



Appeal Decision

Hearing held on 4 October 2022

Site visit made on 5 October 2022

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/N4205/W/22/3291526

Land east of the former Hartleys Farm, Wingates Lane, Westhoughton, Bolton BL5 3LP

- 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 Hollins Homes Ltd against the decision of Bolton Council.
 - The application Ref 10575/21, dated 19 February 2021, was refused by notice dated 20 August 2021.
 - The development proposed is erection of up to 30 dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Hollins Homes Ltd against Bolton Council. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

3. The application was submitted in outline with all matters reserved apart from access. Nevertheless, an illustrative layout and boundary elevation were provided as a guide to how the site might be developed. I have had regard to these in reaching my Decision, recognising that there may be other ways to provide the same quantum of development.
4. With my agreement, the Council submitted a separate Landscape Statement after its appeal Statement of Case had been submitted. The appellant and other parties had sufficient opportunity in advance of the Hearing to consider it and I have proceeded on the basis it is evidence before me to consider.
5. With my agreement, a completed Section 106 Agreement to make provision for affordable housing, and financial contributions towards open space and secondary education facilities was submitted after the close of the Hearing by the appellant. These obligations would be necessary to make the development acceptable, complying with the Community Infrastructure Levy Regulations 2010 (as amended). However, as I am dismissing the appeal for other substantive reasons, it has not been necessary to examine the S106 in any further detail.

6. Shortly after the close of the Hearing I was made aware of two jointly considered appeal decisions at Bowlands Hey in Westhoughton¹, dated 10 October 2022. As this evidence was not available prior to the Hearing I invited the main parties to make written submissions on any implications of the decisions and I have taken the comments received into account in reaching my Decision.
7. It is common ground between the main parties that the Council is unable to demonstrate a 5-year housing land supply (5YHLS), although there is some debate as to the precise extent thereof. At the Hearing the Council revised its position down to 3.9 years. The appellant suggests no more than 3.3 years. Either way, there is agreement that the housing land supply shortfall is significant, and that paragraph 11d) of the National Planning Policy Framework (the Framework) is engaged in this case.
8. There is an emerging strategic plan "Places for Everyone" being prepared by the Greater Manchester Combined Authority. The main parties agree that this emerging plan is at an early stage of its preparation and that its policies carry limited weight in this appeal. With little evidence to the contrary I see no reason to disagree. It therefore does not affect my starting position in determining the appeal in accordance with the adopted development plan.

Main Issues

9. The main issues in this appeal are:
 - Whether the appeal site is an appropriate location for the proposal, having regard to the relevant development plan policies;
 - The effect of the proposal on the character and appearance of the area;
 - And, whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.

Reasons

Policy principle of the location

10. There is no dispute that the appeal site lies outside the existing urban area of Westhoughton and within land identified as Other Protected Open Land (OPOL) in the development plan, which comprises the Bolton Core Strategy 2011 (the CS) and Bolton's Allocations Plan 2014 (the AP).
11. OPOL is countryside that is not Green Belt where AP Policy CG6AP states that development will be permitted provided it falls within one or more of its listed categories. The proposal does not fall under any of the listed categories and is therefore contrary to AP Policy CG6AP. On this basis, the proposal is also contrary to CS Policy OA3(3) and OA3(6) which seek, respectively, to concentrate sites for new housing in Westhoughton town centre and on other sites within the existing urban area, and to ensure that [Other] Protected Open Land around Westhoughton remains undeveloped.
12. Therefore, the location of the appeal site is at odds with the development plan strategy for housing as there is conflict with CS Policy OA3 and Policy CG6AP of

¹ APP/N4205/W/22/3296970 & 3297248 for 119 and 183 dwellings

the AP where these are concerned with how housing development is to be managed beyond the existing urban area of Westhoughton and in OPOL.

Character and appearance

13. The appeal site of approximately 1.89 hectares forms part of a wider, roughly rectangular, parcel of undeveloped land between the northern edges of the settlement and the M61 motorway. It is bordered to the west, in part, by the appellant's ongoing Hartley Grange development which was allowed at appeal², with the rest of the western boundary bordering a belt of mature woodland separating this larger part of the site from the other houses on Wingates Lane. The northern boundary is formed by a 'gappy' hedge line along a small watercourse, with a narrow field beyond providing separation to the M61. To the north of the M61 is wider open countryside. The southern boundary is formed by a group of mature trees and other scrub along a fence line, beyond which is rough horse grazing before housing in Vista Close and along Manchester Road. Due to comprising only part of a field, the site currently has no physical eastern boundary, and the gently undulating fields, of which the appeal site is a part, continue east up to the railway line with intermittent hedges between.
14. There are numerous public rights of way in the vicinity. The closest of these is Footpath Bol 361 which runs part way along the western boundary of the site, but terminates before the M61. There are further public footpaths forming part of a circular route to the south, east, and northern perimeter of the land parcel, also passing under the M61 and linking with footpaths to the north.
15. In terms of its landscape character, the appeal site falls within Natural England National Character Area 56: Lancashire Coal Measures (NCA56). In the Landscape Character Appraisal for Bolton 2001 (LCA) it is identified as lying within the Blackrod/Hulton Ridge Landscape Character Area which is part of the Agricultural Coal Measures Landscape Character Type. The LCA describes this as a landscape of variable quality, fragmented by scattered settlements and dissecting transport infrastructure. The gently undulating farmland is predominantly used for grazing and is characterised by relatively small field sizes bordered by relict hedgerows or replacement post and wire fencing, and permeated by a network of footpaths/bridleways. Patches of woodland play a significant part in defining local landscapes. The appeal site and its context described above clearly exhibits a number of these characteristics. The LCA aims for this area include restricting the extension of the urban edge out into the rural fringes, ensuring the clear distinction between the urban fringe and rural areas is maintained and reinforced by natural strong defensible boundaries. These are broadly consistent with Natural England's aims for NCA56.
16. Although not part of a landscape designated within the development plan or elsewhere as being of particular recognised value, the site is open and undeveloped with a pleasant rural character. It contributes positively to what is a prevailing open rural feel to this edge of settlement location, notwithstanding the influence of the M61. These positive qualities can be easily appreciated by users of the surrounding public footpath network, and to a lesser extent when passing along the M61 and by some local residents living around the site.

² APP/N4205/W/18/3193664 for up to 58 dwellings

17. The appellant opines that residential development around the periphery of the land parcel is an integral part of its character and that the settled edge in this location is now Hartley Grange. However, the Hartley Grange development does not extend past the edge of the woodland belt. In fact, it sits recessively behind. Moreover, its interface with the adjacent fields is limited in extent. Effectively, that development has infilled a relatively short gap to the M61 while following the existing 'finger' pattern of development along Wingates Lane. The woodland belt remains a strong natural barrier between the urban edge of Wingates Lane and the open fields to the east. As such, the appeal site has a stronger relationship with the surrounding countryside than it does to the urban fringe.
18. The only other housing development on the perimeter of this wider land parcel are the 4 dwellings at Vista Close further to the south, but the effect is limited by the small scale of that development and the irregular nature of the urban edge at that point. The buildings at Ditchers Farm sit within the land parcel but have an entirely different character and are read as farm complex within a rural setting, not as part of the settlement.
19. The proposed development would have a strongly urbanising effect on the existing open, rural character of the appeal site, changing it from open countryside to a housing estate. Moreover, the eastwards projection of the proposal beyond, and wrapping around, the woodland belt would result in the edge of the settlement appearing to protrude significantly out beyond the more linear extent of the built-up part of the settlement in this part of Westhoughton. It would also lead to a marked increase in the visible extent of the settled edge along Wingates Lane, interrupting views across the fields towards the woodland belt, and causing an overall weakening of the distinction between the urban fringe and rural area. Rather than helping to integrate the development into the landscape, the intervening woodland belt would further emphasise the disconnect between the appeal scheme and existing pattern of development. Consequently, the proposed development would relate poorly to the existing configuration of the settlement and would not appear as a logical continuation of the existing Hartley Grange site or the wider settlement.
20. These negative effects would be particularly evident from the public footpaths to the east and south, which are represented in Viewpoints 6-9 in the appellant's Landscape and Visual Assessment (LVA). Even if these footpaths are only local routes, the main reason for people using these routes is likely to be for recreation and to experience the countryside away from the urban area. As such, their sensitivity to changes appears to have been understated by the appellant. The magnitude of long-term impacts from Viewpoints 6-9 is assessed to be slight or negligible in the LVA, even though it is acknowledged to be adverse and irreversible. The Council's assessment is that the proposed development would have at least a moderate-substantial adverse impact on these sensitive receptor points.
21. Furthermore, much of the reduction in adverse effects predicted in the LVA relies on mitigation through provision of new planting along the northern and eastern boundaries of the site. This would be a contrived solution since the existing field boundary to the north is little more than a thin and 'gappy' hedge, while there is no vegetation at all to the east given there is no field boundary there currently. Any new landscaping here would take many years to establish, and there is little evidence before me which demonstrates that the indicative

landscaped buffer to the north and east of the site could effectively integrate the development into the local landscape and create a robust and defensible settlement edge over time.

22. I am also cognisant of the identified need to protect the future residents from unacceptable noise impact from the M61 through provision of an acoustic barrier of minimum 4.5 metres in height along the northern boundary. At the Hearing the appellant explained that this would most likely be a continuation of the acoustic fence already in situ at the Hartley Grange site, which I was able to see at my site visit. This would be a stark and unduly dominant feature in the more open rural context of this site, and a further barrier to the sensitive integration of the development into its rural surroundings.
23. Overall, the effects on the intrinsic open, rural character and local value of the site's landscape would be harmful and permanent, and, in my judgement, would go appreciably beyond those that could reasonably be expected from any development on a greenfield site.
24. I therefore conclude that the proposal would significantly harm the character and appearance of the area. It would also run contrary to aims to protect the urban fringe in this area. The proposal therefore conflicts with Policy CG3 of the CS, which amongst other things, expects development proposals to conserve and enhance local distinctiveness, respect the landscape character of the surrounding countryside, and has regard to the overall built character and landscape quality of the area. It would also be contrary to paragraph 174 of the Framework, which requires decisions to recognise the intrinsic character and beauty of the countryside.

Benefits of the Scheme

25. The urgent need to address the Council's persistent 5YHLS shortfall has been consistently highlighted in various recent appeals in the area³. As little evidence has been provided by the Council to support a 5YHLS position of 3.9 years, I have taken the appellant's position of 3.3 years. Although modest in this overall shortfall context, the appeal site offers up to 30 dwellings as a future contribution towards the 5YHLS and I have no reason to doubt the site is available and could be delivered within 5 years.
26. In addition, the proposal would provide a policy compliant level of affordable housing (up to 11 dwellings) in a location where there is an acknowledged need for affordable housing provision. Interest has already been expressed from Registered Providers in taking on the affordable units. The provision of both market and affordable housing within a relatively quick timescale is therefore a significant social benefit of the proposal.
27. Other benefits suggested include the jobs and spending that would arise during the development's construction. Its future residents would also contribute to the local economy in the longer term. Commensurate with the scale of the development, I consider these amount to modest benefits.
28. Through the planting of new trees and hedgerows along the site boundary, and other opportunities that could be incorporated within the development, there would be potential for some small biodiversity gains on the site, but

³ APP/N4205/W/22/3296970 & 3297248, APP/N4205/W/20/3247035 Bowlands Hey; APP/N4205/W/20/3262736 Lever Park Avenue; APP/N4205/W/20/3256381 & 3266030 Victoria Road

commensurate with the scale of the development, and owing to the lack of clarity at this stage, I consider that these potential benefits would be limited rather than moderate.

29. The provision of public open space in the development is capable of being considered a benefit where it would be used by the wider public, but due to the lack of clarity on the extent and nature of open space provision at this stage, I consider that any potential benefits in this regard would be very limited rather than moderate.
30. There would be the opportunity for improvements to the condition of Footpath BOL 361, although it was clarified at the Hearing that this would only be in relation to the section within the development site which is very short in length. No new footpath links would be created. As such, I consider the potential benefits in this regard would be very limited rather than moderate.

Other Matters

31. As mentioned above, there have been a number of appeals that have been recently allowed in the area. All of these involved greenfield sites within OPOL and thus were subject to the same policy considerations. I have had regard to these decisions in coming to a view on this appeal scheme, but apart from the Hartley Grange scheme, none of those other schemes are in the immediate vicinity of this appeal site. Furthermore, in all of those cases it was found that the developments were either not harmful in overall character and appearance terms, or that the harm was limited and ultimately outweighed by other factors in the planning balance⁴. That is not the case with this appeal scheme. Consequently, this proposal can be distinguished from those other appeals in the area, and I have reached my own conclusions.
32. The site is suitably located in relation to shops, services and public transport. The Council does not take issue with the proposed access and other highways matters, nor in relation to other planning considerations including drainage, ecology, noise, or ground stability, despite the objections from some local residents in these regards. But all these matters are integral to good planning, necessary to satisfy planning requirements, and therefore neutral in effect.

Planning Balance

33. For the reasons set out above, I have found that the proposal would not be well related to the settlement, run contrary to aims to protect the urban fringe, and overall would cause significant irreversible harm to the character and appearance of the area. Thus, there is conflict with Policy CG3 of the CS, which is relevant to the proposal but not related to the supply of housing. It would also not accord with the Framework's advice to recognise the intrinsic character and beauty of the countryside. This harm weighs very significantly against the proposal.
34. In addition, its location within OPOL is at odds with Policy OA3 of the CS and Policy CG6AP of the AP. In the absence of a 5YHLS these policies for the supply of housing must be considered to be out-of-date and I therefore attach limited weight to this conflict. However, it has been established that housing policies deemed out of date should still be weighed in the planning balance.

⁴ Noting that in the Victoria Road appeal the Inspector found limited landscape harm, but took a worst case scenario in the planning balance

35. Conversely, the proposal would accord with the Government's aim of boosting the supply of housing through the provision of up to 30 new homes, 11 of which would be affordable. The scheme would therefore contribute to meeting local housing need and would do so by being capable of being built-out relatively quickly. In the context of a significant and persistent 5YHLS shortfall, these are factors which weigh significantly in the scheme's favour.
36. I also attach modest weight to associated economic benefits through the construction process and in the longer term from future occupants' spending power in the local economy, as well as limited weight to potential benefits from biodiversity net gain, and very limited weight to potential benefits of open space provision and public footpath improvements within the site.
37. While the proposal appears finely balanced in light of the weight afforded to competing benefits and harms, the balancing of competing interests is not an arithmetical exercise and requires an overall judgement. In this particular case, it is my judgement that the disbenefits are of greater weight, even allowing for reduced weight to the conflict in some of the policy areas as a result of the 5YHLS position.
38. This leads me to conclude that the adverse impacts of the proposal would, in this case, significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. The scheme therefore does not benefit from the presumption in favour of sustainable development.

Conclusion

39. The proposal conflicts with a number of development plan policies and although the Council's 5YHLS position means that some of the policies cited in the refusal are considered to be out of date, the proposal is nevertheless contrary to the development plan taken as a whole. There are no material considerations, including the Framework, that indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

A Caines

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sarah Reid KC
Stephen Harris
Nigel Evers
Christian Orr

Emery Planning
Viridian Landscape Planning
Hollins Strategic Land

FOR THE LOCAL PLANNING AUTHORITY:

Helen Williams
Carl Taylor

Bolton Council
TPM Landscape

INTERESTED PARTIES:

Councillor Andrea Finney

Westhoughton North

DOCUMENTS SUBMITTED AT THE HEARING:

Appellant's written costs application

DOCUMENTS SUBMITTED AFTER THE HEARING:

Signed S106 Agreement, dated 5 October 2022

Council's written costs rebuttal, dated 5 October 2022

Appellant's final written costs comments, dated 6 October 2022

Appeal decisions APP/N4205/W/22/3296970 & 3297248 Land at Bowlands Hey, Westhoughton, dated 10 October 2022

Appellant's comments on Bowlands Hey appeal decisions, dated 17 October 2022