

# Appeal Decision

Inquiry held on 19 & 20 January 2005 Site visit made on 21 January 2005  
by Claire Sherratt DipURP MRTPI  
an Inspector appointed by the First Secretary of State

08 MAR 2005

**Appeal Ref: APP/L0635/A/04/1148303**  
**Sandiway Cottage, Hartford, Cheshire CW8 2AQ**

- 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 Morris Developments Limited against the decision of Vale Royal Borough Council.
- The application Ref APPf2003/1643, dated 9 October 2003, was refused by notice dated 3 March 2004.
- The development proposed is the principle only of housing development and means of vehicular access with matters relating to siting, design, external appearance and landscaping reserved.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

## Procedural Matters

1. The application is made in outline with all matters reserved for subsequent approval except the means of access to the site. The Council's reasons for refusal included concerns about the potential loss of Sandiway Cottage, a locally protected building and trees on the site, now protected by a Tree Preservation Order. A unilateral undertaking was presented to the Inquiry that confirms the retention of Sandiway Cottage and outlines a limit to the developable area of the site. It also makes provision for affordable housing. Furthermore, plan reference M1101.04, included in the evidence of Mr Walker, illustrates the design and location of the access together with the necessary tree loss. Based on this information, the Council withdrew reasons for refusal 3 & 4.
2. A substantial number of mature trees would be retained on the perimeter of the site and along the site frontage as well as within the site. I agree that with appropriate measures in place to secure the retention of Sandiway Cottage and limit the number of trees that would be removed as a direct result of the proposed development, in accordance with Plan reference M1101.04, that the proposal would not unduly harm the character and appearance of the area, subject to a satisfactory layout and external appearance of the proposed dwellings to reflect the character and setting of Sandiway Cottage.

## Main Issues

3. I consider that the remaining main issue is the effect of the development on the supply of housing land, having regard to the development plan and whether the location of the appeal site is sustainable.

## Planning Policy

4. The development plan includes the Regional Spatial Strategy in the form of Regional Planning Guidance for the North West (RPG 13), approved in 2003, the Cheshire 2011 Replacement Structure Plan (CRSP), adopted in 1999, and the Vale Royal Borough Local Plan First Review (LPFR), adopted in 2001. I have been referred to a number of policies of which I consider the following to be of particular relevance to the main issue I have identified.
5. Policy UR7 of RPG 13 requires local planning authorities to monitor and manage the availability of housing land identified in development plans to achieve stated annual rates. An annual figure of 1630 dwellings is given for Cheshire (excluding Halton and Warrington). Policy UR8 states that land allocated for housing should be released in an orderly, managed manner in accordance with principles set out elsewhere in the RPG. Phasing mechanisms should be incorporated in development plans that, among other matters, are underpinned by housing capacity studies and secure the development of previously-developed land and buildings in urban areas as a first priority. Policy SD3 seeks to concentrate development in key towns, including Northwich, with most other development- taking place in smaller towns and larger villages identified as key service centres in Structure or Local Plans.
6. In the adopted Structure Plan, Policy GEN1 aims to concentrate development within or on the edges of towns, or 'exceptionally to other sustainable locations. Policy GEN3 sets out general development requirements for proposals. Policy HOU1 requires the provision of sufficient housing sites for about 8200 dwellings in Vale Royal between 1996 and 2011, an annualised rate of 547 dwellings. Policy HOUZ seeks to locate new housing within 1.6km of relevant services.
7. In the adopted Local Plan, policy GS1 requires the provision of sufficient land to satisfy demand for new housing arising in the Borough to 2006, while policy GS2 indicates that Hartford is one of the locations where new housing development should be concentrated. Policy H1 requires sufficient land to be made available within the Borough to allow about 5470 dwellings to be built between 1996-2006. Policy HS sets out a hierarchy of settlements and locations to govern the scale of new housing. This identifies Hartford in the highest category. Policy H6 allows windfall developments in Hartford subject to the criteria set out in policy H10. These require, amongst other criteria, that the site is conveniently located with regard to public transport. A number of policies seek to ensure high quality developments that are compatible with their surroundings. Affordable housing is required as set out in Policy H24. Policy BE24 requires locally important buildings and their settings to be conserved wherever possible. A number of criteria are specified, against which proposals that affect such buildings will be considered.
8. The emerging development plan comprises the Cheshire 2016 Draft Deposit Structure Plan Alteration (CSPA) and the Vale Royal Borough Local Plan First Review Alteration - First Deposit (LPAFD). In the emerging Structure Plan, draft policies GEN1 and HOU2 reflect the objectives of the equivalent adopted policies. Draft policy HOU1 states that housing provision in Vale Royal between 2002 and 2016 should not exceed a total of 5500 dwellings, phased over the periods 2002-2006, 2006-2011 and 2011-2016 with a requirement for 2000, 1750 and 1750 dwellings respectively. The Examination in Public of the Structure Plan opened during the week commencing 17 January 2005. Objections have

been made to the strategic housing requirement for Vale Royal contained in draft Policy HOU1. I therefore consider little weight can be given to the precise housing requirement figures at this stage. Nevertheless, the general approach to housing provision reflects the spatial strategy set out in RPG13 and in this respect can be given significant weight. In reaching this conclusion, I am mindful that the First Secretary of State considered that the emerging CSPA could be given considerable weight in determining the Winnington/Wallerscote Urban Village (WWUV) proposal.

9. Draft Policy GS2 in the LPAFD identifies Hartford as a suitable location for new housing. In the supporting text it is included within tier 1 of the Council's four-tier hierarchy, representing the most sustainable locations in the Borough. Policy H1 reflects the housing target set out in the adopted Structure Plan. A number of sites are proposed for allocation, including 1,200 dwellings at WWUV. Draft policy H2a describes the intended phasing of these sites. The appeal site is not included as a proposed allocation. Draft policy H6 states that planning permission for residential development on sites not allocated for housing will not be allowed.
10. I heard that there have been many objections to the relevant policies in the LPAFD. I heard that the Council intends to make substantial changes to the second deposit version of the plan (LPASD), including amendments to the timescales of the plan to reflect those of the draft Structure Plan, the proposed allocations to be incorporated within it and alterations to Policy H6. Given the amount of objections made to the draft housing policies in the LPAFD and that the proposed alterations have yet to be published, I consider little weight can be afforded to the draft housing policies at this stage.
11. I have also been referred to the Council's resolution of 25 November 2004 that seeks to resist windfall development as an interim measure. In the case of the Ways Green decision the Inspector gave an earlier resolution, referred to as the 'interim policy', little weight as no public consultation exercise had been carried out. The Council considers that the more recent November resolution rectifies this as it was considered in light of the representations made to the LPAFD, in particular Policy H6 that resists windfall development. It seems to me therefore that additional weight can now be attributed to it, in that it has been, albeit indirectly, through a consultation process in relation to the housing policies in the LPAFD.
12. I have had regard to relevant national planning policies, including Planning Policy Guidance Note 3: *Housing* (PPG 3). This advocates a managed and monitored approach to the release of housing land. It seeks to promote sustainable patterns of development, giving priority to the re-use of previously-developed land in urban areas. I have also been referred to the Ministerial Statement of 17 July 2003 which seeks to ensure that Plans should make provision for at least 10 years' potential supply of housing, to ensure an adequate and continuing supply of sites for housing in sustainable locations.

### **Reasons**

13. Both of the main parties agree, as expressed within the statement of common ground, that the site is previously developed land in accordance with the definition in Annex C of PPG3 and that the principle of residential development on the appeal site accords with policy H6 of the adopted LPFR. However, the Council considers that the proposed development would add to an existing oversupply of housing and that the appeal site is limited in terms of its sustainability as a location for new development, contrary to PPG3. Furthermore the

Council maintains that the proposed development would undermine the regeneration of sites allocated for housing in the draft LPAFD:

14. The Council published a monitoring report on Residential Land Availability in March 2004, which identifies an oversupply of 1101 units, having regard to the LPFR period (i.e. to 2006). There have been further planning permissions since. On this basis, in the short term

I accept that there is an identified oversupply of housing during the LPFR period. Beyond this time, the Council considers that the strategic requirements of the Borough could be largely met through the provision of housing on sites allocated within the emerging Local Plan. It is concerned that to allow windfall sites in the meantime would undermine the likelihood of those sites coming forward.

15. It is the Appellant's view that the Council can not demonstrate an adequate and continuing supply of housing land. In this respect, reference was made to the requirement of paragraph 34 of PPG 3 that Local Plans should show sufficient sites to accommodate at least the first 5 years of housing development proposed in the plan and to the Ministerial Statement of 17 July 2003, which seeks to clarify various aspects of PPG 3. Among other matters, it seeks to ensure that the planning system is not a brake on an adequate and continuing supply of sites for housing in sustainable locations. Plans should make provision for at least 10 years' potential supply of housing.
16. I heard at the Inquiry that various changes are proposed in the LPASD, yet to be published. The final outcome of the plan is therefore uncertain at this stage and given the amendments proposed significant objections can be anticipated that are likely to cause delay to the overall plan process. The timescales for adoption suggested by the Council may not therefore be realised, which would in turn delay the anticipated implementation of the proposed allocated sites, in particular WWUV and Northwich Vision sites, the two larger draft allocated sites referred to in the LPAFD. It was accepted that housing would not come forward in accordance with Policy 112a of the LPAFD.
17. I note that, in particular, WWUV and the Northwich Vision sites are key regeneration sites in the Borough, clearly supported by the Council. Regeneration is a key objective of RPG13 which directs new development primarily to Northwich. Nevertheless, I agree with the Appellant that to resist the proposed development on the basis of future housing supply would, pre-empt the development plan process. It would assume that the draft allocated sites will be adopted, before proper consideration of any representations made. In any event, based on the housing figures presented to the Inquiry by Mr Watts, I accept that the draft allocated sites, if included in the adopted version of the Local Plan Alteration, would be unlikely to meet the housing requirements of the Borough during phase 2 (i.e. 2006 - 2011) of the CSPA.
18. For these reasons and notwithstanding the Council's resolution to restrict windfall developments, I consider that while there is an oversupply of housing sites to 2006, there is little certainty that an adequate supply will be maintained in the years following that date, and I am mindful of the Minister's view that an adequate and continuing supply of housing should be made available. The first housing would be unlikely to be available on the appeal site until late 2006. As such, I do not consider that the proposed development would unduly add to an oversupply of housing in the Borough. It would not therefore prejudice the Council's ability to plan, manage and monitor the release of housing land or prejudice the

regeneration objectives of the area, but rather contribute to the housing requirements beyond the plan period.

19. Policies in both the adopted and draft LP include Hartford within the Town Policy Boundary where new housing development will be concentrated. The location of development therefore accords with Policy GEN1 of the CRSP and policies GS2 and H6 of the LPFR. Draft Policy GS2 also seeks to locate new development in or on the edge of Northwich and in Winsford. The reasoned justification for Policy H2 confirms that the edge of Northwich includes Hartford, albeit that it refers to allocations. Furthermore, I note that the Council's Supplementary Planning Guidance 'Northwich Vision' acknowledges that Northwich is surrounded by a number of villages, including Hartford. It states that 'Northwich and these villages function as a single built up area'.
20. Policy HOU2 of the CRSP requires sites for housing development to be located within 1.6 km (one mile) of existing or proposed local shops, community facilities and a primary school and be well related to public transport. Employment opportunities, local shops, some community facilities, Sixth Form College and a primary school are all located within 1.6km of the site. The site is situated within a reasonable walking distance of Hartford railway station and bus stops. Bus services are- regular throughout the day, although I acknowledge that the available bus services would not operate at appropriate times to Northwich or Chester for employment purposes. Nevertheless, having regard to the proximity of Hartford Business Centre and other employment opportunities linked to education, I consider that this alone would not justify planning permission being withheld. I consider that the appeal site is within an area generally accepted as a sustainable location that accords with relevant development plan policies and the criteria set out in PPG3 and the regeneration objectives of RPG13 that seeks to concentrate development in Northwich.
21. I have had regard to other appeal decisions referred to by the main parties. My decision is broadly in line with that of the Inspector determining the Ways Green site (reference APP/L0635/A/03/1135410). Those that have dismissed small scale windfall developments have accepted the Council's position that there is an existing oversupply of housing. In this instance, I have accepted the arguments advanced by the Appellant that beyond the plan period, this may no longer be the case. In determining the WWUV case, the First Secretary of State considered that to allow the mixed use development, including 1200 dwellings would make a major contribution to the total requirement for additional dwellings over the period 2006-2011, and with other commitments would leave little headroom for other developments to come forward for development as part of the local plan review process. In essence it was considered to be premature. Given the size of the site and the number of units likely to result, which is substantially less than that of the WWUV scheme (some 0.7%), I do not consider that the development of this site alone would prejudice the outcome of the Local Plan. I am not aware of the individual details of other potential windfall sites identified in the urban capacity study. I am unable to assess their merits against the current proposal. In my opinion, there is no substantive evidence that a grant of planning permission on the appeal site would necessarily lead to a grant of planning permission in relation to other windfall cases, which must be determined on their own merits. I do not accept therefore that the appeal proposal would cause a significant cumulative effect that would justify planning permission being withheld.

22. To conclude on the main issue, I consider, based on the evidence presented to me, that the development would not result in a harmful oversupply of housing land or prejudice the regeneration objectives of the area. It would not constitute an unsustainable location and would therefore accord with relevant policies in the development plan and draft policy HOU 1 of the emerging Structure Plan.

*Other Matters*

23. I note interested parties have raised concerns about the traffic implications of the proposed development and the potential impact on living conditions. I am mindful that no objections have been raised by the highway authority in relation to highway safety. I am satisfied that the traffic likely to be generated by the development would not unduly prejudice highway safety on the A559 and that satisfactory visibility could be achieved at the site entrance. The detailed layout and appearance of the site could be adequately controlled by the Council at the reserved matters stage to ensure that the proposed development would not unduly prejudice the living conditions of the occupiers of nearby properties by reason of loss of privacy and overlooking, overbearing impact or noise and disturbance.

**Conditions**

24. The unilateral undertaking would ensure the retention of Sandiway Cottage and the retention of the trees located within the area edged green on the accompanying plan. A management company would be responsible for all areas of open space and play area and associated equipment. In addition, the development would incorporate 30% of affordable housing.
25. The Council has suggested a number of conditions concerning levels and landscaping of the site. I agree that these conditions are necessary to ensure the visual amenities of the area are satisfactorily protected. In addition, I agree that details of the children's play area shall be agreed by the local planning authority to ensure it meets the Council's requirements for such facilities. As buildings are to be demolished, I consider a survey for owls and bats would be necessary to ensure any wildlife habitat is adequately taken into account and protected throughout the development. No substantive evidence was produced to the Inquiry to suggest that an archaeological brief would be necessary. I therefore consider such a condition unreasonable in this instance. I heard that there are an abundance of flowers on the site during the spring. However, as the unilateral undertaking will ensure a large proportion of the site remains undeveloped and would be managed accordingly, I do not consider it would be necessary to separately protect this flora and fauna on the site.

**Conclusions**

26. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

**Formal Decision**

27. I allow the appeal, and grant outline planning permission for the principle only of housing development and means of vehicular access with matters relating to siting, design, external appearance and landscaping reserved at Sandiway Cottage, Hartford, Cheshire in accordance with the terms of the application, Ref APP/2003/1643, dated 9 October 2003, and the plans submitted therewith, subject to the following conditions:

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- 1) Approval of the details of the siting (in which connection the development shall have a density of no less than 30 dwellings per hectare), design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained in writing from the local planning authority before any development begins.
- 2) Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected and the landscaping of the site, shall be submitted to and approved in writing by the local planning authority and shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall begin either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 5) Details of the existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted concurrently with an application for the approval of reserved matters as required by this permission.
- 6) This permission is in outline only. No permission is granted or implied for the approval of any matter of detail, other than a matter specifically not reserved for subsequent approval, notwithstanding the inclusion of such details on plans submitted with the application.
- 7) Prior to the commencement of development, detailed landscaping plans and future maintenance scheme for the laying out, planting and management of the proposed landscaping shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall include a timetable for implementation of the proposed landscaping and shall be implemented in full.
- 8) Prior to the commencement of development, a detailed scheme for the design of the children's play area and its siting, its implementation and future maintenance shall be agreed in writing by the local planning authority.
- 9) Prior to the commencement of development and prior to any demolition works taking place, surveys of owls and bats shall be submitted to and approved in writing by the local planning authority, the methodology, results and any identified mitigation measures of which shall be agreed with the local planning authority. Any mitigation measures shall be implemented in full in accordance with a timescale to be agreed in writing by the local planning authority.
- 10) Prior to any development commencing, a method statement detailing the works to all trees and to ground works, including site preparation, changing levels and laying services, and tree protection measures shall be submitted to and agreed in writing by the local planning authority. The method statement shall have regard to BS 5837:1981 'Trees and Construction'. The agreed method statement shall have effect to, and be complied with, in all aspects of the development hereby permitted, including the demolition of any of the buildings within the site.

- 11) No development shall commence on the site until a scheme for the landscaping for the site has been submitted to and approved in writing by the local planning authority; the landscaping scheme shall include the following:
  - Details of hard landscaping and boundary walls and fencing;
  - Planting plans;
  - Written specifications of cultivation, tree, shrub, hedge and grass establishment;
  - Schedules of plants, noting species, plant sizes and proposed numbers / densities; and
  - A programme of implementation;
- 12) The approved landscaping plan shall be completed in accordance with the following:
  - All hard and soft landscaping, walls and fences shall be completed in accordance with the approved scheme, within the first planting season following the completion of the development hereby approved, or in accordance with a programme agreed with the local planning authority;
  - All trees, shrubs and hedge plants supplied shall comply with the standards of British Standard 3936--Specification for nursery stock. All pre-planting site preparation, planting and post-planting maintenance shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of practice for general landscape operations;
  - All new tree plantings shall be positioned in accordance with requirements of Table 2 of British Standard 5837 A guide for trees in relation to Construction;
  - Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, or become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of like size and species to those originally required to be planted.
- 13) Prior to the first occupation, the driveway to each dwelling shall be surfaced in bituminous material, flagstones, pavements or similar materials, which have been approved by the local planning authority. Gravel or loose chippings shall not be used as a surfacing at any point within 5 metres of the back edge of the highway. The maximum gradient of driveway shall not exceed 1 in 10.

C Sherratt  
Inspector