



Appeal Decision

Site visit made on 7 November 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2023

Appeal Ref: APP/A0665/W/23/3320025

Davenham Fisheries Depot, Shipbrook Road, Davenham, Cheshire CW9 8NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs Nick Fearnall against the decision of Cheshire West and Chester Council.
 - The application Ref 22/01776/PIP, dated 3 May 2022, was refused by notice dated 24 January 2023.
 - The development proposed is a permission in principle application for the development of 5No. residential dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (the PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the consideration for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

5. The appeal site consists of the access track and part of a larger plot that was formerly a fishery. The site covers an area of hardstanding and some existing buildings, I understand that these are now used in connection with commercial storage. Adjacent to the site is the A556 dual carriageway and an associated slip road. The site is otherwise immediately surrounded by agricultural fields. To the other side of the A566 is the edge of Northwich and to the other side of the A533, and separated by some fields, is Davenham.

6. Policies STRAT1, STRAT2, STRAT8 and STRAT9 of the Cheshire West and Chester Council Local Plan (Part One): Strategic Policies (the LP1) set out the spatial strategy for new development, that is in line with the economic, social and environmental objectives of the National Planning Policy Framework (the Framework). In part, this strategy seeks to locate new dwellings where there is good access to local shops, community facilities, primary schools and public transport. The settlement hierarchy set out under STRAT2 considers three levels of settlement; cities and towns, key service centres and smaller rural settlements. The majority of development is directed within or adjoining the first level whilst 'appropriate' amounts are supported within the second two.
7. The A566 is a dual carriageway that is, along with an associated slip road, immediately adjacent to the appeal site. This road visually and physically separates the appeal site from Northwich and therefore, whilst close to Northwich, I do not find the appeal site can be considered to be within, or adjoining, this settlement. Shipbrook Road provides a direct link between the site and Davenham, a small settlement that is not identified in any of the submitted policies. Although linked by this road, the site and Davenham are separated by open countryside, including agricultural fields. I therefore find that, from my observations on site and the evidence before me, the site is within the countryside for the purposes of the Council's spatial strategy.
8. Although the development plan largely seeks to avoid development within countryside locations, some development is supported outside of settlements. Most relevant to the appeal proposal are the exceptions set out under Policy DM19 of the Cheshire West and Chester Local Plan (Part Two): Land Allocations and Detailed Policies (the LP2). Amongst other things, and subsequent to requirements, it allows for new residential development in the countryside where it would be for the replacement of buildings on previously developed land.
9. It is accepted between the main parties that the proposal would not result in an unacceptable loss of employment land or buildings. The other requirements under LP2 Policy DM19 for the redevelopment of previously developed land are good access to public transport, being a walkable distance from services and facilities, and not causing character and appearance harm.
10. The appellant has referred to, and I noted during my site visit, a number of services and facilities provided within Davenham. I find that these are at a walkable distance from the appeal site, and I note that there is a footpath from the site access into the village. However, the road is national speed limit, and it would be necessary to cross the road in order to reach the footpath. The footpath is also narrow in places and is not illuminated before reaching the village. It is likely that future occupiers would not find this a safe or appealing route to walk. This would be especially so during inclement weather or the hours of darkness and for more vulnerable residents.
11. I am mindful that there is no pavement or streetlighting along the access track. However, I find that this could be dealt with at the Technical Details Consent stage through the submission of further details.
12. Whilst there is a varied range of services and facilities, including a pharmacy, primary school, café and takeaway, they are limited in number and scale. In particular, neither of the two shops within the village appear to be sufficient for a family's weekly shop. Given the quality of the pedestrian route and, services

and facilities within Davenham, I find it unlikely that future occupiers would regularly walk to reach them.

13. Given my findings above, it is likely that future occupiers would need to travel further afield to reach larger shops, education beyond primary years, and employment. The appellant has identified the existence of bus stops within Davenham which could be useful to reach these, but no substantive details of routes or times have been provided. I have not, therefore, been provided with any substantive evidence to suggest that the buses would be a viable option for trips necessary to reach support education, employment and shopping trips. Lacking evidence to the contrary, I find future occupiers would not have good access to public transport and would be under pressure to rely on private motor vehicles to satisfy their daily needs.
14. The appeal site contains a number of buildings and structures associated with its previous uses, including as a water treatment plant, a fishery and commercial storage. These are fairly nondescript features that have a neutral effect on the character and appearance of the rural landscape and, as such, their loss would not be unacceptable. However, and mindful that the submitted plans are only indicative, I find that the siting of up to five dwellings at this location would significantly alter the character and appearance of the site. The dwellings and any associated parking and garden areas would present an urbanising feature that would have a greater impact on the character of the countryside than the existing site.
15. Although details of the proposed dwellings and their layout would be submitted at the Technical Details Consent stage, these details would not alter the scale and location of the development and its affect on the character and appearance of the surrounding area.
16. Consequently, and having regard to the location, proposed use and amount of development, the proposal would be contrary to the Council's spatial strategy and would harm the character and appearance of the surrounding area. The proposal would therefore conflict with LP1 Policies STRAT1, STRAT2, STRAT8 and STRAT9, and LP2 Policies R1, DM1 and DM19. Along with the spatial strategy set out above, and amongst other matters, these policies require developments to be located in accessible and sustainable locations that reduce the need to travel as a result of good access to local services, facilities and public transport, and that sustain vibrant rural communities whilst protecting the character of the countryside.

Other Matters

17. It is clear that the location of the appeal site in close proximity to a major road would result in the potential for adverse impacts on the living conditions of future occupiers. This would arise from the noise generated by motor traffic using the A556 being audible at the proposed dwellings and gardens. Although this stems from the proposed use and location, it may be possible to allay this concern through the submission of further details. Therefore, I find it would be more appropriate to consider this issue at the Technical Details Consent stage.
18. The appellant has drawn my attention to an appeal¹ relating to residential development on previously developed land and I note the comparisons made.

¹ Appeal reference: APP/A0665/W/16/315442

However, having considered the details of the scheme, I find that it is substantially different to the proposal with regards to its location. I am also mindful that LP2 was adopted after the example decision. This appeal decision has not, therefore, had any substantive bearing on my assessment of the appeal before me. Moreover, proposals must be determined on their own individual merits as I have done in this case.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR