



Appeal Decision

Site visit made on 20 July 2021

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 SEPTEMBER 2021

Appeal Ref: APP/R0660/W/20/3264466

Meadow View Park, Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB

- 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 Martin Smith against the decision of Cheshire East Council.
 - The application Ref 19/4679C, dated 4 October 2019, was refused by notice dated 5 June 2020.
 - The development proposed is described as 'the change of use of land to use as a residential caravan site, including laying of hardstanding and construction of new access.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the description of development on the application form, the main parties are agreed that the use of the land as a residential caravan site is already permitted. This scheme relates to the construction of a new access only. I confirm that it is on this basis that I have considered the appeal.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The parties have had the opportunity to provide comments as to the implications of this for their cases and none have been received. For clarity and accuracy, any references to the Framework in this decision are to the revised 2021 version.

Main Issue

4. The main issue is the effect of the access on the character and appearance of the surrounding area.

Reasons

Character and appearance

5. The appeal site is part of an established gypsy and traveller site on the south side of Dragons Lane. It is outside of any settlement with a defined boundary and so in the open countryside. I saw at my visit that the development has already taken place. The appeal scheme has seen the creation of a new access to the appeal site from Dragons Lane. It is located between two existing accesses, one to the east which serves the plots on Meadow View Park, and one to the west which serves Thimswarra Farm.
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6. The appeal site was previously accessed via the established shared access to Meadow View Park. The new access allows the separation of two plots owned by the appellant from two adjoining plots which have been sold and are now in separate ownership. It enables the appeal site to be accessed separately from the adjoining plots and from the wider site.
7. Policy PG6 of the Cheshire East Local Plan Strategy (Local Plan) relates to development in the open countryside and states at criterion 2 that within the open countryside only development, which is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.
8. I understand that the since the new access can be controlled by the appellant it provides better security. However, I am not aware of any particular problems that have arisen from the appellant's previous use of the established shared access arrangements. I have seen nothing to suggest that the permitted use of the appeal site could not continue in the absence of the appeal scheme, or that the access is essential in that sense.
9. In any event, Local Plan Policy PG6 criterion 5 states that any such development in the countryside should be subject to compliance with all other relevant policies in the Local Plan. It advises that, in this regard, particular attention should be paid to design and landscape character, so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced.
10. Local Plan Policy SE4 aims to conserve the landscape character and quality of the borough. Criterion 1 requires development to wherever possible enhance and effectively manage the historic, natural, and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.
11. Local Plan Policy SE5 states that development which will result in the loss of, or threat to, the continued health and life expectancy of trees, hedgerows and woodlands that provide a significant contribution to the amenity, biodiversity, landscape character or historic character of the surrounding area, will not normally be permitted, except where there are clear overriding reasons for allowing the development and there are no suitable alternatives. Where such impacts are unavoidable, development proposals must satisfactorily demonstrate a net environmental gain by appropriate mitigation, compensation, or offsetting.
12. Additionally, Policy ENV2 of the Moston Neighbourhood Plan (NP) indicates that any development that would result in the loss of, or the deterioration in the quality of an important natural feature including (amongst other things) hedgerows will not normally be permitted. In exceptional circumstances, development may be permitted subject to adequate compensatory provision being made. The Policy is clear that the retention of hedgerows in situ will always be preferable. Replacement provision must be of an equivalent or greater amount to that which is lost. NP Policy LCD1 also sets out criteria for safeguarding the landscape setting in the rural area. This states that existing hedgerow boundaries should be protected wherever possible and maintained as a feature of new development (criterion D), and that development should not have a significant negative impact upon, nor inappropriately urbanise the rural country lanes (criterion E).

13. Dragons Lane is rural in nature with open fields to the north, and hedgerows on each side. It has a green and verdant rural appearance consistent with its countryside location. The hedgerows in this part of Dragons Lane are an important natural feature which make a significant contribution to the character and appearance of the surrounding area and its local distinctiveness.
14. There are two existing large accesses serving Meadow View Park and Thimswarra Farm on this part of Dragons Lane. Additionally, there is an access to a gas governor further to the east beyond Meadow View Park. I accept that these urbanising features have already altered the rural appearance of the lane to some extent.
15. The appellant argues that the appeal scheme is similar in character to the existing accesses and smaller than them. Nevertheless, it has resulted in the loss of a significant section of established hedgerow which would have been part of a continuous unbroken section of roadside hedgerow stretching between the accesses to Meadow View Park and Thimswarra Farm. A new area of hard surfacing with tall close board fencing to each side and a pair of substantial wooden gates have been introduced in the resultant break in the vegetation.
16. In some instances, the caravans on the appeal site are visible behind the hedgerow. However, given the low-level nature of the single storey caravans and buildings there, the site is largely screened by the hedgerow. As such, even though the land behind the frontage is developed, it is not obvious or prominent since the existence of the hedgerow serves to screen the site and maintain the lane's rural character.
17. The break in the hedgerow that has resulted from the appeal scheme is clearly visible on approach to the site from both directions along Dragons Lane. The creation of the access along with the fence and gates are seen as intrusive and unsympathetic built development that appears at odds with the site's countryside location. They add unacceptably to the urbanising visual impact of the existing accesses on this relatively short section of rural country lane, and further detract from and undermine its rural appearance and character.
18. Turning to the matter of mitigation/compensation, the appellant indicates that some replacement hedge planting would be carried out to soften the appearance of the fencing and compensate for the loss of habitat. The plans show a short length of new hedgerow to the west side of the access. Although no associated planting schedule or details have been provided this could be secured via a planning condition. However, given its limited extent, I am not convinced that any such replacement provision would not be of an equivalent or greater amount to that which has been lost. Accordingly, I do not regard this compensatory provision to be adequate.
19. Whilst a longer length of new hedgerow is also proposed to the south of the site, the Council indicates that this is required as part of the original permission for the wider site. As such, it would not provide direct compensation for the loss of the hedgerow associated with the appeal scheme.
20. Bringing matters together, as set out above, the site was previously accessed via the shared entrance. This being so, a suitable alternative arrangement exists and there are no clear overriding reasons for allowing the new access. Furthermore, it has not been satisfactorily demonstrated there would be a net environmental gain by appropriate mitigation, compensation, or offsetting. As

such, for the reasons given, the appeal scheme has resulted in an un-justified loss of existing hedgerow and has inappropriately urbanised the rural country lane further and thereby undermined the local distinctiveness of the rural landscape.

21. I therefore conclude on the main issue that the development is harmful to the character and appearance of the surrounding area. This is contrary to Local Plan Policies PG6, SE4 and SE5, and with NP Policies ENV2 and LCD1. It is also at odds with paragraph 134 of the Framework which states that development that is not well designed should be refused.

Other matters and planning balance

22. The scheme provides better security for the appellant and his family as access to the site can be controlled. However, as set out above, I am not aware of any particular problems that have arisen from the appellant's previous use of the shared access. As such, this benefit of the scheme only adds minimal weight in favour of the appeal.
23. Despite the concerns of local residents and the Parish Council, the Council raises no highway safety objections to the access. The absence of harm in this regard counts neither for, nor against the scheme.
24. The appellant indicates that the Council is intending to allocate the wider Meadow View Park and Thimswarra Farm sites as traveller sites in the emerging Local Plan. However, no further details are given as to what bearing this has on the appeal scheme. Since the site can be alternatively accessed, and because I have seen nothing to suggest that the proposed allocation relies upon the appeal scheme, this matter adds no weight in favour of the appeal.
25. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellant's individual rights for respect for private and family life must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
26. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the appellant is a gypsy Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the appellant and his family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
27. The negative impacts of dismissing the appeal on the appellant and his family arise since it would not be possible to provide an alternative dedicated access as sought, and the use of the shared access would have to be reinstated. However, I have found that the appeal scheme is harmful to the character and appearance of the area and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect the countryside in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse

impacts of dismissing the scheme on the appellant and his family are necessary and proportionate.

28. Therefore, even taking into account the family's Article 8 rights and the PSED considerations, the benefits of the scheme do not outweigh the harm identified and as such the development is not justified.
29. The scheme also seeks to change the layout of the two approved pitches on the site to reflect the revised access arrangements. The Council raises no objections to this element of the scheme. However, given my conclusion on the access, which in itself provide clear justification to dismiss the appeal, it has not been necessary for me to consider this matter further.

Conclusion

30. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR