



Appeal Decision

Site visit made on 22 March 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2022

Appeal Ref: APP/R0660/W/21/3281542

Land West Of Parkside, Bunbury Lane, Bunbury CW6 9QZ

- 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 Roger Ryder against the decision of Cheshire East Council.
 - The application Ref 21/2010N, dated 8 April 2021, was refused by notice dated 28 July 2021.
 - The development proposed is an outline planning application for demolition of one dwelling and erection of up to 15 dwellings, access off Bunbury Lane and all other matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal before me has been made in outline with appearance, landscaping, layout and scale reserved for a subsequent application. Although drawings have been submitted, I understand these to be indicative and I have treated them as such.
3. The Council have withdrawn the third reason for refusal which turned on whether harm would be caused to bats. I have therefore not considered this matter in my considerations below.
4. The Cheshire East Local Plan: Site Allocations and Development Policies Document has been brought to my attention. This plan appears to be part way through its examination. However, as I have not been directed to any relevant policies contained within this plan it has not been determinative in my consideration of this appeal.

Main Issues

5. The main issues are whether the appeal site is suitable for new housing and the effect of the development on the character and appearance of the surrounding area and landscape.

Reasons

Suitability of Location

6. Policy PG6 of the Cheshire East Local Plan: Local Plan Strategy 2010 – 2030 (the LPS, July 2017) defines the open countryside and restricts development outside of settlement boundaries that is not essential works or for the purposes of agriculture, forestry, outdoor recreation, public infrastructure or other uses

- appropriate to a rural area. The policy also sets out a list of exceptions to this including limited infilling, the re-use or replacement of existing buildings, extensions to existing dwellings and businesses, and development that is essential to the conservation and enhancement of a heritage asset.
7. With the exception of the access and one dwelling, the appeal site is outside of the settlement boundary for Bunbury and neither of the main parties have suggested the proposal would meet any of the requirements or exceptions to Policy PG6 as set out above. Therefore, on a plain reading of the policy and the proposals before me, the development would result in dwellings outside the settlement boundary and as such would conflict with Policy PG6.
 8. Policies H1 and H2 of the Bunbury Neighbourhood Plan (The BNP, March 2016) seek to allow a minimum of 80 new houses within the plan area, up until 2030. This includes schemes of up to 15 houses on greenfield land immediately adjacent to Bunbury. In this case the proposal would meet these criteria and, although it may result in more than 80 houses being provided within the plan area, as this is not an upper limit this would not be unacceptable. As such, the proposal would comply with the aims and requirements of BNP Policies H1 and H2.
 9. It is clear that there is a conflict between the BNP and the LPS with regards to whether residential development can be carried out outside of a settlement boundary. LPS Policy PG6 is very clear in its exceptions and there is no reference to the relevant policies of the BNP creating an exception.
 10. Paragraph 30 of the National Planning Policy Framework (the Framework) sets out that the policies of an adopted neighbourhood plan take precedence over the non-strategic policies of a local plan unless they are superseded by strategic or non-strategic policies which are subsequently adopted. In this case the BNP was adopted prior to the LPS, and therefore policy PG6 of the LPS must take precedence over Policies H1 and H2 of the BNP. Although I note that both documents may have taken the other into account during their creation, it is nonetheless clear that there is still a conflict and the LPS must take precedence.
 11. Whilst I acknowledge that the appeal site would be within a reasonable walking distance of some services in the village, I find that these would not be sufficient to meet all the daily needs of a future occupier. As such, occupiers would likely need to regularly travel further afield to reach services, facilities, employment and education and any benefit to the vitality of this community, as a result of the proposal, would be very limited.
 12. I note the appellant's concerns regarding the settlement boundary for Bunbury. However, the development plan has a well-founded spatial strategy and settlement hierarchy supported by clear settlement boundaries and it is not within the remit of this appeal to consider altering these. The limited benefit above would not be sufficient to outweigh the locational harm of the dwellings outside of the settlement boundary, contrary to the development plan.
 13. In light of the above, and as the proposal would result in dwellings outside of the settlement boundary for Bunbury, it would conflict with the Council's locational strategy and with Policies PG6 and SD1 of the LPS and RES.5 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 (the RLP, February 2005) which collectively, and amongst other matters, restrict

residential development outside of settlement boundaries and prioritise the most accessible and sustainable locations. The proposal would also conflict with the overarching aims of the National Planning Policy Framework (the Framework) to provide a plan-led approach.

Character and Appearance

14. As referred to above the appeal site is adjacent to Bunbury, which is characterised by its rural location and primarily verdant street scenes. The appeal site is to the south of the village's core and comprises a dwelling, garden and field. The field, by way of its appearance and location is read in connection with the open countryside and contributes to the rural character of the village and its surroundings.
15. Although it contributes to the rural character of the area surrounding Bunbury, the appeal site is a small area relative to the village and its surroundings, and I find its contribution is therefore limited. The proposed residential development, although significantly changing the character of the field, would not change the appearance of any surrounding land and as such there would be only a very limited effect on the character and appearance of the surrounding area as a whole. The close proximity of the development to the edge of the settlement and the presence of residential development to two sides of the site would also ensure that the proposal did not result in unacceptable sprawl into the open countryside.
16. Although Bunbury Lane is predominantly characterised by linear development, I noted during my observation on site that there were a number of roads which provide access to residential development behind the properties on Bunbury Lane. The proposed development would therefore be in keeping with the pattern of development along and near Bunbury Lane.
17. The proposal is in outline with its layout and landscaping reserved matters for later consideration. Therefore, whilst I note the concerns regarding the landscaping of the site, in the event the appeal was allowed, these matters could be dealt with subsequently. Moreover, whilst private views are likely to be somewhat affected, private views are not a planning matter.
18. Therefore, in light of the above, the proposal would not, by way of its location and the loss of the rural character on site, unacceptably affect the character and appearance of the surrounding area and landscape. As such it would comply with Policies SD2, SE2, SE4 and PG6 of the LPS which, amongst other matters, require that development conserve and contribute positively towards the character, identity and landscape of its setting, reinforcing local distinctiveness. It would also comply with ENV4 of the BNP as the appeal site is not within, and does not affect, any of the identified views. The proposal would also comply with the overarching design aims of the Framework, including the principles set out in Paragraph 130 and the guidance of the Bunbury Village Design Statement. In reaching this decision I have been mindful of the appeal raised by the appellant APP/R0660/W/20/3251104.

Other Matters

19. The appellant has made reference to a recent court judgement¹ which regarded entry level exception sites within the open countryside. As the proposal is not

¹ Wiltshire Council v Secretary of State for Housing Communities and Local Government & Anor [2022] EWHC 36

for an entry level exception site, I find that the judgement has very little bearing on the case before me, and I have given it little weight in the determination of this appeal. Similarly, I have given little weight to the appeals raised by the appellant as the circumstances of each are significantly different to that before me. Namely, three of the appeals were made prior to the adoption of the LPS when the council could not demonstrate a five-year housing land supply², two were for significantly larger and different schemes³, and one was covered by a different council and development plan⁴,

20. As outlined above, LPS Policy PG6 takes precedent over Policy H1 of the BNP. As such I find that Policy H1 is not one of the most important policies for the determination of this appeal. In this case those policies would include SD1, SD2, SE3, SE4 and PG6 of the LPS, RES.5 of the RLP and ENV4 of the BNP. Given this, even if I were to find that BNP Policy H1 is out-of-date, Paragraph 11d would not engage.

Planning Balance

21. The Government's objective is to significantly boost the supply of housing and the proposal would provide up to 15 dwellings. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as potentially some very limited social and economic benefits resulting from future occupiers. Given the scale of the proposal, these benefits attract moderate weight. As the lack of harm to character and appearance is not a benefit it attracts only neutral weight.
22. Conversely, the location of the proposal outside of the settlement for Bunbury would undermine the Council's plan-led approach to the delivery of housing. This matter attracts significant weight and outweighs the benefits associated with the proposed development.
23. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR

² APP/R0660/W/16/3145772, APP/R0660/W/16/3165643 and APP/R0660/W/17/3170349

³ APP/R0660/A/13/2197532 and APP/R0660/A/13/2197529

⁴ APP/C3105/W/16/3222428