
Appeal Decision

Site visit made on 24 October 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2019

Appeal Ref: APP/N4205/W/19/3235249

Land off Cox Green Road, Egerton, Bolton BL7 9HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Howard Gregory against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 05420/19, dated 29 January 2019, was refused by notice dated 4 July 2019.
 - The development proposed is the erection of up to 5 dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Howard Gregory against the Bolton Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal proposal is for a Permission in Principle. This consent route has two stages, the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is where the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme in terms of location, land use and the amount of development.
4. Despite the reference in the Council's decision notice, siting is not an issue which can be considered as part of a proposal for stage 1 permission in principle. An indicative plan showing a possible siting of the 5 units has been provided, which I have taken as being for illustrative purposes only. Matters of character and appearance, however, form part of an assessment of the appropriateness of a site's location and has formed part of my consideration of this appeal. Although the development could be for a lower number of units, I have assessed the proposal in terms of the potential effect of the full 5 units.

Main Issue

5. The main issue is whether the proposed location and amount of development is appropriate in principle, with specific regard to the effect on the character and appearance of the area.

Reasons

Location

6. The appeal site is located on the edge of Egerton which lies to the north west of Bolton. The site was once used in association with the adjacent quarry, but is now an area of regenerated woodland, scrub and rough grass. The site adjoins a larger area of woodland which is surrounded by residential development on three sides. The north eastern side of the site is bounded by Cox Green Road, which also delineates the edge of the built- up area of Egerton, beyond which is Green Belt.
7. Policy OA5 of the Bolton Core Strategy 2011 applies to North Bolton and is relevant to this proposal. Amongst other considerations this policy seeks to concentrate new housing within the existing urban area and ensure that development respects the large amounts of open space and the open aspects of North Bolton.
8. The appeal site is designated as 'Other Protected Open Land' in the Bolton Allocations Local Plan 2014. Policy CG6AP says that within such areas, residential development will be permitted provided that it meets specific criteria. The site is outside of the urban area and does not fall within any of the categories specified in Policy CG6AP. Consequently, in terms of its location, the proposed development would not comply with policies OA5 and CG6AP and the development plan strategy which seeks to direct new development to the existing urban area and protect the countryside. Harm would be caused as a result.
9. Notwithstanding the above, the Council accepts that they are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 67 of the National Planning Policy Framework (the Framework). The Council has confirmed that they currently have a housing land supply of between 2.99 – 3.36 years, which is a serious and significant shortfall which needs to be addressed. In light of this, and in accordance with paragraph 11 of the Framework, the most important policies for determining the application must be regarded as being out of date.
10. The Council has accepted that Policies CG6AP and OA5 are not up to date. This view is consistent with previous appeal decisions, including a recent decision to allow a single dwelling on a site which corresponded closely to the current appeal site¹. I find no reason to disagree and give these two policies limited weight in this decision.

Character and appearance

11. Core Strategy Policy CS3, which seeks to maintain and respect the landscape character of the surrounding countryside and its distinctiveness, is relevant to the proposal. Policy CS3 reflects the Framework objective of recognising the intrinsic character and beauty of the countryside, and I give it full weight in this decision.
12. The appeal site is close to, but outside of the built-up area of Egerton and appears indistinguishable from the surrounding woodland. Whilst not entirely flat the site occupies something of a ledge between Cox Green Road, which is

¹ Appeal decision reference: APP/4205/W/18/3197086

at a significantly higher level, and the surrounding woodland which slopes down towards the residential streets of Smith Lane, Lowstern Close and Higher Dunscar. The cliff face below Cox Green Road forms a clear boundary to the site along its north eastern side, but there are no clear physical boundaries around the rest of the site, which has, to a large extent, blended into the adjacent woodland.

13. Over time the site has become increasingly naturalised and its character is defined by its trees, shrubs and other vegetation. It forms part of a wider area which connects with the adjacent former quarry beyond, and forms part of the open aspects around North Bolton which Policy OA5 seeks to protect. The site is consistent with the rural character of the wider area, and, as part of the countryside, has its own intrinsic value which the Framework seeks to protect.
14. Planning permission was previously granted on appeal for a single dwelling in the same location, on a slightly larger site than the current proposal. The previous appeal was based on an application for planning permission and as such full details of the scheme were provided. The Inspector noted the impact of the development on the character of the area, but accepted that the single dwelling had been designed to respond to the specific circumstances of the site and respected its orientation, topography and the views in and around the site. Whilst the Inspector concluded that the scheme complied with policies CG3 and OA5, such a conclusion cannot necessarily be inferred for other proposals relating to the site, particularly where the scale of development proposed could be significantly greater.
15. There are a significant number of trees on the site which vary in age and quality. Whilst I acknowledge that a full assessment of the potential impact on trees is not possible at this stage, the development of up to five houses with associated access road would inevitably involve the loss of trees and vegetation to a much more significant extent than the single dwelling previously proposed, causing harm to the woodland character of the site and its contribution to the wider area.
16. As noted by the previous Inspector, direct views into the site from the footpath above are limited, however it can be seen from the public footpath below. Whilst there would be scope to reduce the impact through appropriate landscaping, the development of up to five houses with associated outbuildings and boundary treatments would nonetheless be visible from the footpath.
17. The proposed access into the site would follow the existing access alignment, passing in front of Quarry Lodge and its associated garden areas before entering the site via a relatively long track. The current access is tarmacked in front of Quarry Lodge before becoming little more than a footpath. The existing access would require significant upgrading along its entire length to accommodate five houses.
18. I accept the previous Inspector's findings that the access would not cut through open land, nonetheless the replacement of the current track with a road would require clearance of trees and vegetation. In order to limit the visual effect of the access road, the previous Inspector suggested the use of grasscrete. However, whilst this could be used for a single dwelling it would not be an option for a larger scale development such as that now proposed and the formation of a relatively long tarmac road which would need to be considerably wider than the existing track would cause harm to the character of the site.

19. The previous appeal decision demonstrates that a single dwelling could be accommodated on the site without causing harm to its character. However, even with landscaping and other mitigation, it would not be possible to achieve this with a larger development of the scale proposed. Although the site is close to the edge of the urban area, it feels part of the countryside and the development of five houses would alter its character completely to become a small residential estate.
20. I conclude on the main issue that, the principle of the location and amount of development proposed would not be appropriate and would cause harm to the to the character and appearance of the area. The proposal would not comply with policies CG3 and OA5 of the Bolton Core Strategy which seek to conserve and enhance local distinctiveness and the landscape setting of the area. It would not be possible to mitigate harm arising from the amount of development proposed in this location through a stage 2 permission in principle application.

Conclusion

21. For the reasons given above, the proposal fails to comply with the development plan. However, due to the Council's failure to demonstrate a five year supply of deliverable housing sites, I must consider the proposal against Paragraph 11 (d) of the Framework which directs that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The "tilted balance" applies.
22. The Framework outlines the overarching interdependent objectives for planning to achieve sustainable development: social, economic and environmental.
23. The main social benefit would lie in the provision of up to five additional dwellings in a sustainable location which would make a modest contribution to meeting the Council's current undersupply of housing land. Limited social benefits would also arise from the natural surveillance and the occupation of the land which would address crime and anti-social behaviour issues.
24. There would be a minor economic benefit in respect of the construction of the dwellings and the contribution that new residents would make to local shops and services.
25. Turning to the environmental objective, there may be some moderate benefit in the re-use of the land and the potential to access local services and facilities using a range of transport modes. However, harm would be caused through the failure of the proposal to contribute to and enhance the natural and local environment, and its failure to protect the intrinsic character and beauty of the countryside. This significant harm and the associated conflict with the development plan outweighs the modest social and economic benefits identified above.
26. Highway matters, living conditions of neighbouring residents, flood risk, drainage and biodiversity issues could only be addressed in detail through a full assessment of technical matters. As such, I have afforded these matters neutral weight in the planning balance.

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

R Morgan

INSPECTOR