



Appeal Decision

Site visit made on 29 June 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/R0660/W/21/3271698

Land east of Watersmeet, Nantwich Road, Middlewich CW10 0LQ

- 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 Dominic Devaney against the decision of Cheshire East Council.
 - The application Ref 20/4481C, dated 8 October 2020, was refused by notice dated 7 January 2021.
 - The development proposed is the erection of 3 no. dwellings with associated infrastructure and ancillary facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issues of this case, the substance thereof remains the same as the 2019 iteration. I have proceeded with reference to the 2021 Framework in my findings.

Main Issues

3. The main issues are:
 - (a) whether the proposed dwellings would be in an acceptable location having regard to local policies;
 - (b) the effect of the proposed development on the character and appearance of the area; and
 - (c) whether the proposed development would preserve or enhance the character or appearance of the listed buildings and the non-designated heritage asset, including their settings.

Reasons

Acceptable Location

4. The appeal site is outside of the settlement boundary and is treated as open countryside in Policy PG 6 of the Cheshire East Local Plan Strategy 2017 (Local Plan). Policy PS8 of the Congleton Borough Local Plan First Review (CB Local Plan) is also relevant and sets out that development in the open countryside will only be permitted where it meets specific purposes. The overall approach of

the development plan, in order to preserve the Cheshire countryside, is to direct most development to locations within identified settlements.

5. Local Plan Policy PG 6 provides a restrictive approach to development but does set out a number of exceptions. Whilst the site may be close to the settlement of Middlewich, and accessible to its facilities and services, it is not disputed by the appellant that the appeal scheme is outside the settlement boundary and is in the defined open countryside. I note the appellant's views that the site is separated from the wider open countryside by physical barriers, and this is a matter that I will return to in the following section in relation to the character and appearance of the area.
6. However, as none of the stated exceptions in Local Plan Policy PG 6 apply in this case, the proposal would not be compliant with this policy nor with CB Local Plan Policy PS8. As such, it would be a clear unjustified breach of the Council's spatial strategy.

Character and Appearance

7. The appeal site is to the north-west of Nantwich Road and lies adjacent to an existing dwelling 'Watersmeet'. It comprises of a broadly rectangular area of land that rises from the existing vehicular access point off Nantwich Road to the Shropshire Union Canal which is to the north of the site. The appeal site is bounded by various hedgerows, trees and vegetation, with other such planting along other parts of Nantwich Road and along the banks of the Canal and the nearby River Wheelock. This provides for an enclosed, intimate appreciation of the appeal site and its surroundings, with these landscape features making a positive contribution to the verdant, rural character of the area.
8. The main parties have referenced the site is situated in an area which the Cheshire East Landscape Character Assessment (CELC Assessment) identifies as LCT4 Cheshire Plan East and more specifically as LCA 4d: Wimboldsley. This has been described as a working agricultural landscape and one which is formed of a large expanse of flat and very undulating land. The appellant has submitted an Outline Landscape & Visual Impact Appraisal (LVIA) which considers the site contains some elements of the published character area in the CELC Assessment as well as the National Character Area 61: Shropshire, Cheshire and Staffordshire Plain, but is not representative of the wider landscape area.
9. I note the site is detached from the wider landscape by the canal and river as well as the topography of the site, with land levels falling towards Nantwich Road and the settlement on the opposite side of this road. I find the site is visually well contained by the established boundary vegetation and there are little views of it from the wider countryside areas to the west.
10. Despite the site not being contiguous with the character of the wider landscape, it nevertheless has a distinctly rural character afforded by its current state as an open area of grass land containing various vegetation. In this respect, the appeal site contributes to the rural character of the area. The proposed development of three houses with an access road would erode this, particularly when approaching the site from the south west along Nantwich Road, where the rising topography of the land is seen above the boundary vegetation. The proposal would contribute to the urbanisation of this rural area,

causing harm to the verdant, open qualities that are typical of the rural landscape.

11. I therefore conclude that the proposed development would have an adverse impact on the character and appearance of the area. It would be contrary to Local Plan Policies PG 6 and SE 4 which seek, amongst other matters, that particular attention should be paid to design and landscape character so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced. It would also be contrary to the Framework, which seeks at paragraph 130 c) for development to be sympathetic to local character.

Heritage Assets

12. The Shropshire Union Canal runs broadly east to west, to the north of the appeal site and is considered a non-designated heritage asset. Two aqueducts carrying the Canal over Nantwich Road and the River Wheelock are also located to the north-east and north-west of the site respectively. The aqueducts are brick-built structures which have an arched form that reflects their function in carrying the canal over the road and river. The significance of these assets derives from their setting, which in the vicinity of the site is formed largely of its rural and verdant surroundings.
13. The southern approach along Nantwich Road towards the aqueduct is distinctly rural, and contrasts with the approach from the north which is dominated by housing. However, due to the curvature of the road and the established vegetation that exists to either side, the aqueduct is not visible other than from very close vantage points. I do not therefore consider the development would erode the setting of this listed aqueduct.
14. The appeal site forms part of the setting to these heritage assets at the canal level, and I was able to see the paths that run past the site and over the aqueducts. The development would be set away from the boundary of the canal and it would continue to provide an open area of land at its highest level closest to the canal as well as maintaining and enhancing landscaping along the northern boundary. This would ensure the verdant setting of the listed aqueducts and the canal would not be unduly affected and these heritage assets will continue to be seen and appreciated in their rural context.
15. I therefore conclude that the proposed development would preserve the setting of the heritage assets. As such, it would not conflict with Local Plan Policies SD 1, SD 2, SE 1, SE 7 or Policies BH4 and BH5 of the CB Local Plan which seek, amongst other matters, for the character, quality and diversity of the historic environment to be conserved and enhanced. It would also not conflict with guidance in Section 16 of the Framework. Local Plan Policy SE 2 is referenced in the refusal notice but this is not relevant to heritage matters.

Other Matters

16. The applicant worked with the Council and consultees to ensure that there were no technical constraints on a variety of matters relevant to the development. This includes providing housing of an acceptable design that would have sufficient parking. These are however neutral considerations and not matters which weigh in favour of the proposal.
17. The proposal seeks to provide 'executive style' self-build and custom house building plots for which the appellant states there is a particular demand that

the appeal site would meet. This would enable high earners to be attracted and retained given the employment land provision proposed in the area. I note the reasons a full planning application was made and that this does not necessarily preclude self-build or custom house building. As such, the provision of self-build or custom plots weighs in favour of the proposal as does the potential biodiversity and ecological enhancements proposed, but given the modest scale of the development, this limits the weight I attach to these matters.

18. The site is in an accessible location adjoining a Key Service Centre where the Council have referenced in the emerging Site Allocations and Development Policies Document the need for housing growth. Reference has been made to the Council being heavily reliant on delivery from two strategic sites to meet the housing requirements for Middlewich. The Council have a five-year supply of deliverable housing land but there is no minimum housing delivery requirement for individual areas or settlements. Nevertheless, the proposal would contribute towards boosting the supply of homes and having a choice of housing sites. As the development would only provide for 3 houses, it would make a small contribution to housing delivery. This limits the weight I attribute to this matter, and it would not outweigh the significant harm that I have identified in relation to the first two main issues.
19. I note reference to other appeal decisions¹ by the main parties. Whilst some information has been provided, it is clear that the developments subject of those appeals differed from this appeal proposal. One related to a permission in principle, another appeal was an outline application for a much larger housing proposal with the third appeal decision at The Heath Vicarage appearing to have a different site context to the appeal site. These referenced cases are not therefore comparable to the proposal before me.

Conclusion

20. I have found that the proposal would be acceptable in relation to heritage assets. However, this is a neutral factor and does not outweigh the harm with regard to the breach of the Council's spatial strategy relating to the location of development or in relation to harmful impact on the character and appearance of the area.
21. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR

¹ Including APP/R0660/W/21/3270883, APP/R0660/W/20/3258998 and APP/R0660/W/20/3251104