would involve the removal of the existing trees and planting across the northern part of the site. In this regard, the development would almost certainly extend up to or close to Basfords Lane, which is a narrow rural lane. At present, this is flanked by woodland and mature planting, with only a single storey bungalow on one side. In contrast, the development would be likely to dominate Basfords Lane and would remove a significant part of the planting from along its southern edge. This would harmfully alter the distinct rural character of this route.
22. It is asserted that the appeal site is surrounded by existing development on 3 sides. However, whilst there is a bungalow to the north and the public house to the south, the land directly opposite is mostly open countryside. The existing property to the south west is also largely screened from view by mature boundary planting. In this regard, the appeal site is not visually enclosed by existing development, and it is seen primarily in the context of the surrounding woods and farmland. Moreover, as the buildings on either side are only single storey in height, they have a more limited presence in the street.
23. Whilst there would be opportunities to create new areas of landscaping at the front of the properties that would take many years to mature. Moreover, it is unclear how much land would be available for planting given the need to accommodate a shared access drive, the dwellings, and their garden areas. I am therefore not persuaded that new landscaping would be able to overcome my concerns in this regard.

¹ Ref 19/AIA/CHE(W)/332 (Tree Solutions, March 2019)

24. It is asserted that should the appeal be dismissed, then the site would most likely be used for low-grade storage. However, even if this were to transpire, I consider that the appeal proposal would be significantly more harmful to the character and appearance of the area.
25. For the above reasons, I conclude that the development would significantly harm the character and appearance of the area. It would therefore be contrary to Policies ENV 2 and STRAT 9 of the CWCCLP1 (2015), and Policy GBC 2 of the CWCCLP2 (2019). These policies seek to ensure, amongst other things, that new development integrates into the landscape of the area and is of an appropriate scale and design.

Other Matters

26. A Housing Need Survey was completed for the Parish of Utkinton and Cotebrook in 2018, which identified an unmet affordable housing need for 3 bedroom discounted market sales units. A recent Housing Need Survey for Tarporley also identified a need for affordable housing in the area. The Council's Housing Officer further states that the Housing Register shows 10 applicants with a high need for affordable rented properties and an additional 24 households with lower needs, all of whom require a 3 bedroom home within the parish. In this context, the proposed delivery of 2 discounted market sales units would be a significant benefit of the scheme, albeit I note the Housing Officer's clear preference for affordable rented units. Moreover, the 2018 Annual Monitoring Report shows that the Council failed to achieve its target of 30% affordable completions (as a proportion of total completions) between 2015-2018.
27. Policy SOC 2 of the CWCCLP1 sets out a rural exception sites policy to meet local affordable housing needs. This states that affordable housing may be permitted on sites that would not otherwise be appropriate for housing adjacent to key service centres and local service centres. However, that would not be the case here. Moreover, the proposed market element would be likely to have a significantly greater floorspace than the affordable units, and so would not be a subsidiary element of the scheme. The development would therefore not accord with Policy SOC 2. Whilst the appellant asserts that this policy does not seek to meet needs outside of identified settlements, it is not clear from the policy wording or explanatory text that this is the case.
28. Reference is made to the current Covid-19 pandemic and the need to 'build out of recession'. However, at this stage the full economic effects of Covid-19 and the speed of any recovery cannot be fully known. I return to the economic benefits of the development in my Overall Balance and Conclusion, below.
29. A significant amount of evidence was submitted in relation to viability. However, given that I am dismissing the appeal on other grounds, it is not necessary to reach a conclusion on this matter.
30. It is common ground that the Council is able to demonstrate a 5 year supply of deliverable housing sites.
31. It is asserted that the appeal site could be used for functions associated with the public house, which could lead to noise and disturbance to surrounding properties. However, there is no indication before me that the site has previously been used for these purposes. In any case, the appellant

acknowledges that such activities may be subject to licensing, and any noise nuisance could be dealt with under other legislation.

Overall Balance and Conclusion

32. As set out above, the development would significantly harm the character and appearance of the area, and it would not be in an appropriate location for residential development, including with reference to its accessibility. It would clearly be contrary to the development plan in this regard.
33. Set against this, the development would provide 2 affordable housing units that would contribute towards meeting an identified need in the area. the development would also involve the redevelopment of brownfield land, and would generate some economic benefits during the construction phase, and through the purchasing of furnishings and fittings. Future occupiers would also provide support to services in Cotebrook, including the adjacent public house.
34. On balance however, I do not consider that these benefits outweigh the harm associated with the development. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
35. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR