



## Appeal Decision

Site visit made on 14 February 2023

**by Nichola Robinson BA (Hons) MA MRTPI**

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

**Decision date: 18 May 2023**

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### **Appeal Ref: APP/Z2830/W/21/3280200**

#### **Land east of Main Road, Middleton Cheney**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission in principle.
  - The appeal is made by King & Warr against the decision of South Northamptonshire District Council.
  - The application Ref S/2021/0448/PIP, dated 23<sup>rd</sup> February 2021, was refused by notice dated 13 April 2021.
  - The development proposed is permission in principle for development of 4-6 custom/self build dwellings.
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#### **Decision**

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 4 and a maximum of 6 dwellings at Land East of Main Road, Middleton Cheney in accordance with the terms of the application, Ref S/2021/0448/PIP, dated 23<sup>rd</sup> February 2021.

#### **Preliminary Matters**

2. The Planning Practice Guidance (PPG) advises that The Town and Country Planning (Permission in Principle) Order 2017 (as amended) is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle from the technical detail. This consent route has 2 stages: the first 'permission in principle' (PiP) stage establishes whether a site is suitable in principle, and the second 'technical details consent' (TDC) stage, assesses the detailed development proposals. This appeal relates to an application under the first (PiP) stage.
3. An applicant can apply for PiP for residential development by expressing a minimum and maximum number of dwellings. In this case, PiP has been sought for the erection of between 4 and 6 dwellings. The scope of the considerations is limited to location, land use and the amount of development<sup>1</sup>. All other matters are considered as part of a subsequent TDC application if PiP is granted. I have determined the appeal accordingly.
4. The application was supported by a plan showing an indicative site layout. I have treated the plan as being for illustrative purposes only.
5. The Council state that the proposal falls outside the scope of PiP based on the view that it is major development. The Order states that a local planning authority may not grant PiP in relation to major development, which is defined in paragraph 5B (5) of the Order as being the provision of 10 or more dwellings

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<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

or development on a site having an area of 1 hectare or more. The proposal would not exceed these thresholds and is not therefore major development for the purposes of this application. I have considered the proposal on this basis.

### **Main Issue**

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

### **Reasons**

#### *Location*

7. The appeal site comprises the northwest corner of a field which is adjacent to the village confines of Middleton Cheney as defined in the South Northamptonshire Part 2 Local Plan 2011-2029 (2020) (LP). The field is gently sloping, enclosed by mature vegetation and elevated above the adjacent highway. A public right of way (AU34) runs through the site.
8. The site forms part of Special Landscape Area (SLA) 6. SLAs were reviewed in the South Northamptonshire: a review of Special Landscape Areas (2017) (RSLA) and adopted under LP policy NE2 which requires that development outside settlement confines should avoid harmful impacts to the character and appearance of the area and pay particular regards to design, materials, siting of buildings and the use of land.
9. The SLA designation covers an extensive area. The RSLA states that it comprises primarily gently undulating open field layouts lined with established hedgerows and mature trees which contribute to a strong visual, rich and varied landscape character.
10. The site comprises a large field which is located to the westernmost extent of this part of the SLA. Nonetheless, the field appears to be smaller than the open fields which characterise the wider SLA. The site setting is heavily influenced by residential development to the north and west and the highways to the south and west of the site, which limit the site's scenic quality. Consequently, the site makes a neutral contribution to the village in its current form.
11. The proposed dwellings would be clearly visible from the footpath which runs through the site, from which views of the field would perceptibly alter. Nonetheless, once beyond the eastern site boundary views from the footpath would be largely unchanged. Thus, given the limited affected length of the right of way, any proposed variance to the views from it would have minimal impact on users of this right of way.
12. Indicative plans show that the dwellings would extend roughly in line with the eastern edge of the village and would border residential development to the north, and thus would be read as a logical extension to the settlement within the wider landscape. The plans indicate that a scheme for up to 6 dwellings could leave sufficient space for landscaping to soften the boundaries such that the development would not appear incongruous within the site context, subject to appropriate landscaping detail to be considered as part of the TDC application stage. Whilst concerns are expressed that landscaping would take some time to mature, nonetheless this would be a relatively short-term visual impact.

13. In light of the above, the proposal would be well contained within the local landscape and the effect on the site setting and the visual characteristics of the SLA would be limited. Furthermore, I note that policy NE2 does not prohibit development within SLAs, subject to the avoidance of harmful impacts to the character and appearance of the area and careful design.

#### *Land use*

14. The appeal site adjoins the settlement confines of Middleton Cheney and would provide between 4 and 6 self/custom build dwellings. LP Policy LH5 indicates that self/custom build homes may be permissible in such locations. Indeed, the Council accepts that 'the location of the site would be acceptable in principle for self-build in terms of immediately adjoining the settlement confines.
15. LP policy LH8 requires that, in rural areas such as the appeal site, proposals on sites of 0.5ha or more should achieve 50% affordable housing provision, comprising a tenure split of 70% affordable housing for rent and 30% affordable home ownership. The Council state that, in the absence of a legal agreement, they cannot be satisfied that the proposal would secure the delivery of affordable housing, including units for affordable rent, and thus, it is stated, the proposal would conflict with LP Policy LH8.
16. LP policy LH5 isn't explicit about the Council's approach to the delivery of dwellings for affordable rent for self-build developments and LP policy LH8 does not state that proposals for self-build dwellings are exempt from such provision. However, the interplay between LH5 and LH8 is outlined in Part 5 of LP policy LH5, which sets out how proposals for custom and self-build dwellings will be controlled, stating "where plots have been made available and marketed and have not sold the council will consider proposals for the development of housing in accordance with policy LH8 and LH10 where: I. they have been actively marketed for self/custom build a for at least 12 months; and II. prior to the application being made they have been offered to the council, a housing association or the town/parish council for the delivery of affordable housing products."
17. This suggests to me that the disposal and tenure of properties in accordance with LH8 is not a blanket requirement for all housing provided through LH5. This may reflect the position that the provision of custom/self build dwellings is itself a planning aim in both local and national policy. In this instance there is no dispute that the appeal scheme would be meeting a need for such units. Furthermore, the Council accepts that self/custom build can be a route to home ownership that is more affordable. Thus, even without the particular tenure mix set out in Policy LH8, the appeal scheme would help ensure that a specific need identified on local and national policy would be met.
18. Overall, it seems to me that the development proposed here would help deliver an identified need for custom and self build housing in accordance with LH5. Given the wording of LH5, I am not persuaded that there is a separate requirement to apply the tenure mix for affordable housing set out in LH8.
19. Both parties refer to paragraphs 64 and 65 of the Framework, which establish that a requirement for affordable housing for sale does not apply to schemes to be developed by people who wish to build or commission their own homes. However, that is of little relevance to the question raised here, which concerns the provision of affordable housing for rent as described in LH8.

### *Amount*

20. Both parties agree that the amount of dwellings proposed and resultant housing density is acceptable. I see no reason to take a different view.

### *Conclusions on site suitability*

21. For the reasons set out above, including my findings in relation to the approach to the delivery of self-build housing set out in LP policy LH5, I conclude that LP policy LH8 is not applicable in this instance and that the site would be suitable for the residential development proposed having regard to the location, land use and amount. I therefore find that the proposal accords with those aims of LP Policies LH5, NE2 and SS2 and Policy R1 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (2014). Collectively these policies seek to ensure that development avoids harmful impacts to the character and appearance of the area, does not affect open land which is of particular significance to the form and character of the village, uses a design-led approach to demonstrate compatibility and integration with its surroundings and maintains the individual identity of towns and villages.

### **Other Matters**

22. Middleton House, a grade II listed building, is located to the north of the site. I have therefore had regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that, when considering planning proposals, decision makers should have special regard to the desirability of preserving listed buildings or their settings. The Council considered the effect of the proposal on the listed building within its Officer Report, setting out why harm would not arise. I find no reason to take a different view. I find no harm either to the setting of the adjacent Middleton Cheney Lower Conservation Area.
23. The appellant has drawn to my attention several appeal decisions which, it is stated, are similar to the proposal. The Council state that these proposals differ in their site circumstances. Nonetheless, I have found that this proposal accords with relevant local and national planning policy. Thus, I have not made a judgement on whether these decisions are comparable to this proposal.
24. The Council has brought to my attention an appeal decision<sup>2</sup> which covers the same site in which the Inspector concluded that residential development would have a harmful effect on the landscape. Whilst the full details of this proposal are not before me, I note that it was for a larger development and formed part of a larger site. Furthermore, the Inspector found that the proposal would not directly adjoin any other built development. Thus, it would appear to be substantially different to the current appeal proposal.
25. I have given careful consideration to representations made by local residents and third parties including concerns regarding the number of planning applications on the site, the precedent for further development, the capacity of village services to accommodate additional development, the increase in traffic and effect on highway safety, the loss of agricultural land and local demand for self build dwellings. My decision is limited to consideration of land use, amount and location. I have not been presented with any compelling evidence which demonstrates that the proposal would result in harm to the safe operation of

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<sup>2</sup> APP/Z2830/A/12/2176420

the highway network, that there is insufficient demand for self build dwellings or that local services would be unable to accommodate the development. I also note that the agricultural land to be lost would be limited in amount.

26. I am tasked with determining the proposal before me regardless of the number of applications which came before the Council. I have found that the individual characteristics of this site would enable it to be accommodated without harm. However, I see no reason to suppose that my decision in this case would set a precedent. Differing circumstances, and the potential for cumulative harm, would represent matters to be considered were other similar proposals to be advanced in the future.

### **Conclusion**

27. The PPG makes it clear that it is not possible for conditions to be attached to a grant of PiP, whose terms may only include the site location, the type and amount of development.

28. For the reasons given above, I conclude that the appeal should be allowed.

*Nichola Robinson*

INSPECTOR