



Appeal Decision

Site visit made on 11 January 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2022

Appeal Ref: APP/R0660/W/21/3274013

Land at Newcastle Road, Hough CW2 5JQ

Easting: 370957, Northing: 350889

- 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 20/2781N, dated 26 May 2020, was refused by notice dated 3 November 2020.
 - The development proposed is Stage 1 Permission in Principle for the erection of up to 5 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 2 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.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. Layout drawings have been provided however these are indicative only for the purposes of a permission in principle application. I have therefore approached my determination of the appeal on that basis and used these plans only as an aid for assessing the matters which can be considered at this stage.
5. The emerging Cheshire East Local Plan Site Allocations and Development Plan Policies Document has undergone examination but is not yet adopted. Whilst there is reference to emerging policies in the appeal submissions, these do not materially alter the case of the Council. Similarly, the appellant refers to emerging policies but does not rely on them in support of their own case. Therefore, I have determined the appeal on the basis of the policies which form the current development plan.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

6. The Council has provided a copy of a recent appeal decision² which relates to a refusal of the Council to grant permission in principle for up to 9 self and custom-build dwellings on another site in Cheshire East. The appellant has had the opportunity to comment on this appeal decision, and I have had regard to that decision in my determination of this appeal.

Main Issue

7. The main issue is whether the site is suitable for residential development, having regard to its location and the proposed land use.

Reasons

8. The appeal site is located within the open countryside adjacent to the defined settlement boundary of Hough. It forms an open and undeveloped area of land which represents a clearly defined transition point between the built form of the settlement and the open countryside. In this context, the land contributes positively to the character and appearance of the surrounding area and to the landscape in the immediate locality of the appeal site. The construction of five dwellings would significantly erode this character and appearance and it would undermine the important role that it plays in its edge of settlement location, extending the built form of the settlement and resulting in the loss of an area of open countryside. This would result in significant harm to the character and appearance of the area.
9. Policy PG 6 of the Cheshire East Local Plan Strategy 2017 (CELPS) restricts dwellings in the open countryside but does allow for limited infilling in villages and for the infill of a small gap with one or two dwellings in an otherwise built-up frontage elsewhere. Policy H1 of the Wybunbury Combined Parishes Neighbourhood Plan 2010-2030 (WCPNP) sets out a similar provision for infill development. Although adjacent to the village of Hough, the appeal site is outside of the village both in terms of where the settlement boundary is positioned and on visual assessment, owing to it being an area of open land found beyond the confines of the main built development of the village.
10. Hough Hall is set back substantially from Newcastle Road with an established woodland providing a buffer on its prominent highway frontage. As a result of this, the appeal site does not sit within a built-up frontage. Furthermore, the quantum of proposed development exceeds the two dwellings set out in both of the relevant development plan policies. Accordingly, the proposal would not represent infilling in either of the respects set out in Policy PG 6 of the CELPS, or under Policy H1 of the WCPNP. It would also not fall under any of the other criteria within those policies in which new development would be permissible in the open countryside.
11. Policy GG1 of the WCPNP defines a green gap and sets out a number of criteria in which development will not be permitted. This includes proposals which would result in the degradation or erosion of the physical area of the green gap and which would result in the physical and/or visual coalescence of settlements. By virtue of the fact it would be a new build development of five dwellings on land in the green gap which is not currently built upon, the proposal would notably erode part of the defined gap and undermine the objectives of Policy GG1 where it serves to prevent the degradation or erosion

² APP/R0660/W/21/3270883

of the physical area of the existing green gap. Although it would not result in a physical or visual coalescence of settlements itself, the proposal would nonetheless contribute towards that occurrence, which is one that policy GG1 seeks to prevent.

12. Hough has a very limited offer of services and facilities for day to day living and therefore there would be a reliance by future occupants of the proposed dwellings on obtaining these elsewhere. Shavington is the closest location in which they could be found however to access that settlement on foot would require walking down a narrow footway running along the main Newcastle Road which connects the two settlements. I concur with the findings of the Inspectors in the two previous appeals³ that walking to Shavington would not be an attractive proposition and as a result there would be likely to be a reliance on the use of private motor vehicles by future occupants. Whilst my attention has been drawn to the provision of bus stops in the area, no details of the frequency of such services have been provided and therefore it is not clear to what extent, if any, these could provide a viable alternative to the use of a private motor vehicle.
13. Footpath improvements could potentially be secured as part of the proposed development, but it is unclear from the submissions as to whether this would include an increase in the width of the footpath all the way along Newcastle Road to Shavington. In that respect, whilst there is reference to this in the Statement on Transport and Highway Matters submitted with the appeal, it is not offered up elsewhere in the appellant's appeal submissions, with only reference to a proposal that would improve the footway and crossing provision in the direction of Hough. If it were to be provided this would improve accessibility to Shavington by foot, but the intentions are not certain in this regard and there is no confirmation from the Highway Authority as to whether such works could be undertaken or achieved. In the event that such works were not possible, the pertinent issue that was raised in the previous appeal decisions would remain unresolved.
14. The appellant considers that Policy PG 6 of the CELPS and Policies H1 and GG1 of the WCPNP are now out-of-step with the 2021 iteration of The Framework as they do not allow for a balanced approach to be taken towards forms of development that do not comply with a closed list of exceptions. However, the policies are part of a package of a number of strategic policies in the development plan which set out where new development should be directed to. That the policies are restrictive in what they permit in the open countryside and between settlements is not inconsistent with the overarching aims of The Framework and the policies set out therein. The fact that the appeal site may not fall within a valued landscape as set out in paragraph 174 of The Framework does not mean that there would not be, nor does it overcome, the harm to character and appearance I have identified.
15. In conclusion, for the reasons set out above the proposal would cause significant harm to the character and appearance of the area, would fail to comply with the relevant development plan policies relating to new development in the countryside, would erode the defined green gap between settlements and would, on the basis of the information that is before me, be reliant on the use of private motor vehicles. Consequently, it would fail to

³ APP/R0660/A/13/2206862 & APP/R0660/W/14/3000730

accord with Policies PG 6, SD 1, SD 2 and CO 1 of the CELPS, Policy TRAN.3 of the Crewe and Nantwich Replacement Local Plan 2005 (CNRLP) and Policies H1, E5 and GG1 of the WCPNP, where they refer to protecting character and appearance, to new development in the open countryside and green gaps and to ensuring that new development has access to services and facilities by a range of modes of transport. There would also be a conflict with the aims of the National Planning Policy Framework in the same respects. The proposal would therefore not be suitable with regard to both its location and land use.

Other Matters

16. The Self-Build and Custom Housebuilding Act 2015 (The Act) requires local planning authorities to establish and publicise a local register of custom builders who wish to acquire suitable land to build their own home. The Housing and Planning Act of 2016 added a duty to grant planning permission subject to exemptions at S2A. This provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. Reference has further been made by the appellant to the Prime Minister's Independent Review to Develop a Plan for a Major Scaling-up of Self-Commissioned New Homes August 2021 (IR).
17. The Council's position is that they are meeting their duties in respect of The Act, and that in every base period from 2016 they have permitted more plots than the number of registrations on their local register. They point to the Local Plan Authority Monitoring Report 2019/20 as evidence of this, and it is stated that all permissions referred to therein fall within the 'green' (definitely CSB) category of the Right to Build Task Force guidance PG10 (March 2021). My attention has also been drawn to an August 2021 question raised by the examining Inspector on the emerging local plan, which sets out that there was a current excess in the number of serviced plots permitted over and above the number of self-build and custom build applicants on the register.
18. The appellant takes a different view, making reference to a continuing increase in numbers on the register and that there is uncertainty as to whether or not the development permissions on which the Council relies can be counted towards their supply. Furthermore, they consider that there is no indication as to how the permissions in question have met the needs of those people on the register. An assumption is made that those on the register would prefer a semi-rural location and that the number of people wanting a self-build or custom build plot might be greater than the numbers on the register, but there is nothing to demonstrate that this is the case. Whilst a letter from a local estate agent has been provided, this in itself is not conclusive evidence in support of the appellant's case.
19. Taken collectively, I find the evidence presented by the Council to be compelling and that there is nothing substantive before me to counter this or to bring into question the position that has been set out. Therefore, I conclude on that basis that the Council is meeting its obligations under The Act. In such circumstances, the fact that the proposed development would deliver self-build and custom housing carries only limited weight in its favour, even noting the findings of the IR that have been brought to my attention and the resultant possibility that self and custom build planning policies could change in the future.

20. There is no dispute that the Council can demonstrate a 5 year housing land supply. Nonetheless, it is the Government's objective to significantly boost the supply of homes, including on smaller sites, and the proposal would contribute towards that aim. There would also be some economic and social benefits associated with the provision of new dwellings. However, given the relatively small scale of the proposal and the supply of deliverable sites in the Borough, the provision of the additional housing also attracts limited weight.
21. The appellant considers that the absence of a specific self-build and custom build policy in the development plan does not serve to meet the requirements of (now) paragraph 62 of The Framework. They also consider that Policy SC 6 of the CELPS is inconsistent with (now) paragraph 65 of The Framework. This, they consider, triggers the tilted balance set out in paragraph 11d) of The Framework. However, Policy SC 6 is not one of the most important policies for determining the application, as it relates to proposals for new affordable housing and it only states that such housing might come forward as self or custom build. Furthermore, paragraph 65 of The Framework refers to major developments, which the appeal proposal is not, and to the provision of affordable housing on such.
22. It is also not the case that there are no relevant development plan policies applicable to the appeal proposal, with those which are relevant having been set out earlier in this decision. Whilst there is no development plan policy directly relating to the provision of self-build and custom build housing, I have found that the Council is meeting its obligations and therefore the absence of such a policy does not appear to be impeding the delivery of self-build and custom build housing. In the context of all of these considerations, the criteria under which paragraph 11d) of The Framework would be triggered are not met.
23. I have been referred to a number of other appeal decisions relating to self-build and custom build housing, and more generally to the delivery of new housing, including in green gaps and in countryside locations. These however relate to different proposals on different sites, many of which proposed development on a greater scale than the appeal that is before me and all of which would have required an exercise of planning judgement and weighing of the planning balance. They do not, in any event, alter my own findings on the main issue arising in this case, or on the weight to be given to the matters of the provision of self-build and custom build housing in this specific instance, or to the provision of new housing *per se*.
24. The Council's reasons for refusal refer to the potential loss of trees, including trees protected by a tree preservation order, and to the impact of such an occurrence on the character and appearance of the area. However, whilst I have had regard to the previous appeal decisions and the representations of interested persons on this matter, the evidence before me does not conclusively demonstrate that constructing five dwellings on the appeal site would cause harm to trees. The impact on trees and any conflict with planning policies that may arise in that respect would therefore be a matter for consideration at technical consent stage.
25. The appellant has referred to additional policies in the CELPS and WCPNP that promote the settlement hierarchy and a mix of house types, along with another that allows for affordable housing. However, these policies do not serve to

specifically support the appeal proposal, and they do not overcome the conflict with other policies of the development plan that I have identified.

Planning Balance & Conclusion

26. For the reasons that I have set out above, the proposed development would cause significant harm to the character and appearance of the area and would fail to accord with the policies of the development plan that refer to new development in the open countryside and the green gap. There would also be a conflict with those policies which seek to ensure that new development has good access to services and facilities by different modes of transport. This means that the proposal would fail to accord with the development plan, taken as a whole, and that it would not represent a suitable location or land use.
27. There would be benefits relating to the provision of five new dwellings on the appeal site and due to the fact that these would be brought forward as self-build and custom build housing. However, these considerations collectively and individually carry only limited weight in support of the proposal, and they do not outweigh the harm that I have identified and the resultant conflict with the development plan.
28. In conclusion, the proposal would conflict with the development plan and there are no other considerations, including The Framework, that outweigh this conflict. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR