
Appeal Decision

Site visit made on 4 August 2015

by Victoria Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2015

Appeal Ref: APP/A0665/W/15/3028982

51a Church Street, Davenham, Northwich, CW9 8NF

- 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 F Fairbrother against the decision of Cheshire West & Chester Council.
 - The application Ref 14/02049/FUL, dated 13 May 2014, was refused by notice dated 10 October 2014.
 - The development proposed is two detached dwellings with double garages.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development proposed is acceptable with regard the principle of sustainable development.

Reasons

3. The appeal site is a small fenced paddock situated within the Davenham Conservation Area (CA). No. 51a Church Street (No. 51a) is a large modern detached dwelling to the east of the site and it faces towards it. The appeal site is otherwise bordered by open fields, although the rear gardens of dwellings along Church Street are close by. The site is accessed via the existing driveway which also serves No. 51a. The drive is long and the entrance is set between two existing dwellings, before curving away to the rear of dwellings on Church Street. Both the appeal site and No. 51a are therefore situated to the rear of the existing development in the area.
4. The appeal proposal would see the construction of two detached dwellings with detached double garages. The scheme has been amended following a previous application which proposed two larger detached dwellings. The Council's reasons for refusal state that the proposal would represent an unsustainable form of development. This was because the site is outside of the established settlement boundary of Davenham.
5. Policy STRAT 9 of the Cheshire West and Chester Council Local Plan (Part One) (Adopted January 2015) (CWAC LP) states that the countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. The policy then goes on to list certain types of development which will be permitted in the

open countryside, none of which are relevant to this appeal proposal. Policy GS5 of the Vale Royal Borough Local Plan (Adopted June 2001)¹ (VR LP) states that open countryside is defined as all parts of the Borough which lie outside of the settlement policy boundaries but excluding the Green Belt. The policy also states that new buildings will not be allowed in the open countryside unless provided for through other policies of the LP.

6. There is no dispute between the parties that for policy purposes the appeal site is outside of the settlement boundary of Davenham and therefore, for the purposes of the Development Plan, within the open countryside. The appeal proposal would therefore conflict with policies STRAT 9 and GS5.
7. However, the Council's decision notice also refers to the National Planning Policy Framework (Framework). There is a presumption in favour of sustainable development which is at the heart of the Framework and it is specifically stated that housing applications should be considered in this context (paragraph 49). There are three dimensions to sustainable development: economic, social and environmental. These give rise to the need to consider a number of factors when deciding whether or not a development proposal would be sustainable which I shall now go on to consider.
8. The existing driveway which would serve the proposal is accessed from Church Street. From this access point the street leads directly down to Davenham village. There is a footpath and street lighting for the entire length of the highway and the site is approximately 200 metres from the centre. Within the village there is a range of shops including a pharmacy, a post office and a pub. There are also several bus stops with services connecting the village with larger towns in the area. There is therefore a range of goods and services which could be accessed via sustainable modes of transport if future occupants of the proposal should so choose.
9. Whilst outside of the defined settlement boundary, the appeal site is close to the rear of dwellings which line Church Street. There are several properties and a church close by. Therefore for the purposes of paragraph 55 of the Framework, the appeal site is not in an isolated location and the proposal would be seen in the context of existing built development.
10. The appeal proposal would see a limited economic benefit during its construction phase, were the appeal to succeed. Future occupants may also choose to spend their income locally which may also be of limited economic benefit. The development proposed would also contribute two additional houses, which would be of limited social benefit given the scale of the appeal scheme.
11. Several third parties, including the Parish Council, have raised concerns regarding the effect of the development proposed on the character and appearance of the area. Church Street is a narrow lane lined with rows of brick built, cottage style dwellings which are similar in appearance. The lane leads up to the church at the top and views of its spire are prominent. The majority of properties are set back from the highway behind low level boundary treatments. The front garden areas are generally modest in size, with most properties being set forwards within their plots. This reflects the historic pattern of development of the area close to the appeal site.

¹ Certain policies from the VR LP have been saved following the adoption of the CWAC LP.

12. The character of the CA at this point is therefore defined by a narrow lane, lined with properties which are situated forwards within their plots. There are some exceptions to this, notably No. 51a itself and also several buildings close to the church. However, these are all positioned to the east of the existing driveway which serves No. 51a. To the west of the driveway, behind the dwellings which line Church Street, the land comprises open fields. The driveway which serves No. 51a therefore marks a definitive edge to the established pattern of development in this part of the CA.
13. The appeal proposal would therefore represent a form of back land development which would not reflect the prevailing historic pattern of development in the area and would be outwith the defined envelope of the village. Due to the proposed orientation of the dwellings, including one of the detached garages proposed, they would be highly visible from public viewpoints in the highway and this adds to the harm. For these reasons the proposal would neither preserve nor enhance the character or appearance of the CA and would be significantly harmful as a result.
14. I acknowledge that the materials that would be used in the construction of the dwellings would match those of No. 51a however that does not outweigh the harm that I have identified.
15. Although third parties have raised concerns regarding drainage, based on the information before me, this is a matter which could be addressed via planning conditions as per the consultation response from the utility provider. Based on the information before me, the proposal would not be harmful to the living conditions of neighbouring occupants. Parking spaces would be provided within the site for the use of future occupants and an existing access would be used. The proposal would therefore be acceptable with regard to access, parking and highway safety, subject to conditions, and I note that the highway authority did not object to the proposal in this regard. However these are all neutral considerations, where a lack of harm does not weigh in favour of the appeal proposal.
16. The appeal site is greenfield. National policy encourages the effective use of land by reusing land that has been previously developed. However, there is nothing in the Framework which specifically excludes the development of greenfield land. This is also therefore a neutral consideration.
17. I note the email correspondence regarding the request by the appellant for the site to be included within the Strategic Housing Land Availability Assessment. However, the site's inclusion in the study is not necessarily an definitive indication that planning permission would be granted by the Council.
18. Drawing matters together, I have found that the appeal site is in a sustainable location with a variety of services and facilities accessible by a range of transport modes. The appeal site is also not in an isolated location. I have also identified that the proposal dwellings would have some limited economic and social benefits. There are also several neutral considerations where a lack of harm does not weigh in favour of the appeal scheme.
19. On the other hand, the appeal site is outside of the defined settlement boundary and therefore within the open countryside. The appeal proposal does therefore conflict with policies STRAT 9 of the CWAC LP and GS5 of the VR LP.

20. I have also found that the proposal would be harmful to the character and appearance of the CA. Paragraph 7 of the Framework acknowledges that contributing to protecting and enhancing our built and historic environment is part of the environmental role of sustainable development and the proposal would conflict with the Framework in this regard.
21. For the purposes of paragraph 134 of the Framework this harm would be less than substantial. The main parties have referred to the housing land supply situation in the area. However, even if there is not such a supply, I consider that the contribution this proposal would make towards the supply of housing does not amount to a public benefit that would outweigh the harm that I have identified in this case. For these reasons, the proposal is not the sustainable development for which there is a presumption in favour. In reaching this conclusion I have borne in mind paragraphs 47-49 of the Framework.
22. Accordingly, I conclude that the development proposed would not be acceptable with regard to the principle of sustainable development. The proposal would therefore conflict with policy STRAT 9 of the CWAC LP and policy GS5 of the VR LP and paragraph 134 of the Framework.

Other Matters

23. The appellant has drawn my attention to other schemes for housing which have been approved in the local area. However, little specific information has been provided as to why those schemes were considered acceptable. I cannot therefore be certain in what way those schemes are sufficiently similar to this appeal proposal. I have therefore given little weight to this consideration.
24. I appreciate that the appellant intends to house family members in the proposed dwellings. However, there is no mechanism before me to secure this and there is nothing to suggest that the dwellings proposed are intended to provide affordable housing as defined in Annex 2 of the Framework.
25. I recognise that pre-application discussions with officers of the Authority appear to have indicated to the appellants that the proposal may be acceptable in principle. However, any such discussions are informal only and are not binding on the Authority.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR