

APPEAL BY MR M AJMAL (PRIME DEVELOPERS (CREWE) LIMITED) AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO RESERVE MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE) FOR A RESIDENTIAL DEVELOPMENT OF 42 DWELLINGS AT LAND ADJACENT ROWLEY HOUSE, MOSS LANE, MADELEY

<u>Application Number</u>	17/01004/REM
<u>Recommendation</u>	Approval subject to securing of a planning obligation
<u>LPA's Decision</u>	Refusal, contrary to recommendation, by Planning Committee 14th August 2018
<u>Appeal Decision</u>	Appeal dismissed
<u>Costs Decision</u>	An application for a full award of costs against the Council refused
<u>Date of Appeal Decision</u>	29th March 2019

The Appeal Decision

The Inspector identified the main issue as the effect of the proposal on the character and appearance of the area. In dismissing the appeal the Inspector made the following comments:-

- The site slopes in a southerly direction and the dwellings would be located over a gradient, varying in levels by around 4m over the site. The north corner of the site would contain plots 21-22. These would be 2 storey semi-detached dwellings, accessed from a spur off the main loop road. The height of these dwellings would be around 1m less than the adjoining dwelling, 50 The Bridle Path, a semi-detached bungalow with rear dormer, yet at least 1m taller than other dwellings on the site, considerably stepping up in height, and correspondingly size, from the plots 19-20. This increase in height would be conspicuous from both within and outside the development.
- Furthermore, plot 22 would have its side gable facing the rear of No 50. The side elevation on plot 22, at its nearest point, would be less than 1m from the rear boundary of No. 50. Coupled with the dwellings' heights, the location of plot 22 and its proximity to the boundary with No 50, the extent of hardstanding to the front and the overall scale and massing of development in this area, the northern corner of the site would appear overly urban for this location. Additionally, while several gardens across the site are small which the Council raise no objections to, the gardens for these plots would be of limited depth. This would not relate well to adjacent garden sizes on The Bridle Path and would provide little space to enable a transition from the open countryside to the development.
- Although there would be enough distance between plot 22 and No 50 to ensure no adverse effect on the living conditions of the occupiers, the proximity to the boundary is tight and would be at odds with the existing plot form and layout of the immediate context whereby there is breathing space between dwellings and corners are largely addressed with larger dwellings and side gardens. Equally, this is different to plots 13 and 14, which would adjoin the pond and therefore benefit from a sense of spaciousness to the side.
- Consequently, the dwellings appear unsympathetically shoehorned into the corner of the site. Despite the asserted lack of prominence, this part of the development would not function well or add to the overall quality of the area, nor be visually attractive as a result of good layout.
- Condition 4 of the outline planning permission required the reserved matters submission to be informed by the principles of the Design and Access Statement, which should have taken account of the recommendations in the Design Review. Recommendation 4 advised the more urban forms of development should be located

near the village centre and the lower density part nearest to the open countryside. In this proposal, the most urban form of the development has been located adjacent to the countryside and whilst being recommendations only, this represents a flaw to the design.

- The Inspector found that the northern corner of the development would be of a cramped and incongruous design contrary to local policy and the adopted Urban Design Guidance. There would also be conflict with the National Planning Policy Framework (NPPF), which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve; and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

The Costs Decision

In refusing the application for an award of costs the Inspector made the following comments:-

- The applicant submits that the Council have acted unreasonably by:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - failure to produce evidence to substantiate each reason for refusal on appeal; and
 - making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
- The Council's Planning Committee refused planning permission contrary to officer recommendation. Whilst the Council is not duty bound to follow its officer's recommendations, if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and substantiate that reasoning.
- The minutes of the meeting provide limited information on why the Committee decided to refuse the planning application yet it is noted that only Members who attend a site visit have any speaking and voting rights at the Committee meeting at which the decision was reached.
- Nonetheless, the reason for refusal adequately justifies why the proposal was considered contrary to the development plan, supplementary planning document and NPPF. It is not vague or generalised. On the contrary, it is specific and identifies the area of proposal that the Council has objection to, and details scale, size and massing as an issue along with asserting where harm would arise.
- The evidence provided by the Council in its statement sets out adequate justification to substantiate the reason for refusal, and harm to the character and appearance of the area that would arise. The Inspector notes that character and appearance can be a subjective matter, yet was satisfied that the Council provided sufficient objective analysis to defend the decision. Indeed, this is evident in the Appeal Decision and the Council did not prevent development which should clearly have been permitted.
- Scale, size and massing would include the footprint of the development, and correspondingly density. Therefore, the Inspector saw no reason why the Council referring to density in its statement would be unreasonable. Moreover, reference to the variety of the development refers to the character areas suggested by the Design Review, and the recommendation to locate the lower density part of the development nearest to the open countryside. This relates to the northern corner of the site, and in turn, relates to the scale, size and massing.

Your Officer's comments

It was noted, within the Officer report to Planning Committee that *"the design and layout of the proposed dwellings are more suburban than is ideal in this village location"* but then continued *"it could not be argued that it is not harmful to the appearance of the village given that it will not be prominent in views from any public vantage point."* The Inspector, however, did not consider that the lack of prominence of the site, specifically the northern corner, justified

development that would not, in the Inspector's opinion, function well or add to the overall quality of the area, nor be visually attractive as a result of good layout.

As set out within the Council's appeal statement, the latest version of the NPPF demonstrates the Government's strong policy commitment to promote the high quality design of new homes and places. The appeal statement also highlighted that the Housing Minister at that time, Dominic Raab, indicated at the Design Quality Conference April 2018 that it is not good enough to build more homes and that what was needed was to build better homes that embody the high standards of quality and design that are at the heart of strong communities. This appeal decision would, it would appear, suggest that the Planning Inspectorate fully endorse this stance on design and are therefore more likely than they have been in the past to dismiss appeals relating to refusal of planning permission on design grounds.