

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 18th February 2015
Report of: David Malcolm – Principal Planning Manager
Title: Land adjacent to Heath End Farm, Hassall Road, Alsager

1.0 Purpose of Report

- 1.1 To consider the withdrawal of 2 reasons for refusal relating to outline planning application 13/5045C for erection of up to 34 dwellings including access point.

2.0 Decision Required

- 2.1 To agree to withdraw the reasons for refusal in respect of open countryside/housing land supply and the loss of an important hedgerow and to instruct the Principal Planning Manager not to contest the issues at the forthcoming Appeal.

3.0 Background

- 1.2 On the 27th August 2014, Southern Planning Committee considered an outline application for erection of up to 34 dwellings. This followed an earlier refusal (application 12/3905C) by the Strategic Planning Board at the meeting on 30th January 2013.

- 1.3 The application was refused for the following reasons:

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside) of the Congleton Borough Local Plan First Review 2005, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

2. *The proposed development would involve the removal of an “important” hedgerow as defined in the Hedgerow Regulations 1997. Policy NR3 of the adopted Congleton Borough Local Plan First Review,*

states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development. Therefore the scheme is contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review and guidance contained within the NPPF.

- 3.4 The application is now the subject of an Appeal. However, since that time the Local Plan Inspectors interim report has been received which warrants the reconsideration of the reasons for refusal.

Open Countryside & Housing Land Supply

- 3.1 Paragraph 47 of the National Planning Policy Framework requires that Council's identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements
- 3.2 This calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.
- 3.3 The current Housing Supply Position Statement prepared by the Council employs the figure of 1180 homes per year as the housing requirement, being the calculation of Objectively Assessed Housing Need used in the Cheshire East Local Plan Submission Draft
- 3.4 The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the council's calculation of objectively assessed housing need is too low. He has also concluded that following six years of not meeting housing targets a 20% buffer should also be applied.
- 3.5 Given the Inspector's Interim view that the assessment of 1180 homes per year is too low, we no longer recommend that this figure be used in housing supply calculations. The Inspector has not provided any definitive steer as to the correct figure to employ, but has recommended that further work on housing need be carried out. The Council is currently considering its response to these interim views
- 3.6 Any substantive increase of housing need above the figure of 1180 homes per year is likely to place the housing land supply calculation at or below five years. Consequently, at the present time, the Council is unable to robustly demonstrate a five year supply of housing land.
- 3.7 In this case the adjacent site (12/1670C) which is under construction was allowed at appeal following a defence on landscape grounds. As part of this appeal decision the Inspector found that:

'I find that there are harmful effects on the character and appearance of the area which are moderate, minor or short term and so not overwhelmingly decisive'

- 3.8 As such the Inspector found that the development would contribute towards meeting the Councils 5 year housing land supply, and meeting local needs including affordable housing provision. These benefits outweighed the limited harm the development would cause.
- 3.9 On the basis of the above, the Council at this time cannot reasonably continue to rely upon the reason for refusal for this appeal.

Loss of Important Hedgerow

- 3.10 The roadside hedgerow would be impacted by the development. The submitted Extended Phase 1 Habitat Survey and Important Hedgerow Assessment states that none of the hedgerows satisfy the wildlife and landscape criteria for an Important Hedgerow. In relation to the historic data an extract plan from the 1840 Tithe map shows the existing line of Hassall Road and associated field pattern. This suggests that the hedge boundary is part of an integral field pattern pre-dating the Enclosure Acts, and as a result the hedgerow is classed as an Important hedge.
- 3.11 Policy NR3 (Habitats) of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development, and where the likely effects can be mitigated or the habitat successfully recreated on or adjacent to the site and there are no suitable alternatives. In order to comply with the policy, all of these criteria must be met.
- 3.12 In this case, the Council cannot demonstrate a 5-year housing land supply and the benefits of approving this development exist to outweigh the harm caused by the loss of the hedgerow. There would also be hedgerow creation within the site to mitigate the hedgerow loss.
- 3.13 This issue has also been considered as part of an appeal at Hind Heath Road, Sandbach where the benefits of this development outweighed the loss of hedgerow.

4.0 Planning Balance and Conclusion.

- 4.1 The proposal is contrary to development plan policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.
- 4.2 The most important material consideration in this case is the NPPF which states at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable

development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- 4.3 The development plan is not “absent” or “silent”. The relevant policies are not out of date because they are not time expired and they are consistent with the “framework” and the emerging local plan. Policy PS8, whilst not principally a policy for the supply of housing, (its primary purpose is protection of intrinsic character and beauty of the countryside,) it is acknowledged has the effect of restricting the supply of housing. Therefore, where a 5 year supply cannot be demonstrated, Policy PS8 can be considered to be out of date in terms of its geographical extent and the boundaries of the area which it covers will need to “flex” in some locations in order to provide for housing land requirements. Consequently the application must be considered in the context of paragraph 14 of the Framework.
- 4.4 It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14
- 4.5 In this case, the development would provide market and affordable housing to meet an acknowledged shortfall. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.
- 4.6 Balanced against these benefits must be the negative effects of this incursion into Open Countryside by built development. However, it is noted that there was no objection on landscape impact grounds from the Council’s Landscape Officer. Furthermore, the change in the housing land supply position significantly alters the way in which this should be viewed in the overall planning balance, and it is not considered that this is sufficient, either individually or when taken cumulatively with the other negative aspects of the scheme to be sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.
- 4.7 On the basis of the above, it is considered that the Council should withdraw its putative reasons for refusal and agree with the Appellant not to contest the issue at Appeal, subject to the imposition of appropriate conditions and the Appellant agreeing to the necessary Section 106 contributions.

5.0 Recommendation

- 5.1 That the Committee resolve to withdraw the reason for refusal in respect of the above and to instruct the Principal Planning Manager not to contest the issues at the forthcoming Appeal.

6.0 Risk Assessment and Financial Implications

- 6.1 There is a risk that if the Council continues to pursue the Appeal, in the light of the Local Plan Inspectors Interim findings, a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 6.2 There would also be an implication in terms of the Council's own costs in defending the reasons for refusal.
- 6.3 There are no risks associated with not pursuing the reasons for refusal at Appeal.

7.0 Consultations

- 7.1 None.

8.0 Reasons for Recommendation

- 8.1 To ensure that an approved scheme for essential market and affordable housing is delivered and to avoid the costs incurred in pursuing an unsustainable reasons for refusal at Appeal

For further information:

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Background Documents:

Applications 13/5045C