



Appeal Decision

Site visit made on 20 December 2021

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/R0660/W/21/3270883

Land off Hind Heath Road, Wheelock, Sandbach, Cheshire CW11 3LG

- 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 Prosperity Land against the decision of Cheshire East Council.
 - The application Ref 20/2654C, dated 26 June 2020, was refused by notice dated 2 October 2020.
 - The development proposed is described as 'Stage 1 Permission in Principle for the erection of up to 9 no. self and custom-build dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages. The scope of the first stage is limited to location, land use and the amount of development. As such, I have regarded all detailed elements of the submitted drawings as indicative only.
3. The appellant requested that the appeal be dealt with by way of an informal hearing. However, having considered the criteria contained in Annex K of the Procedural Guide to Planning Appeals, I consider that an informal hearing is not necessary in this case and that the written representations procedure is appropriate.
4. On 20 July 2021, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the revised Framework in my decision.
5. The Council's emerging Site Allocations and Development Policies Document has not yet been formally adopted, though I am advised that it has been submitted for independent examination. However, this document is at an early stage of development and in accordance with paragraph 48 of the Framework, I therefore afford its policies limited weight.

Main Issue

6. Whether the site would represent a suitable location for housing, having regard to the housing strategy for the area, and the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is a triangular shaped parcel of grassland, described as a paddock, which forms part of a larger field on the northern side of Hind Heath Road. It is located on the north western edge of the settlement and forms part of a swathe of countryside between the villages of Wheelock and Ettiley Heath. Aside from a small wooden structure located in the southern part of the site close to the road, the site is undeveloped and open.
8. The remainder of the field is located to the north beyond which is the Wheelock Rail Trail, with a small group of properties at Big Hind Heath Farm to the north west. For much of its length, the south western boundary of the site comprises an established hedgerow. The site is undulating and slopes down to a land drain, which forms its northern boundary. Notwithstanding the adjacent properties to the east at Brock Hollow and the relatively recent residential development on the opposite side of Hind Heath Road, the undeveloped and open character of the site means that it reads as part of the countryside, which contributes positively to the rural surroundings of the village.
9. The appeal site is located outside of, but is adjacent to, the settlement boundary of Wheelock and therefore lies within the Open Countryside, as defined in Policy PG6 of the Cheshire East Local Plan Strategy (2017) (CELPS). Policy PG6 seeks to protect open countryside from urbanising development recognising that this area is cherished for its scenic, recreational, aesthetic and productive qualities. Furthermore, it recognises that the retention of gaps between settlements is important. Policy PG6 only permits development in the Open Countryside for certain essential or limited purposes appropriate to the rural area, which includes limited infilling in villages, and the infill of a small gap with one or two dwellings in an otherwise built-up frontage elsewhere.
10. Policy PC3 of the Sandbach Neighbourhood Development Plan (2016) (Neighbourhood Plan) relates to the policy boundary for Sandbach and, like Policy PG6 of the CELPS, only permits certain forms of development within the countryside, including affordable housing.
11. The appeal site also forms part of an Area of Separation (AoS) between the distinct settlements of Wheelock and Ettiley Heath, as defined by Neighbourhood Plan Policy PC1, the purpose of which is to maintain the green spaces and separation between the distinctive village settlements.
12. There is no evidence to suggest that the proposal would deliver affordable housing in line with Policy PG6 of the CELPS or Policy PC3 of the Neighbourhood Plan. Taking into account the substantial size of the gap between the properties at Big Hind Heath Farm and Brock Hollow, and the location of the site at the very edge of the settlement, the proposed development cannot be considered to constitute limited infilling in a village, nor infill of a small gap in an otherwise built-up frontage elsewhere. The proposal does not therefore meet any of the exceptions listed under either Policy PG6 of the CELPS or Policy PC3 of the Neighbourhood Plan.

13. An illustrative layout plan provided with the appeal shows how the site could be developed with nine large self-build/custom-build plots served via a new access road with a turning head. The open nature of the appeal site, and its physical and visual connection to the wider countryside, means there would be an inevitable change to its character as a result of the proposed development. The site has a long frontage onto Hind Heath Road, such that the development of up to nine dwellings would be particularly prominent in views from the road and would represent a significant incursion into the countryside.
14. In addition to the new dwellings, the formation of a new access and provision of hard surfacing for the access road and driveways, gardens, boundary treatments and domestic paraphernalia associated with residential occupation, would have an urbanising effect on the rural landscape at the edge of the settlement. The proposed development would therefore represent an encroachment into the countryside and would be significantly harmful to its character.
15. Whilst there would be encroachment into the AoS, the size of the site relative to the width of the gap as a whole means the proposal would not lead to a coalescence of Wheelock and Ettiley Heath. Nevertheless, the proposal would fail to retain the openness of the land due to the nature of the development proposed, and in this regard would conflict with Policy PC1 of the Neighbourhood Plan.
16. For the reasons given above, having regard to the housing strategy for the area and the effect of the proposal on the character and appearance of the area, I conclude that the appeal site does not represent a suitable location for the development proposed. Therefore, the proposal fails to accord with Policy PG6 of the CELPS, saved Policy PS8 of the Congleton Borough Local Plan 2005 and Policy PC3 of the Neighbourhood Plan, which, amongst other things, seek to preserve the countryside by restricting new development. It would also be contrary to Policy PC1 of the Neighbourhood Plan, as described above, and the Framework, where it seeks to ensure that developments contribute to and enhance the natural and local environment.

Other Matters

17. The appellant claims that Policy SC6 of the CELPS generates conflict with paragraph 65 of the Framework (paragraph 64 of the 2019 iteration), insofar as it focuses on self-build as a means of delivering affordable housing; and that consequently paragraph 11 d) of the Framework is engaged and the proposal should be determined in accordance with the presumption in favour of sustainable development. However, I can see no conflict between encouraging self-build in Policy SC6 of the CELPS and paragraph 65 of the Framework, which relates to major housing development and the requirement to provide at least 10% of the total number of homes for affordable home ownership. Policy SC6 is of limited relevance to the appeal scheme and is not a policy which is 'most important' for determining the appeal in line with paragraph 11 d) of the Framework.
18. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the Act) imposes certain duties on planning authorities, one of which is to keep a register of all individuals and organisations who are interested in acquiring a self-build/custom-build site. The Council is required by the provisions in Section 2A of the Act to give

suitable development permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding which arises in each base period. At the end of each base period, the Council have 3 years in which to give permission to an equivalent number of plots. The Act clarifies that development permission is suitable if it is permission in respect of development that could include self and custom-build housing.

19. The evidence before me indicates that for the relevant base periods the Council has exceeded its targets for granting permissions for self-build plots against the number of individuals on its Part 1 register. The appellant contends that the Council is failing to deliver sufficient self-build permissions, which is reflected by the growing number of entries on the self-build register. However, the evidence indicates that there is not a shortfall in plots for self and custom-build dwellings in the Borough.
20. Whilst the proposal would address a specific need, given that the Council appears to be granting sufficient permissions to meet the demand for self-build houses, this matter attracts limited weight. The appellant states that they have been able to identify only a very limited number of planning consents granted by the Council for genuine self or custom-build housing, either as individual permissions or as part of larger development sites; and further that the Council are unable to confirm whether any of the permissions granted were purchased by or built by persons who were registered on the list.
21. Although there is no concrete information before me in this regard, the Act does not provide for the approval of self-build plots as an exception to the provisions of the development plan or other relevant matters. Given the clear conflict with the development plan, even were the Council unable to demonstrate a deliverable supply of self-built plots to meet demand, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits.
22. The appellant has cited a relevant appeal decision¹ allowing self-build and custom housebuilding development, where weight had been applied in favour of the proposal due to the failure to grant sufficient permissions to meet self and custom-build demands. However, that scheme was substantially larger than the appeal scheme and had been subject to planning obligations limiting the development to self-build housing. It is therefore not comparable to the appeal proposal.
23. Both the appellant and the Council have referred to a number of other appeal decisions, however I do not have the substantive details of these cases before me to enable me to draw any comparisons with the appeal proposal. In the case of the appeal² allowed at land off Audlem Road/Broad Lane, Stapeley, Nantwich, which included the development of up to 189 dwellings, the scale and site context are clearly different to the appeal proposal, and there were a wide range of benefits associated with it that would not apply to the appeal scheme. The other cases referred to are not within the Cheshire East area and each has its own specific context, set of considerations and relevant policy background. Accordingly, I have determined the appeal on its own merits and

¹ APP/G2435/W/18/3214451 - 30 self and custom build residential plots at land off Hepworth Road, Woodville, Swadlincote allowed 25 June 2019.

² Appeal ref. APP/R0660/A/13/2197532

do not find that the presence of these previous approvals requires me to disregard my conclusions.

24. The development would offer potential benefits in terms of boosting the supply of homes, albeit there is no dispute that the Council can demonstrate a five-year supply of deliverable housing land. The proposal would provide up to nine self-build/custom-build dwellings in a Borough where the evidence suggests there is a high demand from individuals seeking to acquire self-build housing sites. It would also have economic benefits through the creation of employment opportunities during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. I have attached some weight to these factors. However, given the relatively modest scale of the proposed development, the weight attributable to these matters is limited and is not sufficient to outweigh the significant harm that I have identified and the conflict with the policies I have referred to.

Conclusion

25. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

M Ollerenshaw

INSPECTOR