



Appeal Decision

Site Visit made on 8 March 2021

by Alison Partington BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2021

Appeal Ref: APP/U2370/W/20/3264033

Land Off Old Bridge Lane, Hambleton, FY6 9BT

- 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 Mr & Mrs Collinson against the decision of Wyre Borough Council.
 - The application Ref 20/00413/OUT, dated 19 May 2020, was refused by notice dated 4 September 2020.
 - The development proposed is 3 self and custom build residential plots.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with only access to be determined at this stage. I have determined the appeal on this basis, treating the site layout plan as illustrative other than for the location of the access.

Main Issues

3. The main issues in the appeal are:
 - Whether the site represents a suitable site for housing having regard to its location in the open countryside; and
 - Whether or not the proposal would provide adequate living conditions for future occupiers having particular regard to noise.

Reasons

Whether the site represents a suitable site for housing

4. Policy SP1 of the *Wyre Local Plan (2011 – 2031) (adopted February 2019)* (WLP) sets out the settlement hierarchy for the borough. This indicates that new development should take place within the settlement boundaries, as defined on the Policies Map, with the majority of new development taking place in the settlements higher up the hierarchy. Outside of settlements with defined boundaries new built development is strictly limited, with the forms of development that may be acceptable being set out in Policy SP4 of the WLP.
5. It is not disputed that the site lies outside the settlement limits for Hambleton and so in planning policy terms is in the open countryside. Policy SP4 indicates that the only forms of housing considered acceptable in the open countryside are either affordable housing or that proposed for agricultural or rural workers. It is not part of the appellants argument that the proposal would be for either of these forms of development.

6. However, Policy SP4 says that development that would harm the open and rural character of the countryside may be justified if it is necessary to achieve substantial public benefits that outweigh the harm.
7. The appellants have stated that the proposal would provide three self or custom build plots. They indicate that there are currently 7 people on the Council's Self-Build register and that to date the Council has granted no specific permission to meet this need. As such, it is argued the proposal would make a substantial contribution to meeting this need.
8. The Council in contrast suggest that as the numbers on the register are low this would not represent a substantial public benefit as required by Policy SP4. In any case they consider that this level of demand can be met through current permissions and policy compliant windfall sites. This is disputed by the appellants.
9. Nevertheless, even if I were to agree with the appellant with regard to the need for self-build plots, a mechanism is required to ensure the proposal complies with the provisions of the Self-Build and Custom Housebuilding Act 2015. The appellant has suggested a condition for this purpose. However, in my experience, ensuring a proposal meets the definition of self-build and custom housebuilding, is normally dealt with by way of a Section 106 agreement or a Unilateral Undertaking. A condition would not only have to limit the first occupancy of the dwelling but would have to restrict the act of an individual in the methods used to build the house. I cannot see how such a control would be sufficiently land use based to accord with the Framework's tests for conditions.
10. In the absence of a mechanism to secure the housing was self-build I give this matter little weight and consider that the proposal would not result in substantial public benefits in accordance with Policy SP4.
11. Therefore, I consider that the appeal site would not be a suitable site for new housing having regard to its location in the open countryside and it would conflict with Policy SP1 and SP4 of the WLP outlined above.

Living Conditions

12. To the rear of the site lies the A588 which is a main distributor road that carries significant levels of traffic. In the light of this a noise assessment was submitted with the application. However, this dates from 2014 when a previous application was made for housing on the site. In order to provide adequate living conditions this recommends an acoustic barrier at least 2m high along the rear boundary of the site as well as specific requirements for windows and alternative ventilation systems in the houses.
13. The Council have indicated that around 350 houses have been built in the peninsula corridor to the north of the site. On the basis of evidence to the recent Local Plan examination the Council have estimated this level of development could have potentially resulted in an additional 136 trips/vehicles going past the site now compared to when the noise assessment was carried out in 2014.
14. Nonetheless, the appellant's acoustic consultant indicates that the amount of traffic would have had to double for the measured level to increase by 3dB. This has not been disputed by the Council. The estimated increase in traffic

passing the site is much less than that. Moreover, due to the current situation caused by the pandemic, any acoustic assessment undertaken at the present time is unlikely to be representative of what might be considered to be "normal" traffic flows.

15. In the light of this, whilst I appreciate the Council's concerns with a noise assessment of this age, I agree with the appellants acoustic consultant that this report represents the best evidence regarding noise levels at the site that is possible at the present time. Thus, if the recommendations in the report are followed, I am satisfied that providing adequate living conditions for future occupiers would be possible. To this end I note the proposed site plan indicates a 1.8m high acoustic fence whereas the report recommends an acoustic barrier of at least 2m. However, if I were minded to allow the appeal, this could be dealt with by a condition.
16. Consequently, I consider that the proposal would provide adequate living conditions for future occupiers having particular regard to noise. Therefore, it would not conflict with Policy CDMP1 of the WLP that seeks to ensure that developments would not result in significant adverse effects on health, amenity or safety for existing or future occupants or users.

Other Matters

Housing land supply and whether the tilted balance is engaged

17. The appellant contends that the Council cannot demonstrate a 5 year supply of deliverable housing land with the appropriate buffer and consequently that the 'tilted balance' set out in paragraph 11 d) of the *National Planning Policy Framework* (the Framework) should apply.
18. In October 2020 an Inspector found that the Annual Position Statement submitted by the Council in July 2020 could not be supported. He found a supply of 3,121 homes. In accordance with paragraph 73 b) of the Framework this assessment is undertaken utilising a 10% buffer.
19. The appellant has argued that the delivery at a number of sites in the Council's supply will not be as great as that stated by the Council. However, little evidence has been provided in each case. Nonetheless, the Inspector considering the Annual Position Statement found that all the sites identified by the appellant, bar one, would have a different rate of delivery than that proposed by the Council.
20. The housing requirement using the 'Liverpool' method, (as agreed by the WLP's examining Inspector), and a 5% buffer, as required by paragraph 73 a) of the Framework and the Housing Delivery Test results, is 3013.97. This equates to 602.79 per annum.
21. The appellant argues that adjustment should be made to the housing land supply to take account of the effects of the Covid-19 pandemic. We are still in the throes of the pandemic and the full effects are yet to be seen and there is no support in national policy or guidance to make adjustments to the housing land supply calculations due to the effects of Covid-19.
22. The supply of 3,121 units found by the Inspector considering the Annual Position Statement gives a supply of 5.2 years against the housing requirement when using a 5% buffer.

23. In addition, I consider that Policies SP1, SP4, and CDMP1 of the WLP are the policies most important for determining the application. The WLP was only adopted 2 years ago and I consider these policies are still consistent with the Framework and so are not out of date.

24. Therefore, the tilted balance in paragraph 11 d) of the Framework is not engaged.

Ecology

25. The site lies close to the Wyre Estuary SSSI which is part of the Morecambe Bay Special Area of Conservation, Special Protection Area and Ramsar site. The Council's ecological consultant has undertaken a Screening Opinion and on the basis on information from the appellant and advice from Natural England, concluded that the proposal was unlikely to have a significant effect on any European site and that any further assessment was not necessary. I see no reason to come to a different conclusion in this regard.

26. There are a number of trees located to the north of the site boundary. These would not be affected by the development. The indicative plans show the hedges around the site boundary largely being retained and supplemented. This matter would be dealt with when the landscaping reserved matter was considered.

27. Given the above, and the evidence from the Phase 1 Habitat Survey submitted at application stage, subject to conditions, I am satisfied the proposal would not have an adverse impact on ecology.

Planning benefits

28. The construction of three self-build dwellings would benefit the local economy as would spend by future occupiers. However, given the scale of the proposal, these benefits would be limited. Although there is a restaurant and post box on Old Bridge Lane, the site is some distance from the services and facilities within Hambleton. Nevertheless, the site is conveniently located for bus stops on Shard Road, with a relatively frequent service 7 days a week. As such, future occupiers would not be solely reliant on the private car to meet all their day to day needs.

29. Even though the Council can demonstrate a 5 year housing land supply, the Framework aims to significantly boost the supply of housing. The proposal would provide three residential building plots. Although suggested these would be self or custom build plots, for the reasons outlined above, I give this little weight. Nonetheless, the site would make a small contribution to housing supply in the area.

Planning Balance and Conclusion

30. Having regard to its location in the open countryside I have found that the site would not be a suitable site for housing and the proposal would conflict with WLP Policies SP1 and SP4. Although I have found the proposal would be able to provide adequate living conditions for future occupiers, an absence of harm in this regard is a neutral factor. Consequently, overall the proposal would be contrary to the development plan as a whole.

31. Whilst I have taken account of the benefits, taken together I do not consider these represent a material consideration sufficient to outweigh the conflict with the development plan.
32. For the reasons set out above, I therefore conclude the appeal should be dismissed.

Alison Partington

INSPECTOR