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# Appeal Decision

Site visit made on 21 March 2023

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 June 2023**

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**Appeal Ref: APP/R0660/W/22/3310804**

**Land off Close Lane, Alsager ST7 2UA**

- 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 Westchurch Homes Ltd against the decision of Cheshire East Council.
  - The application Ref 21/6113C, dated 1 December 2021, was refused by notice dated 29 September 2022.
  - The development proposed is Erection of 55no. dwellings, including access from Close Lane, construction of roads and footways, landscaping, public open space, drainage, and other associated work.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During determination of the application the number of dwellings was reduced from 61 to 55. I have therefore used the description of development agreed by the parties.
3. Following a reduction in the number of dwellings and continuing discussions between the parties a number of changes were made to the site layout and house types. However, plans for some house-types had not been submitted with the appeal. Clarification was sought from the parties and the missing plans have now been submitted.
4. Since the application was determined the draft Cheshire East Site Allocations and Development Policies Document (the SADPD) was adopted on 14 December 2022. It replaces the Crewe and Nantwich Local Plan. The Cheshire East Local Plan Strategy<sup>1</sup> (the CELPS) remains relevant and part of the development plan. The appellant has had the opportunity to comment.
5. As part of the adoption of the SADPD, the settlement boundary of Alsager has been revised to include the appeal site and the adjacent former White Moss Quarry site. Therefore, the site is no longer located in the open countryside as it was when the application was determined under the former Crewe and Nantwich Local Plan and as described in the officer report to committee. The appellant is aware of this change.
6. During the appeal, a duly dated and executed planning obligation, by way of a Section 106<sup>2</sup> legal agreement (the 'S106') has been submitted. This would secure 100% affordable housing and financial contributions towards amenity

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<sup>1</sup> Adopted July 2021

<sup>2</sup> Under Section 106 of the Town and Country Planning Act 1990

green space and play provision, outdoor sports, food growth space (e.g. allotments), education, medical provision at two medical centres, and biodiversity.

## **Background**

7. The 1.53 hectare site comprises two fields on the edge of Alsager in a predominantly residential area, with access via an existing gated entrance off Close Lane between Nos. 68 and 70 Close Lane. Outline planning permission<sup>3</sup> has already been granted for 16 dwellings (the 'approved scheme') on part of the appeal site, using the same access point that would be used for the appeal scheme. Reserved Matters<sup>4</sup> has subsequently been approved and this permission remains extant. The dwellings for the approved scheme have not been built, but their alignment along the access road off Close Lane has been broadly retained as part of the layout of the appeal proposal.
8. The direction of north differs on some of the submitted plans. However broadly speaking, towards the south/southeast of the site there is a new housing of some 110 dwellings off Crewe Road. To the southwest/west is the site of the former White Moss Quarry. The first phase has outline planning permission for an extra care facility, a public house/restaurant, retail units and up to 350 dwellings. The second phase would likely see another 400 dwellings. This site is now included within the extended boundary of Alsager in the recently adopted SADPD, such that the context of the appeal site is set to change.

## **Main Issue**

9. The Council refused the proposal for two reasons, but which included a number of issues relating to lack of public open space, insufficient private amenity space, 2.5 storey dwellings and the resulting development being cramped. I shall deal with them under a single main issue of whether or not the various components would result in a proposal that constitutes a good design and a well-designed place.

## **Reasons**

### *2.5-storey dwellings*

10. The site occupies a transitional location on the edge of Alsager bordering open fields, the former White Moss Quarry and the existing established housing along Close Lane and Nursery Road. The contemporary design of the replacement dwelling at No.70 beside the site entrance, with its asymmetric design and tall pointed roof, makes a striking contribution to the mix of existing housing in the vicinity.
11. The proposal would comprise 55 affordable 2, 3 and 4-bedroom dwellings provided as a mix of detached, semi-detached and terraced properties of a traditional brick and render design with predominantly pitched roofs.
12. Some of the proposed dwellings are described as being 2.5 storeys. According to the submitted elevations they would be designed as 2-storeys to eaves. The additional bedroom accommodation would be provided in the roof space with a dormer window inserted on the front roof slopes, hence the half storey. The

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<sup>3</sup> LPA ref: 16/2993N outline planning permission granted 19 March 2018

<sup>4</sup> LPA ref: 21/1161N reserved matters granted 3 August 2021

illustrative street scenes show the ridge heights of 2.5 storey dwellings would be of a similar height to their 2-storey counterparts.

13. Dormer windows are a common design mechanism to create additional living space without significantly increasing the overall height of the dwelling, and it is not uncommon to see dormer windows on rural properties. Furthermore, dormer windows can often be inserted into existing roofs under permitted development<sup>5</sup> in both urban and rural dwellings.
14. Considering the extant permission for 16 dwellings and the landscaped site boundaries, the appearance of the 2.5 storey dwellings, which are designed as two storeys to eaves and scattered around the site, would not result in an unduly urban feel to the edge of Alsager on a site adjacent to established and further proposed new housing.

#### *Public open space*

15. CELPS Policy SE6 seeks to provide a network of multifunctional green spaces capable of delivering a range of environmental and quality-of-life benefits for local communities. The Council's combined open space standards would give a total requirement of 2.6 hectares of open space per 1,000 population, plus developer contributions for outdoor sports provision although in some cases commuted sums may be more appropriate. Table 13.1 of Policy SE6 shows the amounts of open spaces required per family home. This will range from 40m<sup>2</sup> per family (comprising 20m<sup>2</sup> children's play and 20m<sup>2</sup> amenity green space) to 65m<sup>2</sup> to include 5m<sup>2</sup> for food growth/allotments and 20m<sup>2</sup> for green infrastructure connectivity, plus developer contributions for outdoor sports. Based on this, the proposed 55 dwellings would each need 40m<sup>2</sup> of combined children's play and amenity green space provision, which the Council calculates would equate to a minimum of 2,200m<sup>2</sup>.
16. The Council requested a reduction in housing numbers to create a better layout and provision of open space. The resulting layout included retaining more trees to reduce the visual impact of the development. As a result of a loss of space, the required Locally Equipped Area of Play (LEAP) was shown replaced with a Local Area for Play (LAP) intended for younger children. The turning head and inclusion of an above-ground surface pumping station further reduces the provision for open space and areas for informal 'tag' type games. The LAP would be sited in the southernmost corner on the edge of the site, although there would be some surveillance of it from and some dwellings sited to face towards the LAP and from the existing Public Right of Way (the PRoW) along the site's boundary and which would be upgraded, The western site boundary buffer would be widened to install a 'trim trail'.
17. The Council calculates the amended layout would give a combined children's play and amenity green space of about 1,113m<sup>2</sup>. Compared to the minimum required this would amount to a shortfall of some 1,087m<sup>2</sup>, which is almost half of what should be provided.
18. The shortfall could potentially be even greater (up to about 1,930m<sup>2</sup>) if it was found that the 'trim trail' could not be accommodated in the widened buffer zone due to an adverse impact on the tree root protection zones. Such uncertainty at this stage could not be later accounted for in any S106

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<sup>5</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

contributions or addressed by the imposition of any conditions, as these matters need to be secured at the grant of planning permission. I concur with ANSA<sup>6</sup> that the 'trim trail' does not compensate for the loss of the LEAP.

19. The PRoW would be widened to 2m with an accessible surface, making it accessible to more people. The Council would count this towards green infrastructure connectivity provision, and I have no reason to take a different view. No allotments would be provided, but this could be secured off-site or with financial contributions via a S106 if I were minded to allow the appeal. Nonetheless, there remains an on-site shortfall of children's play and amenity green space.

#### *Private amenity space*

20. The proposed dwellings would be 2, 3 and 4 bedroom properties, which would make them suitable for families with children. Therefore, there needs to be adequate space for children to play in their own gardens, as well as enough space for the family for sitting out, general enjoyment, sheds, bins and drying laundry.
21. The Council's Development on Backland and Gardens Supplementary Planning Document (the SPD) recommends a minimum garden area of 50sqm. Whilst each property would have some private amenity space, not all gardens would achieve the minimum area, with some being between 35 and 45sqm. Although the smaller gardens would mainly be to the two-bedroom houses, these would still be capable of being family dwellings requiring adequate space for their enjoyment.
22. I appreciate that the SPD predates the National Planning Policy Framework (the Framework), the CELPS and SADPD. However, the Framework requires development to provide a high standard of amenity for future occupiers, which reflects the guidance in the SPD.
23. The proposed development would have a density greater than the Crewe Road development and the White Moss Quarry site. Development densities often have to take account of various site constraints, such as overhead power lines, and make cost-efficient use of land. I am also aware that the site layout was amended to provide rear parking courts (hardly an innovative solution) to remove frontage parking and improve the street scene, which resulted in some rear gardens being made smaller.
24. However, the resulting lack of adequately sized gardens would reduce living conditions for future occupiers and put greater pressure on the under provision of on-site children's play space and amenity green space. The smaller gardens would also reduce the space between buildings and create a more cramped form of development.

#### *Conclusion on main issue*

25. The Framework states that good design is the key aspect of sustainable development and creates better places in which to live and work and helps make development acceptable to communities and add to the overall quality of the area. It goes on to advise that places should be designed with a high standard of amenity. Development that is not well designed should be refused.

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<sup>6</sup> ANSA Environmental Services Ltd acting on behalf of Cheshire East Council

- The National Design Guide<sup>7</sup> further extols how well-designed places can affect our health and well-being and can benefit people and communities. Its ten characteristics help address and illustrate good design and include consideration of public spaces and a good external environment.
26. The proposal would result in a shortfall of almost half of the site's required public open space provision in the form of children's play and green amenity space across the site. This would be compounded by some private gardens for family-sized dwellings being below the Council's minimum garden area. Together these result in a serious shortfall of public and private outside space.
27. The site is located close to the new housing development off Crewe Lane, but I did not see any direct links across third party land to that site and its LEAP. The proposed layout shows there could be some potential footpath links through the site's boundary to the adjacent White Moss Quarry development site proposed for some 350 houses. The White Moss Quarry Masterplan shows areas of open space adjacent to the appeal site boundary, with the PRoW also continuing through. However, I have not been advised that reserved matters and a final layout has been approved, or likely timescales for such approvals. Consequently, the White Moss Quarry site may take a number of years to develop such that any links to open spaces and children's play would not benefit future occupiers of the appeal proposal for some time. Therefore, whilst there may be existing areas of children's play and public open space in the wider vicinity of the appeal site that future occupiers of the appeal proposal could use, I am not satisfied this adequately compensates for the shortage of on-site provision.
28. I am aware that the appellant is willing to enter into a S106 to provide financial contributions to off-set the shortfall of on-site open space provision and financial sums have been agreed. However, good design involves an integrated approach involving landscape and green space as a key component rather than being reliant on provision elsewhere.
29. The various factors in combination lead me to conclude that the proposed development would be significantly deficient in public open space and children's play. Furthermore, some of the family private gardens would be too small, contributing to a cramped form of development. As such the appeal proposal would not constitute good design and would not create a well-designed place.
30. Accordingly, for the reasons above I conclude that the proposal would be contrary to CELPS Policies SE1, SD1, SD2 and SE6 and SADPD Policy GEN1. Collectively these policies seek to promote sustainable development and ensure proposals deliver good quality design and provide appropriate public and private amenity space. The proposal would also undermine the Framework and National Design Guide's delivery of good quality homes and the promotion of well-designed places with a high standard of amenity and useable public open space for future users.

### **Planning Balance and Conclusion**

31. Part of the site has an extant permission for 16 dwellings, which is a material consideration, and the site is now included within the development boundary of Alsager. Hence there is no dispute the site is acceptable for housing in

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<sup>7</sup> Published by the Ministry of Housing, Communities & Local Government January 2021

principle. However, I have found that the proposal would conflict with local design policies and therefore it would conflict with the development plan as a whole.

32. There is an objectively assessed need of some 355 affordable dwellings per year over the plan period. According to the Council's calculations, the proposal would trigger a requirement for 17 affordable dwellings (rounded up). Cheshire Homechoice waiting list data shows that Alsager is a first-choice location for some 392 households, the majority of which seek one-bedroom dwellings. The provision of 55 affordable dwellings (100% provision), secured by the S106 agreement, would exceed the Council's policy requirement and would make a significant contribution to the Council's supply of affordable housing and bring associated social and economic benefits to which I give significant weight. However, I am aware that the Council can demonstrate a 5-year supply of deliverable housing land. Consequently, I give the contribution to this supply moderate weight.
33. The lack of harm arising from the 2.5 storey dwellings carries neutral weight in the planning balance.
34. For the reasons given above, I conclude that the appeal proposal would not accord with the development plan. The considerations I outline above are not sufficient to outweigh this conflict. Consequently, the appeal should be dismissed.

*K Stephens*  
INSPECTOR