
Appeal Decision

Site visit made on 25 August 2020

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2020

Appeal Ref: APP/R0660/W/20/3246390

The Old Vicarage, Wrinehill Road, Wybunbury CW5 7NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr & Mrs Michael Barnett against Cheshire East Council.
 - The application Ref 19/2007N, is dated 23 April 2019.
 - The development proposed is described as: 'an outline application with all matters reserved for a single dwelling in a conservation area in the grounds to the Old Vicarage, Wybunbury CW5 7NU'.
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Decision

1. The appeal is dismissed and planning permission for a single dwelling is refused.

Preliminary Matters

2. The application was made in outline with all matters reserved and I have determined the appeal on that basis. Revised and additional drawings were submitted to the Council during the application. As the Council has confirmed those drawings were the subject of publicity I am satisfied that no party would be prejudiced by my having taken them into account. For the avoidance of doubt, the drawings I have based my decision on are: Proposed Plans drawing mkb-19-05-2; Proposed Elevations drawing mkb-19-05-3; Site Plan and Section Showing Position of Proposed Dwelling drawing mkb-19-05-4; and amended red line boundary drawing. However, as the application is in outline I have regarded those drawings as indicative only.
3. The Wybunbury Combined Parishes Neighbourhood Plan (the Neighbourhood Plan) was made on 6 April 2020, after this appeal was submitted. The Neighbourhood Plan is therefore now part of the development plan for this site and I have considered the appeal accordingly. The Council's statement confirms the making of the Neighbourhood Plan and the appellants have had the opportunity to comment at the final comments stage. I am therefore satisfied that all parties have had the opportunity to comment on the matter.

Main Issues

4. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council's statement confirms that, had it issued a decision, it would have refused the application, and the reasons it would have given. On that basis the main issues are:

- whether the site is an appropriate location for residential development having regard to policies which seek to protect the countryside;
- the effect on the setting of the Grade II* listed tower of the former church of St Chad and nearby scheduled monuments;
- the effect on the character or appearance of the Wybunbury Conservation Area; and
- whether the development would provide satisfactory living conditions for future occupants with regard to outlook and light without an adverse effect on the character and appearance of the area with regard to trees.

Reasons

Whether an appropriate location for residential development

5. The appeal relates to part of the garden of The Old Vicarage, Wybunbury, a large detached property in substantial landscaped grounds.
6. Policy PG 2 of the Cheshire East Local Plan: Local Plan Strategy 2010-2030 (the CE Local Plan) sets out the settlement hierarchy for the district. Policy PG 2 states that in 'other settlements' such as Wybunbury, growth should be confined to proportionate development at a scale commensurate with the function and character of the settlement and to locations well related to the built-up extent of the settlement. Policy H1 of the Neighbourhood Plan states that development will focus on sites within the built up area of settlements, including Wybunbury, with the aim of enhancing their role as sustainable settlements whilst protecting the surrounding countryside.
7. The site is within the settlement boundary for Wybunbury as defined in the Borough of Crewe and Nantwich Replacement Local Plan 2011 (the CNR Local Plan). However, Footnote 34 of the subsequently-adopted CE Local Plan clarifies that settlement boundaries will be reviewed and defined through the production of the Site Allocations and Development Policies Supplementary Planning Document and neighbourhood plans. Accordingly, I have considered the appeal on the basis of the settlement boundary for Wybunbury which is defined in the more recently-made Neighbourhood Plan.
8. The site is not within the defined settlement boundary for Wybunbury in the Neighbourhood Plan. It is therefore within the open countryside. Policy PG 6 of the CE Local Plan and its supporting text set out that the protection of the open countryside from urbanising development is a principal objective of the Local Plan. CE Local Plan Policy PG 6 and CNR Local Plan Policy RES.5 identify a limited number of circumstances in which development in the open countryside may be permitted.
9. Wybunbury is a village of historic cottages and houses, interspersed with community and commercial buildings and arranged in a close-knit and predominantly linear layout along Bridge Street and Main Road (the B5071). More recent development has extended the historic linear form of the village and has also taken place to the rear of the fronting properties. However, even where such development has taken place, the close-knit, compact village envelope and the form of its main built up areas, which still follow the overall alignment of those main road frontages, has been retained.

10. In contrast, The Old Vicarage is a single large detached house in substantial grounds on Wrinehill Road, separated from the Bridge Street and Main Road junction by the churchyard of the former church of St Chad. Most of the churchyard is also outside the Neighbourhood Plan settlement boundary. It has an open, landscaped character and is surrounded by tall, mature boundary trees which extend along its Wrinehill Road frontage and along the site's western boundary. The churchyard therefore separates and distinguishes the site physically and visually from that junction and from the built-up parts of the settlement that extend along Bridge Street and Main Road away from it.
11. As a result, when travelling away from the B5071 junction towards the site the character of Wrinehill Road quickly changes and there is a sense of leaving the village behind and heading into open countryside. The site's relatively large area has an open appearance and dense mature tree planting along its northern and western boundaries, and is surrounded by open land and fields to the north and east. Despite being part of an existing domestic garden, the site therefore has more in common with the sporadic development that characterises the village's wider countryside surroundings than with the close-knit built-up core of the village within the settlement boundary to the west.
12. Consequently, the site is not well-related to the built-up extent of Wybunbury village despite its relative proximity. In that context, the subdivision of the site and the introduction of a further dwelling and its associated vehicular access and parking areas would result in an incongruously suburban form of development which would erode the rural character of the site and its surroundings.
13. The development would not comprise the infilling of a small gap in an otherwise built-up frontage. Nor do the submissions indicate that any of the other exceptional circumstances in which CE Local Plan Policy PG 6 and saved CNR Local Plan Policy RES.5 may permit development in the open countryside apply in this case.
14. Therefore, the proposal would not accord with the terms of those policies set out above or those of CE Local Plan Policies SD 1, SD 2 and SE 2 insofar as they seek to protect the countryside from urbanising development and require development to respect landscape character and the natural environment. Consequently, the site would not be an appropriate location for residential development having regard to policies which seek to protect the countryside. Those policies are consistent with the National Planning Policy Framework (the Framework), which requires planning decisions to recognise the intrinsic character and beauty of the countryside.

The effect of the development on designated heritage assets

15. The site is within Wybunbury Conservation Area (the WCA) and adjacent to the churchyard of the Grade II* listed tower of the former church of St Chad. The remainder of the former church was demolished in the 1970s and its site is a scheduled monument. A further scheduled monument, Hall Bank moated site, lies beyond the public right of way to the east of the site.
16. The appellants' submissions refer to the WCA and the listed former church tower. They also state the appellants' intention to invite local archaeology societies to inspect the site during the works, although they refer only to the

site of the church of St Chad scheduled monument, and not to the Hall Bank moated site. However, whilst identifying most of the heritage assets which may be affected by the proposal, the appellants have not provided any notable assessment of the significance of those assets as required by paragraph 189 of the Framework and Policy SE 7 of the CE Local Plan.

17. Nonetheless, I am mindful of my statutory duties under sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and I have considered the appeal accordingly based on the evidence I have before me and my own observations.
18. Insofar as it relates to this appeal, the significance of the Grade II* listed tower and the scheduled monument on the site of the former church arise from their historic interest as the former church for Wybunbury, sited close to the historic core of the village. The listed tower also draws significance from being the only element of historic fabric remaining from the former church. Its distinctive appearance and height combine to make the tower a focal point in views from within and around the village. The prominence of that remaining part of the former church, located in the heart of and seen in the context of the village which it served, also contributes to its significance.
19. As part of the grounds of the Old Vicarage, adjacent to the former church's graveyard, the appeal site is within the setting of those heritage assets. However, its contribution to the setting of the former church lies principally in the historic functional relationship between the church and its vicarage, the understanding of which does not rely on the site being undeveloped and would not be eroded by the development proposed.
20. The former church is surrounded by other housing which has grown up around it as the village has developed over the years. The appeal site is situated at a lower level than the site of the former church, such that a dwelling on the site would not obstruct or interrupt views of the listed tower emerging above the village from the trees which surround it.
21. Therefore, the development of a further dwelling on the site, separated from the former church by some distance and outside the limits of its churchyard, would not harm the historic or architectural interest of the former church or its relationship to the Old Vicarage. Accordingly, the development would not cause harm to the setting of the listed tower or that of the scheduled monument of the site of the church of St Chad.
22. The site is within Wybunbury's Area of Archaeological Potential and close to the site of the church of St Chad and Hall Bank moated site scheduled monuments. Given the degree of separation between the site and those scheduled monuments I am satisfied that the development would not detract from their settings.
23. The submissions indicate that there is a potential pathway passing to the south of the proposed development area and leading towards the Hall Bank moated site scheduled monument, based on historic mapping. There is therefore potential for archaeological remains to be present within the site. Cheshire Archaeology Planning Advice Service have recommended that a programme of archaeological recording be carried out during any development works and advised that such a requirement could be secured by condition. From the

evidence before me I have no reason to doubt that such provision would be sufficient to protect any such remains.

24. The WCA covers an extensive area which includes the historic built-up core of the village as well as parts of the open countryside around it. The close-knit historic core of the village, extending in a linear form along Bridge Street and Main Road, is tightly defined and clearly distinguished from the open fields, areas of woodland and more sporadic pattern of development which characterise its wider rural surroundings. The significance of the WCA in the vicinity of the site is drawn, in part, from that clear distinction and the contrasts in character and appearance between the built-up parts of the village and its rural surroundings.
25. As set out above, the site is physically and visually detached and distinct from those parts of Wybunbury's historic built-up core along Main Road and Bridge Street. It is separated from those built-up parts of the village by the landscaped grounds and tree-lined boundaries of the adjacent churchyard and has open land and fields immediately beyond it to the north and east. Consequently, it has more in common with the sporadic, dispersed development that characterises the village's rural surroundings than with the close-knit development within its historic core. In its undeveloped form the site thus contributes to the open character of the village's rural surroundings which characterise the WCA in the vicinity of the site.
26. In that context, the subdivision of the site and the construction of a further dwelling and its associated access and parking areas would lead to an unduly domestic and suburban form of development that would appear incongruous within its wider rural surroundings, even if its appearance and materials were similar to those of other dwellings nearby. Consequently, the development would erode the open rural character which defines this part of the WCA and which is distinct from the close-knit pattern of development within the village's historic core. It would therefore not preserve the character or appearance of the WCA in the vicinity of the site.
27. The harm to the WCA would be localised and thus less than substantial. Nevertheless, I give considerable importance and weight to that harm and to the presumption that preservation is desirable. The Framework requires any such harm to be weighed against the public benefits of the proposal.
28. I am advised that the proposed dwelling would provide a retirement property for the appellants and allow them to continue to live and operate their business in the area. Such benefits would be largely private to the appellants, although there would be some public benefit in retaining a local business in the area. The development would provide a new dwelling in walking distance of some local amenities and public transport connections, and would contribute to local housing supply. It would also create some employment and economic benefits during construction and from the spending of future occupants. However, those public benefits arising from the single dwelling proposed would be very modest and would not outweigh the harm I have identified to the character and appearance of the WCA. It has been suggested that the existing dwelling could be converted into two properties. However, as the evidence does not indicate that planning permission for such works exists, I afford little weight to that suggestion.

29. I have been referred to comments from the Council's conservation officer on a previous pre-application enquiry for a dwelling on the site. However, the evidence regarding the circumstances in that case is limited. In any event, mindful of my duties under the Act, I have formed my own conclusions based on the evidence and my own observations.
30. The development would not cause harm to the setting of the Grade II* listed tower of the former church of St Chad or the setting of nearby scheduled monuments. However, it would cause harm to the character and appearance of the WCA. That harm would not be outweighed by the public benefits of the proposal. The development would therefore not accord with Policies SD 1, SD 2, SE 1, SE 2 or SE 7 of the CE Local Plan, saved Policy BE.7 of the CNR Local Plan, Policies H4 and E5 of the Neighbourhood Plan or the Development on Backland and Gardens Supplementary Planning Document (the Backland SPD) insofar as they require development to protect the historic environment and respect the significance of heritage assets. Those policies are consistent with the Framework which requires that I take account of the desirability of sustaining the significance of heritage assets and give great weight to their conservation.

Living conditions and trees

31. The northern and western boundaries of the site are marked by substantial mature trees which are visible from some distance away and which soften the site boundaries and form part of the adjacent churchyard's wider landscaped setting. As such those highly prominent trees, some of which are protected by a Tree Preservation Order, make a significant contribution to the character and appearance of the village's rural surroundings and the WCA.
32. Although the submitted drawings are indicative, they nonetheless show that a dwelling could be accommodated on the site whilst maintaining a separation distance from the root protection areas of those trees on the northern and western boundaries that would be sufficient to prevent damage to them and their root systems during construction.
33. The rear part of the dwelling as indicated would be close to the trees on the western boundary. However, whilst the drawings indicate that rooms in that rear part of the dwelling would have windows facing those trees, those rooms would be some distance away from the trees and would also be served by other windows facing south, towards the garden area. I am therefore satisfied that the site could accommodate a dwelling which would provide an appropriate outlook from and satisfactory levels of light to main habitable rooms. Accordingly, it would not lead to a conflict between those positive landscape features and the living conditions of future occupants or give rise to a significant risk of pressure for the trees' removal in the future. The proposal would therefore not result in harm to those nearby trees or compromise their existing or future contribution to the character or appearance of the area.
34. The development would therefore provide satisfactory living conditions for future occupants with regard to outlook and light without adverse effect on the character and appearance of the area with regard to trees. It would therefore accord with Policies SD 1, SD 2, SC 3 and SE 5 of the CE Local Plan, saved Policy BE.1 of the CNR Local Plan, Policies H4 and E1 of the Neighbourhood Plan and the Backland SPD insofar as they seek to ensure appropriate living conditions and protect existing landscape features. Those policies are

consistent with the Framework, which requires development to create places with a high standard of amenity for existing and future users and contribute to the natural and local environment by recognising the intrinsic character of trees and woodland.

Other Matters

35. Matters relating to the processing of the application and the time taken to determine it do not alter my conclusions above, which are based on the planning merits of the proposal.
36. I have had regard to other concerns raised by interested parties. However, as I have found the proposal to be unacceptable for other reasons I have not needed to consider those matters further in this instance.

Conclusion

37. The proposed development would be outside the settlement boundary and the main built-up area of Wybunbury and would cause harm to the character of its countryside surroundings. It would also fail to preserve the character and appearance of the WCA. The harm I have identified would not be outweighed by public benefits. The absence of specific harm to trees or the living conditions of future occupants is neutral, rather than a factor weighing in favour of the scheme.
38. Therefore, the appeal is dismissed.

Jillian Rann
INSPECTOR