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# Appeal Decision

Site visit made on 11 January 2022

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 January 2022**

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**Appeal Ref: APP/U2370/W/21/3279846**

**Land off Old Bridge Lane, Hambleton**

- 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 Council.
  - The application Ref 20/01197/OUT, dated 27 November 2020, was refused by notice dated 28 January 2021.
  - The development proposed is described on the application form as outline application for 3 residential plots with access off Old Bridge Lane.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application was submitted in outline with approval of access sought. Detailed matters relating to layout, appearance, landscaping and scale are reserved for future consideration. I have determined the appeal on this basis, treating supporting plans as illustrative.
3. The address in the banner heading is the one used by the Council on its decision notice. This address is also shown on the appeal form and tallies with the submitted plans. I have proceeded on this basis.
4. The appeal scheme is the resubmission of a proposal previously refused by the Council<sup>1</sup>. The Council has highlighted that the application was refused prior to the issuing of the appeal decision for this previously refused application. The Inspector for this appeal<sup>2</sup> concluded that the effect on the living conditions of future occupiers, with particular regard to noise, would be acceptable. The Council does not therefore seek to defend refusal reason number two on its decision notice. I have determined the appeal scheme accordingly.

## Main Issue

5. The main issue is whether the appeal site would be a suitable location for new housing having regard to the development strategy for the area.

## Reasons

6. The appeal site is an open parcel of land located on the corner of Shard Road (the A588) and Old Bridge Lane. There are a number of residential properties to the south east on the lane, with the Shard Riverside Inn further to the south

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<sup>1</sup> Application ref 20/00413/OUT

<sup>2</sup> Appeal ref APP/U2370/W/20/3264033

east. To the south is the River Wyre. There are agricultural fields to the west and east, and to the north beyond the junction of Shard Road and Old Bridge Lane.

7. The proposed development would comprise three self-build and custom plots, with the indicative layout showing the plots in a broadly linear pattern. Access would be taken from Old Bridge Lane.
8. The site is located outside of the defined limits of any settlement as defined in the Wyre Local Plan (2011 – 2031), adopted 2019 (the Local Plan). It is therefore within a countryside area as defined in the Local Plan. The Local Plan strictly limits new built development outside of settlements with defined boundaries. Part 2 of Policy S4 sets out the forms of development that may be acceptable. The only forms of housing considered acceptable in countryside areas are affordable housing or that proposed for agricultural, forestry or rural workers. No specific policy support is given for self-build or custom build housing in countryside areas, and no evidence has been submitted to demonstrate that the proposed development would fall within the specified categories.
9. Given the proximity of other development to the appeal site, it would not be isolated in the sense referred to in paragraph 80 of the National Planning Policy Framework (the Framework). Nonetheless, whilst the surrounding area is not free from development, the adjacent properties do not form part of a recognised settlement and are surrounded by the open countryside. None of the five listed circumstances in paragraph 80 of the Framework for housing in the open countryside would apply to the proposed development.
10. Although there is some built development in the vicinity of the site, it nevertheless has a distinctly rural character. The surrounding area is essentially an open rural landscape. Scattered groups of farm buildings and residential properties are present within the landscape, many of which are served by relatively narrow hedge lined roads. In its present state the site is consistent with its open rural surroundings. The proposed development would be visible both from nearby and certain more distant vantage points.
11. The proposal would extend built development further into the open countryside. Car parking areas, the presence of cars within the site, the laying out of gardens and boundary enclosures and the general domestic activities associated with a residential use would further exacerbate the urbanising effect when viewed from Old Bridge Lane, Shard Road and the wider area to the north and south. This would be markedly at odds with the open rural character of the site and surrounding area. Although some screening is afforded by the trees to the north and by the boundary hedging, the proposed development would still be visible in views from the surrounding area.
12. The proposed development would result in the encroachment of built development into what is an open area of land beyond the built-up extent of the existing group of properties on Old Bridge Lane and would constitute an erosion of the open, rural landscape of the area. It would therefore have an adverse impact on the open and rural character of the countryside.
13. Part 1 of Policy S4 seeks to protect the open and rural character of the countryside from development that would adversely impact on it unless the

harm is necessary to achieve substantial public benefits that outweigh the harm.

14. The appellants state that the proposal would provide three self-build or custom build plots. A unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 has been submitted in support of the appeal. This was completed following the Council's decision on the application. It requires the development to be undertaken in a manner that accords with the legal definition of self-build and custom housebuilding as defined in the Self-Build and Custom Housebuilding Act 2015 (as amended). The Council has not disputed its content.
15. 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. Paragraph 62 of the Framework states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).
16. There is no requirement within paragraph 62 that there must be a specific policy addressing each of these needs, but it should inform development plan policies. The Council identifies that during the examination of the Local Plan, the Inspector questioned whether consideration had been given to the need for a specific policy relating to self-build development. The response provided by the Council to this question identified that its self-build register did not indicate a need that should be reflected in a policy. The evidence before me therefore demonstrates that the Council took into account the needs of these groups when preparing the Local Plan.
17. Whilst the number of people on the Council's register has risen from two entries at the time of the Local Plan examination to 11 as at December 2021, demand is still low. Self-build and custom build housing would be one of the types of development falling within the remit of the general housing policies of the Local Plan, including Policy HP2. This policy seeks to widen the choice of housing and requires proposals to provide an appropriate mix in terms of size, type and tenure to meet identified housing need and local market demand. Policy HP2 allows for developments that would be suitable for self-build or custom build housing albeit that this is not explicitly stated.
18. As such, I do not agree with the appellants' assertion that a lack of a specific policy on self-build or custom build housing means that the Local Plan is out of date. I note the appeal decision cited by the appellants to support their position<sup>3</sup>. However, I am not aware of the evidence presented in that appeal case, or the local plan evidence base. There is no dispute that the Council can demonstrate a five year supply of deliverable housing land. Therefore, the policies most relevant for determining the application are not out-of-date and as such paragraph 11d) of the Framework is not engaged.

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<sup>3</sup> APP/T2350/W/19/3236414

19. The Council identifies 34 sites totalling 66 plots with extant planning permission (outline or detailed) for new build dwellings considered available for self-build as of 15 December 2021 on sites with a capacity of 6 dwellings or less. The Planning Practice Guidance advises that off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer are not considered to meet the definition of self-build and custom build housing. Therefore, taking account of just those sites with extant outline only planning permission, the figures are 11 sites totalling 22 plots.
20. The appellants and Council clearly have a different view on the requirement of the Act to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding.
21. Based on its figures for extant planning permissions, the Council considers that it has sufficient suitable development permissions in place to meet demand and has cited a number of appeal decisions<sup>4</sup> to support its position. The appellants' view is that these permissions are not restricted to self-build and custom build housing, and so there is an unmet demand. The appellants have also highlighted a number of appeal decisions<sup>5</sup> to support their position. This includes the decision for the previously refused application at the site, where the Inspector stated that a mechanism is required to ensure the proposal complies with the provisions of the Act.
22. Whilst the previous appeal decision for the site is a material consideration given that it was issued relatively recently and related to the same development proposal, I am not aware of the evidence that was presented in that case. Furthermore, I am mindful that the Act clarifies that development permission is "suitable" if it is permission in respect of development that **could** [emphasis added] include self-build and custom build housing. Therefore, whilst some of the permissions identified by the Council may not be specifically restricted to self-build or custom housing, that does not mean that someone on the Council's register could not acquire a plot to construct this type of unit. I therefore find that the Council is meeting the demand for self-build and custom build housing. Consequently, the provision of three self-build and custom plots would not represent a substantial public benefit that outweighs the identified harm to the open and rural character of the countryside.
23. For the reasons given, the appeal site would not be a suitable location as, without sufficiently compelling reason to depart therefrom, it would undermine the Council's development strategy. As such, the proposed development would conflict with Policies SP1 and SP4 of the Local Plan, which have been summarised above. It would also conflict with the Framework as it would not satisfy the exceptional circumstances identified for houses in the countryside.

### Other Matters

24. The site is adjacent to the Morecambe Bay and Duddon Estuary Special Protection Area (SPA), the Morecambe Bay Special Area of Conservation (SAC) protected under the Conservation of Habitats and Species Regulations 2017, and the Morecambe Bay Ramsar site, listed under the Ramsar Convention.

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<sup>4</sup> APP/L3245/W/20/3260681; APP/H1840/W/19/3241879; APP/M2325/W/20/3246446

<sup>5</sup> APP/G2435/W/18/3214451 and APP/G2435/Q/18/3214498; APP/T2350/W/19/3236414; APP/U2370/W/20/3264033

25. The consultation response from Natural England states that there is insufficient information to determine whether the likelihood of significant effects can be ruled out, regarding water quality, functionally linked land and recreational disturbance. The Council considers that the Screening Opinion for the previous proposal<sup>6</sup> remains valid, given that the appeal scheme is a resubmission of that proposal and the short period of time that has elapsed. This Screening Opinion concluded that, based on the available information and advice, the proposal was unlikely to have a significant effect on any European site.
26. However, from the information submitted, I am not able to conclude that the proposed development would not adversely affect the integrity of the SPA, SAC and Ramsar sites. Applying a precautionary principle therefore, the proposed development could result in likely significant effects. In line with paragraph 182 of the Framework, if I were minded to allow this appeal, it would be necessary for me to carry out an Appropriate Assessment to address this matter. However, given my overall findings on this appeal, it is not necessary for me to reach a view on this matter.
27. The site would be reasonably well located in relation to the services and facilities in Hambleton, the bus services on Shard Road and the Shard Riverside Inn. However, I give this matter limited weight as dwellings should be in sustainable locations and provide a genuine choice of transport modes to services and facilities.
28. I note that permission has previously been granted at the site for residential development. However, I do not have the full details of this proposal. Since that decision was made the Council has adopted a new local plan. This represents a material change in circumstances since the previous permission was granted and, consequently, the circumstances are not comparable to those now before me.

## **Conclusion**

29. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*F Wilkinson*

INSPECTOR

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<sup>6</sup> Application ref 20/00413/OUT