



Appeal Decision

Site visit made on 5 April 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/R0660/W/21/3286002

Big Stone Cottages, Middlewich Road, Cranage CW4 8HG

- 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 Mike Cohen against the decision of Cheshire East Council.
 - The application Ref 21/2487C, dated 30 April 2021, was refused by notice dated 31 August 2021.
 - The development proposed is described as 'Demolition of two Dwellings and Ancillary Outbuildings, Removal of Trees, Erection of Four New Houses, Access, Landscaping and Infrastructure.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In its decision notice, the Council has referred to Saved Policy PS8 of the Congleton Borough Local Plan 2005 (LP). However, where this relates to the provision of new dwellings in the open countryside and controlled infilling in settlements it requires accordance with Policy H6 of the LP. I am advised that Policy H6 is no longer saved, meaning that Policy PS8 does not assist in establishing on what basis new housing would be acceptable in the open countryside. As such, I have not referred to it in my assessment of this appeal.
3. The Council's decision notice also makes reference to Policy S14 of the Cheshire East Local Plan Strategy 2010- 2030 (2017) (CELPS) in the second reason for refusal. However, it is clear from both main parties' evidence that the correct policy is SE 14 of the CELPS. I am satisfied that this is a simple typographical error and that all relevant parties have not been unfairly prejudiced by this mistake.

Main Issues

4. The main issues are whether the appeal site is a suitable location for new housing and the effect of the proposed development on the efficiency of Jodrell Bank Radio Telescope.

Reasons

5. The appeal relates to a roughly triangular shaped piece of land that contains a pair of two storey semi-detached cottages, a number of single storey detached outbuildings and a swimming pool. It is located within a small group of dwellings on the northern side of Middlewich Road. Although some of these dwellings are laid out in a linear manner, the pattern of development between the appeal site and the nearest properties to either side of it is looser and more

scattered. It therefore does not alter the prevailing character of the area which is dominated by open fields and agricultural land.

6. The site lies outside of a defined settlement boundary and is therefore within the open countryside for the purposes of the CELPS. Policy PG6 of the CELPS 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 does however list some exceptions that may be made. These include i.) limited infilling in villages or the infill of a small gap with one or two dwellings in an otherwise built-up frontage elsewhere; and iii.) for the replacement of existing buildings (including dwellings) by new buildings not materially larger than the buildings they replace.
7. Due to the location of the appeal site in relation to the nearby group of dwellings, I consider that it cannot be described as being 'isolated'. The main parties also agree that the appeal site is not within a village and I have no substantive reason to question this. Nonetheless, it has been put forward that the proposal comprises a hybrid of i.) and iii.) of CELPS Policy PG 6, with plots 3 and 4 amounting to replacement dwellings and plots 1 and 2 resulting in 2 dwellings filling a gap within an otherwise built-up frontage.
8. However, given the visual space and intermittent open areas between the appeal site and the existing properties along this part of the Middlewich Road highway there is little coherence to the built form here. In particular, the detached property immediately to the south-west is well spaced, with a substantial area of open intervening garden space between it and the appeal site. The appeal site is also set back from the frontage of this neighbouring property. Therefore, visually and spatially the proposed dwellings on plots 1 and 2 would not infill a 'small gap' between this neighbouring building and the appeal site. They would also not be positioned within an area that would logically be seen as replicating or completing the prevailing pattern of development or be within an otherwise built-up frontage.
9. Although there may be an argument that the proposed dwellings on plots 3 and 4 are replacement buildings, I have not been provided with any statistical measurements of the sizes and volumes of the existing and proposed buildings which would assist in providing a comparison. Nonetheless, the submitted plans show the proposed houses to be 3 storeys in height. They would have a substantially greater bulk and general visual impact, including in terms of their form and increased eaves and ridge heights when compared to the existing dwellings and outbuildings. In the absence of any firm evidence to the contrary I am therefore of the view that they would be materially larger than the buildings that they would replace.
10. In light of the above, the proposal cannot therefore be characterised as limited infilling in a village or the infill of a small gap between existing dwellings in an otherwise built-up frontage within the terms of the development plan. Neither can it be considered to be for the replacement of existing buildings (including dwellings) by new buildings not materially larger than the buildings that they replace. As such, I find that the appeal site is not a suitable location for new housing and that the proposed development would thereby conflict with CELPS Policy PG6.

Jodrell Bank Radio Telescope

11. The appeal site is located within the Jodrell Bank Radio Telescope (JBRT) consultation zone. LP Policy PS10 and CELPS Policy SE 14 set out that development within this zone will not be permitted if it can be shown to impair the efficiency of the telescopes.
12. The appellant argues that it has not been shown that the proposal would have an adverse impact on the operation of the JBRT. However, the consultation response from the University of Manchester (UoM), which owns and operates the JBRT, provides a background and details of how they calculate the impacts of the development. The consultation response states that UoM has undertaken analysis using the officially recognised ITU propagation model 'Prediction procedure for the evaluation of interference between stations on the surface of the Earth at frequencies above about 0.1 GHz' (ITU-P.452). Amongst other things, this considers the distribution of development around the JBRT and the terrain between the location and the telescope itself.
13. The UoM states that it opposes development across a significant part of the consultation zone in order to protect the efficiency of the JBRT's ability to receive radio emissions from space with a minimum of interference from electrical equipment. In opposing this proposal, it adds that the cumulative impact of this and other developments on the efficiency of the JBRT is more significant than each development individually. In the absence of any substantive evidence to the contrary I have no reason to dispute the UoM's assessment of the impacts of the proposed development.
14. Although not specifically referenced in the Council's planning officer report I have been made aware that the UoM did not object to a similar scheme on the site (Ref: 15/4791C) that was granted permission around 4 years ago and was for a net increase of 3 dwellings rather than 2. Appendix 7 of the appellant's evidence confirms that the UoM was previously of the view that the additional potential contribution to the existing level of interference coming from the direction of the site would be 'relatively minor'. However, the UoM consultation response for that application also stated that the cumulative impact of this and other developments is more significant. Furthermore, the UoM has confirmed that it no longer uses the term 'relatively minor' in its consultation responses as it could be interpreted as not being a significant issue. As such, this matter has not been decisive in my assessment of the proposal.
15. My attention has also been drawn to a number of planning applications¹ that have been granted permission for developments within the JBRT consultation zone. I note that a number of these cases are closer to JBRT than the appeal site, and that some of these schemes, like the previous permission on the site (Ref: 15/4791C), were subject to a planning condition requiring mitigation through construction measures to reduce electrical emissions. I am also aware that the imposition of planning conditions to mitigate identified impacts, especially via specialised construction techniques, is something that is referred to in CELPS Policy SE 14.

¹ Ref: 21/0236C, 15/4791C, 20/3447C, 19/3855C, 16/3724C, 14/1300C, 16/0604C

16. Whilst I do not have the full details that led to each of these proposals being accepted before me, the appellant's evidence shows that 1 of these cases was for the conversion of existing buildings, and that 3 cases were reserved matters approvals where the principle of development had already been established. The UoM consultation response for the development comprising 8 dwellings also used the previous standard wording which refers to the term 'relatively minor' in respect of the potential contribution to the existing level of interference. Accordingly, their circumstances are not directly comparable to the proposal that is before me.
17. There is also little firm evidence before me to demonstrate that a planning condition for external facing materials and internal insulation would mitigate the proposal's full impact on the efficiency of the telescopes, particularly in respect of the outdoor activities of its residents, which would be materially greater than what currently take place on the site. In addition, I am mindful that such an approach has not been suggested by the UoM.
18. From the evidence before me, I am therefore unable to find that the proposed development would not be likely to adversely affect the efficiency of the JBRT. Any impact caused by the appeal development would be in addition to impacts caused by existing residential developments in the area, which would therefore increase its significance. Consequently, for the reasons given above, the proposed development would conflict with CELPS Policy SE 14, and LP Policy PS10.

Other Matters

19. The appeal scheme would provide benefits in terms of boosting the supply of housing. However, as the proposal would only result in a net increase of 2 dwellings, it would make a contextually very small contribution to housing supply which, according to the uncontested view of the Council, appears to be in excess of the five years required by the Framework.
20. It has been put to me that the proposal constitutes an efficient use of previously developed land, in compliance with CELPS Policy SE2, and that there is no conflict with all other development plan policies. I am aware that the Council did not find the effect of the proposal in respect of design, highway safety, ecology, trees, landscape and forestry to be objectionable. They have also not raised any concerns in respect of the living conditions of the residents of neighbouring properties or any other technical matters. However, the absence of harm in these respects are neutral factors which do not weigh in favour of the development.
21. I recognise that a previous planning permission at the site for an identically designed scheme was granted permission in 2017 (Ref: 15/4791C). However, this was granted at a time when the Council was unable to demonstrate a 5 year deliverable supply of housing land and the relevant policies of the development plan were deemed to be out of date. That permission has also now expired. A lapsed planning permission granted under different planning policy circumstances therefore carries little weight and does not outweigh the conflict with the adopted development plan.
22. The appellant's frustration in respect of the Council's determination of the application for the extension of the time period for the implementation of planning permission Ref: 15/4791C is also noted. Whilst I have sympathy for

the appellant in this regard, this matter has not had any bearing on my decision as I have only had regard to the planning merits of the scheme that is before me.

Conclusion

23. The appeal scheme consequently conflicts with the development plan and there are no material considerations worthy of sufficient weight, which would indicate a decision otherwise in accordance with it. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR