
Appeal Decision

Site visit made on 4 August 2015

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 13 August 2015

Appeal Ref: APP/L3245/W/15/3004618

Land off Chapel Lane, Norton in Hales, Market Drayton, TF9 4AU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Eardley against the decision of Shropshire Council.
 - The application Ref 14/01426/OUT, dated 28 March 2014, was refused by notice dated 8 January 2015.
 - The development proposed is the erection of 14 open market dwellings and 3 affordable dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 14 open market dwellings and 3 affordable dwellings at Land off Chapel Lane, Norton in Hales, Market Drayton, TF9 4AU, in accordance with the terms of planning application ref: 14/01426/OUT, dated 28 March 2014, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Peter Eardley against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application has been made in outline, with full details provided in relation to access, layout, appearance and scale. Landscaping is to be considered as a reserved matter.
4. The development description set out in the application form and the appeal form differ. I consider that the latter most accurately reflects the proposal and has therefore been included in the banner above.

Main Issues

5. As a result of the evidence before me, I consider that the main issues of the appeal are: the effect of the proposal on highway and pedestrian safety; and whether the appeal site offers a suitable location for new housing, having regard to national and local planning policies relating to new housing in rural areas.

Reasons

Background

6. The appeal site is located off Chapel Lane, within the village of Norton in Hales. The site is currently in agricultural use and is bordered by residential development to the south and east, with open countryside to the north and west. A public right of way runs vertically through the appeal site, which provides pedestrian access to Main Road.

Highway and pedestrian safety

7. The proposal includes two new accesses into the appeal site from Chapel Lane. One would serve Plots 1 and 2 and the other would provide the main access into the appeal site. I observed that Chapel Lane is relatively narrow and when travelling towards Main Road it is difficult for two vehicles to pass one another. I agree with the Council's view that most vehicle movements would take this route in order to travel towards Market Drayton.
8. The Council are of the view that the cumulative impact of the proposal and a development for 12 dwellings on the other side of Chapel Lane that has been permitted at appeal¹ would cause harm to the local highway network. The Inspector of that case also considered the cumulative impact of both developments on the highway network as it currently exists and concluded that there would be no harm. As a result of my own observations on the site visit and that there have been no significant changes to the local highway network, I fully concur with the previous Inspector's findings. In addition, the Council has provided little evidence to support their case on this matter.
9. Notwithstanding this, the proposal includes highway improvements as part of the appeal scheme. These include the widening of the highway on the northern boundary of the appeal site and on the bend close to Chapel Cottage. I consider that these improvements would allow two vehicles to pass each other more readily and therefore would increase the flow of traffic, particularly from the proposal and the other development. This is a benefit of the scheme. I am also mindful that the Council's Highway Development Control Officer, considered that the proposed highway improvements mitigated any potential harm from the proposal.
10. I accept that there are other developments that have been permitted or proposed in the wider village, however, due to their locations, I consider that these are unlikely to generate any significant vehicle movements along Chapel Lane.
11. I acknowledge the concerns of interested parties that there are no footpaths along Chapel Lane, however, the proposal includes a footpath link to Main Road, which I observed, offers a safe walking environment into the village centre and its local services and facilities. Further, improvements are proposed to the kerbside refuge, where the footpath joins Main Road. Therefore, I consider that the proposal would also not cause any harm to pedestrian safety.
12. In conclusion, the proposal would not cause any harm to highway or pedestrian safety and therefore complies with Policy CS6 of the Shropshire Core Strategy (2011) (the CS).

¹ APP/L3245/A/14/2221627, dated 5 June 2015.

Suitable location?

13. The appeal site is located outside of the settlement boundary of Norton in Hales, as identified in the North Shropshire Local Plan (2005) and is therefore a location where residential development would not normally be permitted by Policies CS4 and CS5 of the CS. The Council has referred to the emerging Shropshire Site Allocations and Management of Development Plan (the SAMDev). I acknowledge that the Examining Inspector's further main modifications have recently been published, however, I understand that these are currently undergoing consultation and may therefore be subject to change. Consequently, whilst acknowledging the evident and admirable input from the local community of Norton in Hales into the preparation of the SAMDev, I consider that only limited weight can be afforded to the SAMDev and its policies at the current time.
14. The Government is seeking to significantly boost the supply of housing, as set out in Paragraph 47 of the National Planning Policy Framework (the Framework). Further to this, the Framework at Paragraphs 14 and 49 sets out that there is a presumption in favour of sustainable development. The Framework at paragraph 47 establishes that local planning authorities should identify and update annually specific, deliverable sites sufficient to provide 5 years' supply of housing against their objectively assessed housing need (OAN) for housing. The Council are of the view that it can demonstrate a 5 year housing land supply, which is contested by the appellant. However, I am mindful that even if I were to take the view that the Council could demonstrate a five year housing land supply, this does not in itself rule out sustainable residential development.
15. It is evident that the underlying principles behind the above policies are to secure a sustainable pattern of development and to ensure that the countryside and its character are protected. I consider that these aims are highly consistent with the Framework. Paragraph 55 of the Framework addresses housing in rural locations and advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that isolated homes in the countryside should be avoided.
16. The appeal site is located within close proximity to a range of local services and facilities in the form of a primary school, public house, village hall, church, recreational facilities (including cricket pitch, tennis court, bowling green and sport pavilion) and children's play area. Future occupants of the proposal would have safe access to these facilities on foot via the footpath that links to Main Road. In addition, whilst there is no bus service and therefore there may be some reliance on a private motor vehicle for other services and employment, Market Drayton is within a reasonable distance of approximately 2.4 miles and subsequently any such car journeys would be relatively short. The Council acknowledge within their appeal statement that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities. For the reasons set out above, I agree with this view. This view was also shared by the Inspector for the development on the opposite side of Chapel Lane²,

² APP/L3245/A/14/2221627, dated 5 June 2015.

which also adds weight to my conclusion. The proposal would consequently, not result in isolated dwellings in the countryside.

17. The proposal would increase the level of patronage to local services and facilities, which would help to enhance and maintain the vitality of Norton in Hales and would be a local benefit. I acknowledge the concern of local residents with regard to social cohesion. However, I consider that when considered with other developments permitted in the village, the resulting increase in housing and subsequent new residents would not be of such a level to result in any material harm in this regard. The Council also share this view. Local residents have also raised concern that there is insufficient infrastructure to support new housing. However, there is no substantive evidence before me to support this view.
18. The Council has not raised any concerns that the proposal would cause harm to the character and appearance of the area. The appeal site is bordered by residential development on two sides and Chapel Lane to the north. It therefore has a clear relationship with the existing built development of the village. I consider that the proposal would 'square-off' the existing development to the south and east and would not be viewed as an extension into the open countryside. The proposal includes a variation of dwelling types and architectural styles that would complement the variation of the existing dwellings in close proximity. I consider the proposed density to be appropriate for the local context. Consequently, I consider that the proposal would not cause harm to the character of the countryside. For these reasons and for the avoidance of doubt, I also consider that the proposal would preserve the character or appearance of the nearby Conservation Area³.
19. In conclusion, it is acknowledged that the appeal site is located outside of the defined development boundary and therefore runs contrary to local development plan policies, however, the harm that would result to the principles of these policies would be very limited. Further, I also consider that the proposal complies with Paragraph 55 of the Framework.

Other matters

20. The proposal would deliver social benefits associated with the delivery of 14 open market dwellings and 3 affordable units. A signed and dated planning obligation has been provided to suitably secure the provision of affordable housing. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the Framework for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). The construction of the dwellings as well as the increased spending of future occupants would bring economic benefits, some of which would be experienced locally. Given the level of proposed new housing, I consider that the social and economic benefits carry a moderate level of weight in the proposal's favour.
21. In response to the concerns of local residents the appellant has undertaken a Phase 2 Environmental Survey to determine the presence of great crested newts in local garden ponds close to the appeal site. This concluded that there is only a minimal risk of potential damage to an individual great crested newt during the construction phase of the proposal and a European Protected

³ In accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Species Licence is not considered necessary. The Phase 2 Environmental Survey sets out a number of recommendations to be implemented during the construction works, to mitigate any potential harm and these can be secured by a suitable planning condition. The Council's ecologist has confirmed that this is acceptable and I see no reason to take a different view.

22. During my site visit, I observed the relationship of the proposed dwellings with the existing properties that border the site to the east and south. Due to the layout of the proposal and the dwellings themselves, the separation distances involved and their orientation to the existing dwellings, there would be no harm to the living conditions of the occupants of neighbouring properties, through overlooking, overbearing effect or loss of day and sunlight.
23. There is no evidence to suggest that the proposal would increase flood risk and I consider that matters associated with drainage can be suitably addressed by a planning condition, requiring a scheme to be agreed with the Council. Further, I have not been provided with any substantive evidence that the proposal would affect cyclists using route No 75.

Planning balance and overall conclusion

24. The proposal is located outside of the defined development boundary and therefore runs contrary to local planning policies in this regard. There is some dispute whether the Council can demonstrate a five year housing land supply and I acknowledge the substantial material provided by both parties, however, given my findings, this matter has not been decisive to my decision. The proposal would not cause any harm to the character of the countryside and is sustainably located close to local services and facilities. The identified harm in this regard is therefore very limited.
25. I have concluded that the proposal when considered cumulatively with other recently permitted or planned developments, would not cause harm to highway or pedestrian safety. Subject to suitable planning conditions, no other harm has been identified.
26. On the other hand, the proposal would deliver social and economic benefits through the delivery of new housing and would maintain and enhance the vitality of Norton in Hales and would not result in isolated dwellings in the countryside. The proposal would therefore accord with national policy on the delivery of housing in rural areas, in the form of Paragraph 55 of the Framework.
27. For the reasons set out above, I consider that on balance, the proposal fulfils the three roles of sustainable development as set out in the Framework. Accordingly, there are material considerations that indicate that the proposal should be allowed despite the development plan conflict associated with the appeal site's location outside of the defined development boundary and therefore not being plan-led.
28. As identified by a local resident the Human Rights First Protocol Article 1 requires that the desires of landowners are balanced against the impact on local residents. I have considered the harm of the proposal, its compliance with national and local planning policies and the benefits of the scheme. A balancing exercise has then been undertaken, which I consider fulfils the

requirements of the First Protocol Article 1. Further, I consider that the proposal does not interfere with the human rights of any local residents.

29. For the reasons set out above and having regard to all other matters raised, including the concerns of local residents and the Parish Council, the appeal is allowed.

Conditions

30. I have considered the Council's 11 suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required. In the interests of sound planning and for the avoidance of doubt, conditions are imposed that require: the standard outline and commencement controls, as well as for the development to be carried out in accordance with the approved plans.
31. To ensure the suitable appearance of the proposal, conditions are necessary that require details of: the means of enclosure of the site, the levels of the site, and the finished floor levels; external materials; and plans and sections for windows and doors, all to be provided and agreed with the Council.
32. In the interests of highway and pedestrian safety, conditions are imposed that require the proposed highway and pedestrian improvements to be implemented and for full engineering details of the access onto Chapel Lane, internal access road layout and provision of visibility splays to be provided before the development is first occupied. To safeguard the living conditions of neighbouring residents and in the interest of highway safety, a condition is necessary that requires a Construction Traffic and Site Management Plan to be agreed with the Council.
33. The Council has suggested that drainage details be included within a condition that primarily relates to the appearance of the proposal. However, for clarity, I consider that it is appropriate to include a specific condition relating to drainage, which requires full details to be agreed with the Council, before development commences. This does not alter the requirement for such details to be provided and therefore the appellant has not been prejudiced.
34. The Council's ecologist has requested four additional conditions be imposed, which require: the development to be undertaken in accordance with the recommendations of the Phase 2 Environmental Survey; an external lighting plan to be provided; details of five woodcrete bat boxes; and details of five woodcrete artificial nests suitable for small birds to be provided. I consider that given the findings of the Phase 1 and 2 surveys that such conditions are necessary in order for the proposal to be acceptable in planning terms.

Jonathan Manning

INSPECTOR

Schedule of Conditions

- 1) The development for which permission is hereby granted shall not be commenced before detailed plans showing the landscaping of the site (referred to as "the reserved matter") has been submitted to and approved in writing by the local planning authority.
- 2) Application for the approval of the reserved matter shall be made not later than the expiration of 12 months from the date of this permission.
- 3) The development hereby permitted shall be commenced not later than the expiration of two years from the approval of the reserved matter.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1747/01 Rev O (Revised Site Layout Proposals (Location and Block Plans))
 - 1747/10 (House Type A Floor Plans Plot 1)
 - 1747/11 (House Type A Elevations Plot 1)
 - 1747/12 (House Type B Floor Plans Plots 2 & 12)
 - 1747/13 (House Type B Elevations Plots 2 & 12)
 - 1747/14 (House Type C Floor Plans Plot 3)
 - 1747/15 (House Type C Elevations Plot 3)
 - 1747/16 (House Type D Floor Plans Plot 4)
 - 1747/17 (House Type D Elevations Plot 4)
 - 1747/18 (House Type E Floor Plans Plots 8 & 9 – 13 & 14)
 - 1747/19 (House Type E Elevations Plots 8 & 9 – 13 & 14)
 - 1747/20 (House Type F Floor Plans Plots 5 & 6)
 - 1747/21 (House Type F Elevations Plots 5 & 6)
 - 1747/22 (House Type J Floor Plans Plots 15 & 16)
 - 1747/23 (House Type J Elevations Plots 15 & 16)
 - 1747/24 (House Type H Floor Plans Plot 10)
 - 1747/25 (House Type H Elevations Plot 10)
 - 1747/26 (House Type I Floor Plans Plot 11)
 - 1747/27 (House Type I Elevations Plot 11)
 - 1747/28 (House Type G Floor Plans Plots 7 & 17)
 - 1747/29 (House Type G Elevations Plots 7 & 17)
 - 1747/30 (Tree and Hedge Root Protection Areas)
 - 1747/31 (Proposed Garages)
 - 2014/104/7/ Rev B (Kerbed Refuge for Footpath Exit to Main Road)
 - 2014/104/8/ (Widening on Bend to Allow Cars to Pass More Readily)
 - 2014/104/9/ (Track of DB 32 Cars in Bend at Possible Widening)

- 2014/104/12/ Rev A (Carriageway Improvements in Vicinity of Site Access)
- 5) The following information shall be submitted concurrently with the submission of the reserved matter and approved in writing by the local planning authority, before development commences:
- The means of enclosure of site;
 - The levels of the site; and
 - The finished floor levels.

Development shall be carried out in accordance with the approved details.

- 6) No development shall commence until details of all external materials, including hard surfacing, have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 7) No windows or doors shall be installed on any dwelling until detailed plans and sections at a scale of 1:20 have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 8) No development shall take place until the highway and pedestrian improvements shown on Drawings 2014/104/7/ Rev B, 2014/104/8/ and 2014/104/12/ Rev A have been implemented in accordance with engineering details to be submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until full engineering details of the access onto Chapel Lane, internal access road layout and provision of visibility splays have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the access from Chapel Lane, internal road layout and visibility splays have been implemented in accordance with the approved details.
- 10) No development shall take place until a Construction Traffic and Site Management Plan has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 11) No development shall take place until full drainage details have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details before the dwellings are first occupied.
- 12) Development shall be carried out strictly in accordance with the Phase 2 Environmental Survey by Greenscape Environmental Ltd, dated June 2015.
- 13) Prior to the erection of any external lighting on the site an external lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet 'Bats and Lighting in the UK'.

- 14) Prior to the first occupation of the dwellings, details of five woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the first occupation of the dwellings.
- 15) Prior to the first occupation of the dwellings, details of five woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the dwellings.