

Application No: 14/1200C

Location: LAND AT HASSALL ROAD, ALSAGER, STOKE-ON-TRENT

Proposal: Variation of condition 8 (energy requirements) on 12/1670C - Erection of 30No dwellings (including 9No affordable dwellings) vehicular access and associated landscaping

Applicant: Seddon Homes Limited

Expiry Date: 02-Jun-2014

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Compliance with Para 206 NPPF concerning conditions

Impact upon carbon reduction

Compliance with planning policy for energy reduction

REFERRAL

This application has been referred to the Strategic Planning Board (SPB), as the application is for a variation of a condition on a scheme that was previously determined by the Board.

1. SITE DESCRIPTION

The site of the proposed development extends to 1.33 ha and is located to the north west of Alsager, circa 2km from the town centre. A primary school is directly opposite on the other side of Hassall Road, within the settlement boundary. The site is within open countryside. To the north and west is agricultural land. To the south is an established children's play area and the former sports grounds of the MMU campus. To the east is Hassall Road with 20th century residential development beyond. A public footpath (Alsager No 3) crosses the site.

The land is currently in agricultural use and there are a number of significant trees and remnant lengths of hedge on the periphery. Some of the trees on the Hassall Road frontage are subject to TPO protection; The Alsager Urban District Council (Pikemere Road / Hassall Road) TPO 1970 and The Manchester Metropolitan University Alsager Interim TPO 2008

2. DETAILS OF PROPOSAL

Full permission was granted on appeal on 12 December 2013 for the erection of 30 dwellings (including 9 affordable units) vehicular access and associated landscaping.

Condition 8 of the appeal decision requires:

‘Before the development begins details of a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the scheme relevant to that dwelling has been completed and made operational. The scheme shall be retained as operational thereafter’.

The Applicant seeks to amend the condition to read as follows:

‘Unless otherwise agreed in writing with the Local Planning Authority, the approved scheme shall secure a reduction in energy use through a building fabric first approach (enhanced insulation or construction technologies) A report confirming the achievement of specified design fabric shall be submitted to and agreed in writing prior to the commencement of development. The development shall be implemented in accordance with the approved details.’

3. RELEVANT PLANNING HISTORY

12/1670C - .Erection Of 30 Dwellings (Including 9 Affordable Dwellings), Vehicular Access and Associated Landscaping – Appeal allowed 12 December 2013

4. PLANNING POLICIES

National Planning Policy Framework

Local Policy

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach

enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

SE9 –Energy Efficient Development

Local Plan Policy

None specified

Other Material Policy Considerations

RSS Evidence Base
Climate Change Act 2008
Renewable Energy Directive 2009

5. OBSERVATIONS OF CONSULTEES

None Consulted

6. VIEWS OF THE PARISH / TOWN COUNCIL

Alsager Town Council - None received at time of report preparation

7. OTHER REPRESENTATIONS

2 representations of objection to the housing proposal in principal.

8. APPLICANT'S SUPPORTING INFORMATION:

A covering letter which details the fabric first approach to minimising energy consumption will result in the same outcome as the Inspectors condition i.e. the scheme will achieve energy efficiency in accordance with the requirements of the Framework and the Development Plan.

They also cite earlier appeals where their suggested wording has been accepted by the Council.

9. OFFICER APPRAISAL

The previous Appeal Decision established the acceptability in principle of 30 dwellings on this site. The scheme which was granted planning permission at Appeal can still be implemented and therefore this proposal does not represent an opportunity to revisit the principle of residential development on this site.

Paragraph 206 of the NPPF requires conditions to be only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Therefore, in order to determine whether the condition serves a useful purpose it is necessary to examine it in the light of these tests.

In imposing the condition in the first place the Inspector commented at para 81 -

'...A number of conditions are suggested by the Council in the event of the appeal being allowed. These have been considered in the light of Circular 11/95,..... (the conditions) are necessary to comply with the advice on renewable energy contained in paragraphs 96 and 97 of the Framework (condition 8)...'

The stated reason for the condition within the Councils evidence to the Inquiry was to comply with Policy EM18 (Decentralised Energy Supply) of the North West of England Plan: Regional Spatial Strategy (RSS) to 2021. This policy stated that all residential developments comprising 10 or more units should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable. The RSS was repealed during the hiatus of the Hassall Road appeal.

However, regardless of this the Inspector still imposed the 10% renewables condition in line with the requirements of the Framework. The Inspector was fully aware that the RSS had been repealed at the time of his decision.

The Inspector that granted the permission for the housing development on the site, clearly considered the issue of energy reduction and adaption to climate change. He clearly considered it necessary to impose conditions relating to the 10% renewable requirement having regard to the requirements of the Framework as part of the planning policy consideration.

Since that Appeal decision, the Council has also adopted the Cheshire East Local Plan Strategy – Submission Version for the purposes of development management. Whilst this is not the adopted plan, it is a material consideration and some weight can be attached to it as part of the decision making process.

The 2008 Climate Change Act establishes a legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels. To drive progress and set the UK on a pathway towards this target, the Act introduced a system of carbon budgets including a target that the annual equivalent of the carbon budget for the period including 2020 is at least 34% lower than 1990.

Policy SE9 is directly relevant to this case and requires, inter alia, when a proposal involves more than 10 dwellings, as in this case, that,

‘.....it will be expected to secure at least 10% of its predicted energy requirements from decentralised and renewable or low carbon sources unless the applicant can clearly demonstrate that having regard to the type of development and its design, this is not feasible or viable...’

10. CONCLUSIONS

The condition is fair and reasonable and serves a legitimate planning function, namely the provision of at least 10% of energy requirements from renewable or low carbon sources.

The suggested condition from the applicant does not achieve this. No evidence is submitted to demonstrate that the requirements are in any way unviable or not feasible. The condition passes the tests in the NPPF.

RECOMMENDATION

REFUSE for the following reason

The suggested variation to the wording of condition 8 attached to 12/1670C would fail to deliver at least 10% of the predicted energy requirements from decentralised and renewable or low carbon sources, contrary to Policy SE9 of the Cheshire East Local Plan Strategy – Submission Version and the requirements of Paras 96 and 97 of the NPPF

In the event of any changes being needed to the wording of the committee’s decision (such as to delete, vary or add additional conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Principal Planning Manager, in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee’s decision.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager, in consultation with the Chair of the Strategic Planning Board, to enter into a Deed of Variation to the planning agreement attached to permission 12/1670C in accordance with the S106 Town and Country Planning Act to attach the suggested revised condition to the original planning permission.

(c) Crown copyright and database rights 2014. Ordnance Survey 100049045, 100049046.

