
Appeal Decision

Site Visit made on 16 November 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/A0665/W/21/3274859

Land north of Church Lane, Hargrave, Cheshire CH3 7RN

- 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 Danny and Sarah Lees against the decision of Cheshire West and Chester Council.
 - The application Ref 20/02612/OUT, dated 17 July 2020, was refused by notice dated 13 November 2020.
 - The development proposed is 2 no. serviced self-build plots for C3 residential use and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all other matters reserved except for access and layout. I have considered the appeal as such.

Main Issue

3. The main issue is whether the proposed development would be accord with local and national planning policies in respect of the location of the site, having regard to accessibility and the proposal's effect on the character and appearance of the countryside.

Reasons

4. The appeal site is a parcel of land to the north side of Church Lane. The site contains a small barn, a static home and paddock which is fenced from a wider parcel of pasture to the north, east and north-west. A Public Right of Way runs from Church Lane in a north-easterly direction to the north of the site.
5. Policy STRAT 9 of the Local Plan Part One: Strategic Policies (LP1) and Policy DM19 of the Local Plan (Part Two) Land Allocations and Detailed Policies (LP2) list of the types of development that will be permitted in the countryside. This is so the intrinsic character and beauty of the countryside is protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements.
6. No part of the site constitutes previously developed land in accordance with the LP2 definition and for the purposes of Policy 1a of the Central Gowy (South) Neighbourhood Development Plan (NDP) the site is a 'greenfield site' which is not to be developed except in accordance with Policies STRAT 9 and DM19.
7. The proposal would not accord with the types of development listed in Policies STRAT 9 and DM19. Permanent essential rural worker dwellings will be supported in accordance with LP2 Policy DM25 where a worker is required to

live on site. This would not be the case here as the appellants own and run a public house (Inn at Huxley) and associated Deli Store/Shop in nearby Huxley around 1.5 miles away from the site. The latter benefits from a 12-month temporary planning permission whilst the public house also seems to be being used as a wedding venue to generate extra income.

8. The design and siting of the proposed dwellings could, with a design code, potentially respond to the site's surroundings and the linear pattern of development on either side of Church Lane. The proposal would also not harm the setting, and thus the significance of the Church due to the scale of development and its location next to the paddock. However, the proposal would cause limited harm to the rural character of the site by introducing two dwellings in a stretch that is generally open and not dominated by residential development. While the proposed dwellings would not be isolated¹, they would urbanise the site and alter its rural character and appearance. The use of a condition to restrict permitted development rights would help limit that harm, but it would not overcome it.
9. Transport solutions do vary between urban and rural areas, but future occupants of the dwellings would be heavily car dependent due to the site's location away from services that cater for everyday needs and now that the Chester – Whitchurch bus route has been withdrawn. Journeys to Chester or the local area may be made by bicycle, but only by the fittest, willing or able given local road conditions. Electric vehicle charge points would encourage use of sustainable transport modes, and journeys could be made, and are increasingly likely over the lifetime of the development to be made by such vehicles, but this may not always be the case and there is no certainty that they will be in the immediate future. That said, occupants of the proposed dwellings would provide a modest level of economic and social support to services in the local area.
10. There may be challenges between the location and supply of rural housing and the affordability of it, but the development plan sets out an approach for development, including that within the countryside. The proposal would not accord with this strategy regardless of whether the houses are self-build units, the appellants business is a valuable rural facility providing employment to local people and the site is land that they own. Significant harm would come from departing from the strategy, especially if it were repeated elsewhere.
11. The appellants may work long hours, but it is unrealistic to expect this to continue in perpetuity and it could change at any point. They wish to be near to their place of work in Huxley or Hargrave. This is understandable, but their personal circumstances carry limited weight in this case. There is nothing to suggest that the business would be lost if the appeal was dismissed.
12. The proposed dwellings would be self-build units. There is a shortfall in meeting the demand identified by the Council's register of people who are interested in acquiring a self-build or custom-build plot. Hence, the Council has not granted enough suitable permissions to fulfil the duty placed on it under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act'). The proposal would therefore positively contribute to the overall provision of this type of housing and to the overall supply of housing even though the Council can currently demonstrate the minimum five-year supply.

¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

Tying the occupancy of the units down to persons on the Council's register would ensure that this takes place. There would also be modest economic and social benefits from the construction of the dwellings which could be built out quickly. These would be time limited and there would be modest long term economic and social benefits from future occupiers spending.

13. The evidence points to there being no existing planning permissions in Huxley or Hargrave capable of realising the scale of the development proposed, though there is no substantive evidence to explain whether the sites identified could potentially be brought forward in a manner to deliver two dwellings. It is also unclear whether there are or could be plots slightly further afield or that accords with the Council's housing strategy and is within a reasonable distance of the appellants business. Hence, I am not convinced that the appeal scheme is the only possible solution to deliver this type of housing when it does not accord with the Council's strategy.
14. Various decisions have been referred to by the appellants. However, there are no direct comparisons between them and the proposal as they are either in an accessible location, involve the conversion/replacement of an existing building, a larger quantum of development that leads to a different planning judgement, been found not to cause harm to the character and appearance or have been based on the tilted balance. Therefore, they do not justify the appeal scheme.
15. The proposed development would not accord with local and national planning policies in respect of the location of the site that would cause significant harm, and limited harm would be caused to the character and appearance of the countryside. I conclude therefore that the proposal would conflict with LP1 Policies STRAT 1, STRAT 2, STRAT 8 and STRAT 9, LP2 Policies DM19, DM25, and NDP Policy 1a. Collectively these seek, among other matters, to locate new housing in line with the Council's settlement hierarchy to protect the intrinsic character and beauty of the Cheshire countryside and to locations with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport.

Other Matters

16. Each plot would have provision of car parking, garden, refuse and recycling. Access to the dwellings would also be acceptable whilst planning conditions could ensure suitable drainage measures, hard and soft landscaping, bat and bird boxes. The proposal would not pose flood risk or contamination issues. Council tax contributions are a form of mitigation not a benefit. However, these matters do not alter or outweigh my conclusion on the main issue on this case which I have considered on their own merits. The conditions would not, despite the appellants willingness to accept them, overcome the identified harm.

Conclusion

17. I conclude that the proposed development does not accord with the Development Plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
18. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR