



## Appeal Decision

Site visit made on 1 August 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

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

**Decision date: 17<sup>th</sup> October 2023**

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**Appeal Ref: APP/R0660/W/22/3312228**

**Field to East of Audlem Road, Audlem 366206, 344399**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Tabley Homes (Audlem) Ltd and Renew Land (Audlem) Ltd against the decision of Cheshire East Council.
  - The application Ref 22/1302N, dated 25 March 2022, was refused by notice dated 31 August 2022.
  - The proposal is for the development of 28 no. residential units, including 9 no. affordable dwellings, with associated infrastructure and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development was changed during the planning application process as a result of the scheme being amended. I have therefore used the amended description in the header above.
3. Following the Council's determination of the planning application the Site Allocations and Development Policies Document (December 2022, the SADPD) was adopted. All parties have had the opportunity to comment on the SADPD and I have been directed to policies the Council consider relevant.
4. During the appeal process the appellant submitted a Biodiversity Impact Assessment by Rachel Hacking Ecology (the BIA), this considers the effect of the proposal on the habitat units at the appeal site. I note the Council have requested that this document is not considered, as appeals are not for evolving a development. However, I find the BIA provides additional information typically expected at appeal stage, rather than an evolution of the scheme. I have therefore been mindful of this assessment in my considerations.

### Main Issues

5. The main issues are:
  - Whether the appeal site is suitable for new housing;
  - The effect of the proposal on the character and appearance of the surrounding area;
  - The effect of the proposal on biodiversity at the site; and,
  - Whether a suitable level of open space would be provided.

## Reasons

### *Whether Suitable for new Housing*

6. Policies SC6 and PG6 of the Local Plan Strategy 2010-2030 (July 2017, the LPS), SADPD Policy PG9, and Policy H1 of the Audlem Neighbourhood Plan 2015-2030 (February 2016, the ANP), set out the Council's spatial strategy with regard to residential development. In particular, with regard to Audlem the Council support new residential development within the settlement boundary but, other than for specific development and other exceptions, resists it outside the boundary.
7. There is no dispute between the parties that the proposal is outside of the settlement boundary for Audlem. I am mindful that what is considered to be within a settlement does not solely rely upon a defined settlement boundary. However, it is clear that the appeal site is a paddock that visually relates to the open countryside, rather than to the settlement. Development is to the south and on the opposite side of the road, creating a clear boundary edge outside of which the appeal site sits. I note the two dwellings to the north of the site, but these appear as an island of development rather than a continuation of the settlement. Nevertheless, even if I were to consider them a continuation, they do not justify including the appeal site within the settlement boundary. Therefore, even when considering the physical and visual relationship of the site to Audlem, the appeal site is outside of the settlement.
8. I recognise that the appeal site had been identified as a potential allocation for residential development during the creation of the SADPD. However, the SADPD was at an early stage and the allocation was ultimately removed during the draft stages prior to adoption. Whilst reasons for this removal have been suggested, I do not have any substantive evidence as to why. Given the above, this previous potential allocation has not been determinative.
9. As the proposal is outside of the settlement boundary for Audlem and would be for 28 market and affordable houses, it would not meet any of requirements or exceptions set out in the policies above. The proposal would therefore be contrary to the spatial strategy of the development plan. In particular, and whilst I am mindful that affordable dwellings are supported by the Council, not all of the proposed dwellings would be affordable and no justification has been provided as to the viability need for market housing.
10. The proposal would adjoin the settlement where I note a number of services and facilities are provided. However, I cannot be certain, from the information before me, that these would meet the typical daily needs of future occupiers. I similarly cannot be certain that the bus routes within the village would be a viable alternative to the use of private motor vehicles.
11. Consequently, in light of the above, the appeal site would not be suitable for new residential development as proposed before me as it would conflict with the plan-led approach to the delivery of housing. This would include conflicting with LPS Policies SC6 and PG6, SADPD Policy PG9 and ANP Policy H1 as set out above. The proposal would also conflict with the National Planning Policy Framework (the Framework) with regard to rural housing, including Paragraph 79 which seeks for planning policies to identify where villages should grow.

### *Character and Appearance*

12. The appeal site is a paddock off Audlem Road which was, at the time of my visit, considerably overgrown, the paddock is bounded by hedgerows and some mature trees. As noted above, the main body of Audlem is on the opposite side of the road and to the south of the appeal site. The surrounding area is otherwise predominantly open countryside with only very sporadic development. The appeal site's nature and location, a paddock at the edge of the settlement, means that it is read as a part of the wider countryside rather than a part of, or gap within, Audlem itself.
13. Audlem Road and, as it becomes, Cheshire Street, are characterised by a variety of spaciouly set dwellings set back from the road. At a number of locations, the road opens up to views of the countryside and other small green spaces. By being open, and allowing views of the countryside, the appeal site contributes towards this spaciousness and the visual connection of Audlem to the wider landscape. The hedgerow along the front further contributes to this and a verdant sense within the street scene.
14. Whilst the development to the west side of Audlem Road has a somewhat suburbanising effect on the area, the edge of the village and the connection to the wider countryside is still maintained, especially as provided by the appeal site. However, the proposal would result in both sides of the road being developed, therefore separating this part of Audlem Road from the countryside. The proposal would also not provide any visual or physical transition between the settlement and rural countryside beyond, and would cumulatively exacerbate the suburban appearance. Overall, this would be detrimental to the verdant, spacious and rural character of particularly this end of Audlem.
15. Harm to the character and appearance of the area further stems from the design of the dwellings themselves. In particular, the rusticated render finish proposed on the ground floor is an alien feature incongruous with the local vernacular and more akin to that typically found on more urban developments. By way of its more urban appearance the proposal would also further contribute to the loss of the rural character important to this part of Audlem.
16. I recognise the Council's concerns as to the pattern and grain of development proposed, and that the proposal would not necessarily reflect that of the surrounding developments and streets. However, from my observations on site it was clear that the village has been developed overtime and with no defining pattern or layout. Therefore, in this regard, the proposal would not be harmful to the character and appearance of the surrounding area.
17. Nevertheless, in light of the above, the proposal would result in harm to the character and appearance of the surrounding area as a result of its siting, appearance and relationship to Audlem and the open countryside. The proposal would therefore conflict with LPS Policies SD1, SD2, SE1 and PG6, SADPD Policy GEN1, and ANP Policy D1. These policies, collectively and amongst other matters, require developments to be of a high quality that pays particular regard to design and landscape character to maintain a strong sense of place that preserves the appearance of the Cheshire East Countryside. They also seek for proposals to avoid generic design solutions and reflect the local character and design. It would also conflict with the design aims of the Framework with particular regard to Chapter 12 and Paragraph 130 which require developments to be sympathetic to the local character, built

environment and landscape setting. I have also been mindful of the Council's SPD<sup>1</sup> and SPD<sup>2</sup> and the proposal would conflict with their overarching aims on design, including regarding rural transitions and materials.

### *Biodiversity*

18. As noted above, at the time of my site visit the appeal sit was an overgrown paddock, mature hedgerow bounded the site with some significant trees. It is agreed between the parties that the appeal site has some biodiversity value and that some of this would be lost as a result of the proposed development. The BIA considers this biodiversity net loss to be 9.86% but continues that a net gain could be achieved either through the creation of an off-site habitat or a commuted sum.
19. The appellant has submitted a planning obligation securing the submission of details for, and the provision of, a Biodiversity Net Gain Mitigation Site (the BNG Site). The obligation requires approval from the Council that the plan and BNG Site would be sufficient to result in a net gain and that if not, additional provision should be made. Further it requires the site to be monitored at regular intervals for 30 years in order to ensure it is still effective and to identify any remedial works required.
20. I therefore find that the proposal would, by way of the planning obligation, be able to at the very least mitigate the biodiversity net loss on-site. Consequently, the planning obligation would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. The proposal would, in this regard, comply with LPS Policy SE3 and SADPD Policies ENV1 and ENV2 which collectively require proposals to conserve or enhance biodiversity, including through off-site habitat creation schemes. The proposal would also comply with the aims of the Framework to conserve and enhance the natural environment as set out under Chapter 15 and, in particular, Paragraph 174(d).

### *Open Space*

21. The proposal would provide only a modest area of open space on site. This would primarily be provided between plot numbers 18 and 19 with a further, smaller, space also provided near the pumping station to the other side of plot 19. With the exception of the grasscrete access road serving the pumping station, these would be left as undeveloped grassed areas.
22. Given the overall small scale of the open space and its narrow nature I find that it would not be of a sufficient to accommodate the needs of future occupiers. I am mindful of the existing open spaces nearby, including at the recent development on the opposite side of Audlem Road. However, lacking substantive evidence to demonstrate that these spaces could accommodate the likely increase in demand for open spaces, I find it would not be appropriate to solely rely upon this existing provision.
23. However, the submitted planning obligation, along with requiring the provision of the open space, sets the ability for the Council to seek commuted sums to account for any deficiency and to support outdoor sports facilities. I find that

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<sup>1</sup> The Cheshire East Borough Design Guide, Volume 1: Setting the Scene of Cheshire East Supplementary Planning Document

<sup>2</sup> The Cheshire East Borough Design Guide, Volume 2: Residential Guidance – Creating Quality Supplementary Planning Document

this would suitably mitigate for the under provision of open space resulting from the proposal. In light of the above, I find that the planning obligation would therefore comply with Regulation 122.

24. The proposal would therefore comply with LPS Policies SD1, SD2, SE1 and SE6, and ANP Policies CI1 which collectively seek proposals to provide a community infrastructure, such as outdoor sports facilities and open or green spaces, that are appropriate to meet the needs of the local community. It would also comply with the aims of the Framework with regard to open spaces, including under Chapter 8 which aims to deliver a network of open spaces for sport, recreation and socialising.

### **Other Matters**

25. The submitted planning obligation includes other elements that are not directly relevant to the main issues upon which this appeal turns. As I am dismissing the appeal and these obligations are not disputed, I find it is not necessary for me to consider them further.

### **Planning Balance and Conclusion**

26. The Government's objective is to significantly boost the supply of housing and the proposal would provide 28 dwellings, 9 of which would be affordable housing. It would also lead to a small and time limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. The proposal also has the potential to result in a very modest biodiversity net gain.
27. From the information before me, it is clear that the Council can demonstrate a strong five-year housing land supply, exceeding their needs for both open market and affordable housing. Therefore, and given the small scale of the proposal, the above matters would at most attract moderate weight.
28. Whilst the proposal may not result in any unacceptable impacts through the provision of open space, a lack of harm is not a benefit in itself. I therefore attach this lack of harm neutral weight in my consideration.
29. Conversely, location of the proposal outside of a settlement would undermine the Council's plan-led approach to the delivery of housing. The proposal would also result in harm to the character and appearance of the surrounding area. These matters attract fairly substantial weight and outweigh the benefits associated with the proposed development.
30. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR