
Appeal Decision

Site visit made on 9th December 2014

by Clive Whitehouse BA(Hons) MCD MRTPI

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

Decision date: 2 January 2015

Appeal Ref: APP/A0665/A/14/2226202

Land adjacent to Methodist Church, Ashton Lane, Ashton Hayes, Cheshire

- 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 Equity Housing Group Ltd. against the decision of Cheshire West & Chester Council.
 - The application Ref 14/01865/FUL, dated 24th April 2014, was refused by notice dated 5th August 2014.
 - The development proposed is 15 affordable houses.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of 15 affordable houses on land adjacent to the Methodist Church, Ashton Lane, Ashton Hayes, Cheshire in accordance with the terms of the application, Ref 14/01865, dated 24th April 2014, and the plans submitted with it, subject to the conditions set out in the Schedule of Conditions, below.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Background and Main Issue

3. The proposal is for a development of 15 affordable houses on a site of about 0.47 ha on the edge of the village of Ashton Hayes. A scheme for the same number of houses in a different layout was dismissed on appeal in 2012 (Ref: APP/A0665/A/12/2179308). That decision addressed a number of issues, but the reason for dismissal was based solely on that Inspector's view that the proposed design and layout was unsatisfactory. The Inspector concluded that the scheme would appear uncharacteristically urban and standardised in a key gateway location, rather than something that would be well integrated with the settlement as a whole. Specific points of objection included the design of the houses themselves, which were considered to be "unduly generic" and the extent and layout of frontage parking and other hard surfacing.
4. The main issue is therefore the effect of the revised layout and design on the visual amenity of the area, having particular regard to the points of objection described in the previous appeal decision.

Green Belt

5. The site is in the Green Belt on land that has not previously been developed, and it is necessary, firstly, to address Green Belt policy in relation to affordable housing. National Planning Policy Guidance (NPPF) states that the construction of new buildings is inappropriate in the Green Belt. One of the exceptions to the general policy, as set out in paragraph 89 is "limited affordable housing for local community needs under policies set out in the Local Plan". The Chester District Local Plan, adopted in 2006 includes policy ENV67, which states that planning permission may exceptionally be granted for a group of low cost dwellings immediately on the edge of or within a settlement in the Green Belt, provided this is not inconsistent with the purposes of including land in the Green Belt, and subject to the requirements of policy HO12. That policy sets out further criteria for the provision of low cost housing in the rural area, including that the scheme must deliver houses that will remain affordable and which are in keeping with the character of the settlement. I consider that these local plan policies are consistent with the NPPF.
6. In the light of the policy framework, neither the Council nor the previous Inspector took issue with the principle of affordable housing in this location. The appellant is a registered social landlord, and it is also possible to ensure by condition that the proposed houses are only occupied and managed on a long term basis in accordance with an affordable housing scheme.
7. I conclude that the proposal is not inappropriate in the Green Belt.

Design and Layout

8. The Council's Planning Officer recommended that planning permission should be granted for the revised scheme, but the majority view of the Planning Committee was that the amendments were not a sufficient improvement to make the application acceptable.
9. The appeal site consists of part of a field used as pasture on the southern edge of the village. On the opposite side of Ashton Lane to the west is open land and a children's playground and playing fields, whilst to the east is a patch of woodland. To the south the land is mostly open with a few scattered houses on the approach to the village.
10. The scheme comprises 6 two-bedroom houses and 9 three-bedroom houses arranged in semi-detached pairs or in terraces of three. The appellant proposes that the tenure would be split between affordable rent and shared ownership.
11. The historic core of the village is designated as a Conservation Area and is characterised by brick cottages and terraces around Kelsall Road, Church Road and West End. The boundary adjoins the appeal site and includes the small Methodist chapel and the large gardens of houses to the north. Outside the Conservation Area are more modern housing estates to the east and west.
12. Notwithstanding the shortcoming of the previous scheme, the Inspector in that case noted that there are no strong views from the site towards the historic part of the settlement, or significant views over the site from within the Conservation Area. On that basis, it was then concluded that the scheme would not on balance harm the setting of the Conservation Area.

13. Following the dismissal of the previous appeal, the appellant's advisors re-assessed the scheme and the character of the area in consultation with the Council's officers. The main change is that the shape of the site has been altered from being rectangular, with the majority of the houses inward-facing, to an "L"-shaped site with 8 of the proposed houses fronting Ashton Lane. The detailing of the house types has been improved with cottage-style front doors, small porches and window proportions altered to reflect vernacular styles and with chimneys added. The houses facing Ashton Lane would have front gardens behind a new hedge line, with car parking to the rear off the proposed cul-de-sac access. The submitted street elevation to Ashton Lane shows house types of a scale, density and layout that in my view would be in keeping with the village character. People approaching the village along Ashton Lane, would see small groups of cottage-scale houses in a traditional layout facing the village street. The other group of houses would look out over the field and would not be prominent in the street scene.
14. It is considered that the revised scheme satisfies the requirements of local plan policies ENV67 and HO12 and is consistent with national policy. I conclude on the main issue, having regard to the reasons for the dismissal of the previous appeal, that the revised layout and design would have no unacceptable effect on the visual amenity of the area.

The Need for Affordable Housing

15. The Parish Council and some local residents question the need for 15 affordable houses in the village. Residents argue that, because planning permissions have been granted that include affordable housing units in nearby settlements, there is no longer a need for a scheme of the size proposed. A survey carried out in the village in connection with the draft neighbourhood plan is said to have revealed a need for no more than 8 affordable homes over the next five years. A more recent survey is said to have resulted in expressions of interest from only four people in the village. Residents have referred to a draft policy under discussion in the context of the emerging neighbourhood plan that would limit any affordable housing in the village to that required to meet the evidenced need arising from within the village itself. Although references have been made to the neighbourhood plan in the representations of residents, it has not been submitted for examination or been the subject of a referendum, and no extracts have been submitted for consideration in this appeal.
16. The Council's 2013 Strategic Housing Market Assessment identified a need for affordable housing in the Tarvin and Kelsall sub area of 12 per year up to 2018. The Council's information is that the actual delivery of affordable houses to date is short of that objective. Similar arguments were put to the previous Inspector, who nonetheless concluded that there was an affordable housing need in this location.
17. The same representations were also made to the Council in response to the current proposal, but the Local Planning Authority did not adopt those concerns as a reason for refusal of the planning application.
18. There is no current policy that would require affordable housing provision to be limited to that arising from within the village itself. On the evidence before me I conclude that there is an unmet need in the Tarvin and Kelsall sub area for the number and type of affordable houses proposed.

Other Matters

19. The previous appeal decision dealt with a range of other matters raised by objectors. Those included off-site play space, the aspiration for the village to become carbon neutral, concerns about traffic and highway safety and fears about the risk of anti-social behaviour by future residents. No significant new information has been brought to my attention on those matters in the context of the present appeal, and it is not necessary to repeat the arguments and conclusions reached previously. It is sufficient to say that I agree with the previous Inspector's conclusions that there is no requirement in this case for a financial contribution for additional play space, and the conclusion that the proposed level 4 standard for Sustainable Homes is acceptable. I note that the Highways Officer has no objection and is satisfied that any related off-site traffic management works can be secured under Highways Act powers.
20. The public footpath along the northern boundary would be retained and improved. There would be no loss of trees and no significant ecology issues. All other concerns are capable of being addressed by planning conditions.

Conditions

21. The Council has put forward a list of draft conditions in the event of planning permission being granted. Standard commencement and approved plans conditions will be attached. It is essential that a condition be attached to ensure that the houses meet the affordable housing definition in NPPF and remain affordable for both first and subsequent occupiers. It is reasonable that permitted development rights for future house extensions be withdrawn. The details given on the submitted landscaping scheme are imprecise in respect of tree and shrub planting and boundary treatments, and further details are required. The site is slightly elevated above the road, and existing and proposed site levels are required. A construction method statement is required to minimise off-site nuisance during the construction period. There is a good deal of duplication in the Council's draft conditions concerning management of the construction period, and all necessary matters will be included under the construction method statement condition. It is reasonable to restrict hours of working in view of proximity to the houses and the chapel. There is sufficient justification for a watching brief to note any features of archaeological interest that might be revealed during site clearance works. It is necessary to clarify the need for visibility splays, as indicated on the approved plans.
22. Highway works and specifications are dealt with under powers available to the Highway Authority, and those matters do not need to be duplicated by planning conditions. There is no need for a condition to protect trees, since there are none on the development site, and there appears to be no justification for requiring the developer to carry out a contaminated land study. Given that there are no badger sets on or near the site, a condition requiring compliance with a badger construction method statement is unnecessary.
23. Subject to the conditions set out in the schedule below, and having regard to all other matters raised, it is concluded that the appeal should succeed and planning permission will be granted.

C Whitehouse

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: M3340 (PL) 02 Rev.B Site Layout, M3340 (SK) 13 Rev.A Street Elevations, M3340 (PL) 05 Rev.A House Type A, M3350 (PL) 04 Rev.A House Type B, M3340 (PL) 06 House Type B1, M3340 (90) 01 Rev.B Landscaping, M3340 (PL) 07 Drainage connection.
- 3) The development shall not begin until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of NPPF or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type and tenure of the affordable housing provision to be made;
 - ii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended, no development consisting of an enlargement of a dwellinghouse or the provision within the curtilage of a dwellinghouse of any building or enclosure shall be carried out without the grant of planning permission.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the information given on the approved landscaping drawing, no development shall take place until full details of proposed tree and shrub planting and boundary treatments have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

- 8) Parking spaces shall be provided and surfaced as shown on the approved layout before the adjoining houses are occupied and shall thereafter be retained for that purpose.
- 9) Before development commences, details of existing and proposed site levels shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - v) the formation of an access for construction purposes
 - vi) the parking of vehicles of site operatives and visitors
 - vii) loading and unloading of plant and materials
 - viii) storage of plant and materials used in constructing the development
 - ix) the erection and maintenance of security hoarding
 - x) wheel washing facilities
 - xi) measures to control the emission of dust and dirt during construction
 - xii) a scheme for recycling/disposing of waste resulting from construction works
 - xiii) details of any piling, if required.
- 11) No construction works or deliveries of materials shall take place outside the hours of 08:00 hours to 18:00 hours on Mondays to Fridays, and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.
- 12) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 13) The visibility splays shown on the approved layout plan shall be established before construction works commence and thereafter kept free of obstruction to visibility.
- 14) The parts of the existing boundary hedge to be removed for the visibility splay shall be removed outside the bird breeding season.