



Appeal Decision

Site visit made on 20 September 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2023

Appeal Ref: APP/W0530/W/23/3320454

Land North of West Croft, Orwell, Cambridgeshire (Easting 535753, Northing 250245).

- 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 Tebbit of K.B. Tebbit Ltd against the decision of South Cambridgeshire District Council.
 - The application Ref 22/04392/OUT, dated 3 October 2022, was refused by notice dated 23 January 2023.
 - The development proposed is outline planning application with all matters reserved (except for access) for 5 self-build/custom build dwellings and garages, as well as public open space, landscaping, and all other associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to outline planning permission with all matters reserved apart from means of access. The illustrative masterplan does not form part of the application proposals and so has not influenced my decision.
3. It is not disputed by the parties that the development is for self-build/custom build dwellings. The appellant has entered into a Unilateral Undertaking, which covenants that the proposed dwellings will be restricted as self-build/custom build houses, as defined in the Self-Build and Custom Housebuilding Act (as amended). The benefit of providing such type of housing is a material planning consideration which I have had regard to in the planning balance.

Main Issues

4. The main issues are:
 - whether the proposed development would be in an appropriate location, having regard to the South Cambridgeshire Local Plan (SCLP);
 - the effect of the proposed development on the character and appearance of the open countryside;
 - the effect of the proposed development on agricultural land; and,
 - the planning balance, including whether permission should be granted having regard to the duty set out in sections 2 and 2A of the Self Build and Custom Housebuilding Act 2015 (as amended) (the Act).

Reasons

Location

5. The appeal site is a parcel of land that lies outside the development framework boundary for the village of Orwell, as defined in the SCLP. The proposed development would therefore be development within the open countryside.
6. Policy S/6 of the SCLP sets the development strategy for the district. It explains that development in the rural area will be limited with allocations for jobs and housing focused on Rural Centres and Minor Rural Centres, and rural settlement policies providing for windfall development for different categories of village consistent with the level of local service provision and quality of public transport access to Cambridge or a market town. As the appeal site is not within such a centre nor category of village, this policy does not provide support for the proposed development. Furthermore, whilst Policy S/10 of the SCLP identifies Orwell as a Group Village, the appeal site is outside its village framework boundary.
7. Policy S/7 of the SCLP sets out that outside development frameworks, development and redevelopment will only be permitted for allocations within Neighbourhood Plans and development for agriculture, horticulture, forestry, outdoor recreation, and other uses that need to be located in the countryside or where supported by other policies in the local plan. The proposal is not allocated in a Neighbourhood Plan and does not fall within an acceptable form of development that needs to be located in the countryside.
8. However, the appellant highlights that in terms of other policies, Policy H/9 of the SCLP supports the proposal, as it would deliver self-build dwellings and there is unmet need in respect of the delivery of self-build dwellings in South Cambridgeshire. Policy H/9 specifically requires sites of 20 or more dwellings to make provision for self and custom builders. Also, the appellant explains that the emerging Greater Cambridge Local Plan draft policy H/CB seeks 5% of developments of 20 units or more to provide custom and/or self-build plots.
9. Policy H/9 refers to the delivery of self and custom build on all sites of 20 or more dwellings, rather than on smaller sites, such as the proposal. Also, Policy H/9 does not set any target figures for the delivery of custom and self-build dwellings within the district. However, due consideration should appropriately be given in the planning balance in respect of the delivery of the demonstrated unmet self-build housing need. I will address this in the planning balance section below.
10. Policy S/12 of the SCLP relates to the phasing, delivery and monitoring of housing and is designed to help rectify shortfalls in housing provision. Whilst the Council has demonstrated it has a 5-year housing land supply, it has acknowledged there is a shortfall in custom and self-build housing in the district. The Council has therefore shown it was aware of its duty to provide self-build housing under section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended). However, neither Policy S/12 nor Policy H/9 set specific targets for the number for custom and self-build housing and accordingly these policies do not provide support for the proposal.
11. Policy S/2 of the SCLP sets the strategic objectives of the local plan, including that development should be in sustainable locations that ensure development

has access to a range of services and facilities. Furthermore, Policy TI/2 of the SCLP requires new development to be located where it would reduce the need to travel, particularly by car, and promote sustainable travel appropriate to the location. The adjacent village of Orwell is served by various facilities including a primary school, village shop, pub, hairdressers, and village hall. There is also a bus service linking the village to Cambridge. However, the appeal site is beyond the edge of the village, and most facilities and services would be a substantial walk away, which would likely result in many journeys to and from the site being by car. Therefore, the site would not be in a wholly sustainable location in compliance with S/2 and Policy TI/2 of the SCLP.

12. Having regard to the above, the proposed development would not be in an appropriate location, in conflict with policies in the development plan that deal with the location of proposed new housing, including Policies S/2, S/6, S/7, S/10, and TI/2 of the SCLP.

Character and appearance

13. The site is relatively flat agricultural land with open boundary treatments, including low post and rail fencing or no boundary treatments to three sides. It is set back from Hurdleditch Road behind another parcel of land that is currently an open field; although indicated to belong to the Parish Council and due to be developed by them for recreation purposes. The field/road boundary along Hurdleditch Road is fairly open with only interspersed trees. Due to these aspects any development on the appeal site would be prominently viewed across adjoining open land from Hurdleditch Road and from footpaths around the adjacent housing development at West Croft.
14. The existing housing development at West Croft, which extends up to the framework boundary adjacent to the appeal site, creates a clear built edge to the framework boundary of Orwell village. By continuing the built form beyond the village framework boundary, this would negatively affect this strong village edge and create visual encroachment into the open countryside. This would be at odds with the prevailing open character of the surrounding area, particularly due to the prominence and open setting of the appeal site.
15. The proposed development would not appear as a logical extension to the adjoining housing development, as the proposed density would be much lower, and so at odds to that of the adjacent residential development.
16. Whilst the appellant seeks to promote a landscape led development, matters related to landscape, siting and scale are reserved for future consideration. The illustrative masterplan does not form part of the proposals and therefore, there would be no assurance that the principles contained therein would come to fruition. Notwithstanding this, the proposed encroachment of built form itself into this prominent piece of open agricultural land would alter the general open character of this part of the countryside. The backdrop of the existing housing development would not significantly diminish the prominence or visibility of the proposed development, due to the location and size of the appeal site and the proposed significant projection beyond the framework boundary.
17. The Landscape and Visual Statement (LVS) refers to the LVIA (Landscape and Visual Impact Assessment) prepared for the adjoining residential development at West Croft. It notes that the landscape value was considered to be of medium to high value, with the appeal site now being of medium landscape

value since the adjoining development was completed. It also notes that the sensitivity of the area (the Lowland Village Farmlands LCT) within the study area is of medium to high sensitivity.

18. The logic of the conclusions in the LVS, that the proposed development would only have a negligible adverse effect on the character of the local landscape based on the above considerations and, that the site is smaller than the adjacent housing development is not clear from the evidence. The appeal site is of a reasonable size when compared to the whole area of land developed for the 49 dwellings and associated open space and landscaping. Therefore, whilst I am mindful of the decision made in respect of the landscape impact of the 49 dwellings, this does not lead me to conclude the impact of the proposed development would be negligibly adverse or have a neutral effect on the character of the surrounding landscape.
19. Landscaping and an off-site 5-metre-wide buffer would not reduce the impact of the proposed development on the character and appearance of the surrounding area. Rather, this would create a sense of enclosure of the appeal site and introduce a more distinctive subdivision within the landscape, at odds with the general open character of the site and surrounding fields.
20. In view of the above, the proposed development would be harmful to the character and appearance of the open countryside, in conflict with Policies HQ/1 and NH/2 of the SCLP, which require development to respect local character and protect local landscape.
21. The Council also referred to Policy S/7 in relation to this issue. However, this policy addresses matters of character and appearance for proposals within development frameworks, and therefore I do not find it to be determinative for this issue.

Agricultural land

22. The appeal site is an arable field classed as agricultural land. It is located between a tree belt and a piece of open land that was gifted to the Parish Council to become recreation land, although it forms part of a continuous wider agricultural field that extends up to Cambridge Road/A603. The appeal site therefore functions as operational agricultural land.
23. Whilst the agricultural grading of the land is not agreed by the parties, Policy NH/3 of the SCLP sets out that planning permission will not be granted for development which would lead to the irreversible loss of Grades 1, 2 or 3a agricultural land, unless the land is allocated for development in the local plan or where sustainability considerations and the need for development are sufficient to override the need to protect the agricultural value of the land. The proposed residential development would involve the irreversible loss of agricultural land and the site is not allocated for development.
24. The Council officer's report sets out that due to the small area of land involved, on balance, the loss of agricultural land is acceptable, although the reason for refusal includes harm due to loss of Grade 2 agricultural land. Policy NH/3 does not, however, include the size of land as a factor to justify the irreversible loss of quality agricultural land. Issues related to the turning of farm vehicles and the headland areas within the appeal site are noted, although the evidence provided does not demonstrate how this would outweigh the policy conflict.

These factors therefore carry limited weight and, on balance, do not outweigh the policy conflict.

25. In view of the above, the proposed development would result in the irreversible loss of agricultural land, in conflict with Policy NH/3 in this regard, as the land is not allocated for development in the local plan where sustainability considerations are sufficient to override the need to protect the agricultural value of the land. The need for the development, however, is considered below.

Planning balance

26. The Council is part of the Greater Cambridge area and jointly, the authorities can demonstrate a 6.5 years' housing land supply for the period 2022-2027. Therefore, the presumption in favour of sustainable development in paragraph 11 (d) of the Framework is not engaged and full weight should be afforded to the development plan policies.
27. There is national planning and political support for self-build and custom housebuilding and the provision of more homes generally. Also, the Council is a Right to Build Vanguard Authority, chosen by central government to help promote self and custom housebuilding. Under section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), the Council has a duty to grant a sufficient number of suitable permissions to meet the demand for self-build and custom housebuilding within their area. The demand is measured by the number of new applicants entered on the local self-build register in each base period and, that number must be matched by new suitable permissions granted within 3 years of the end of each relevant base period.
28. Whilst there is some disparity in the figures provided by the main parties in respect of demand and the number of permissions granted for self-build and custom houses, both parties acknowledge there is a shortage of such provision within the district. The published Council data notes a shortage of 261 plots for the 4-year period since base accounting year to the 30 October 2022. The appellant has provided evidence that there is a shortfall of 393 plots, which should be addressed by 30 October 2023 and 549 plots across the first five base periods. Even if I were to accept the Council's figure, there is still a significant shortfall in the provision of plots.
29. The proposed delivery of 5 self-build/custom houses would contribute towards meeting the significant shortage of this type of housing within the district and therefore is a benefit that weighs in favour of the proposal.
30. As noted above, Policy H/9 of the SCLP includes a requirement that sites of 20 or more dwellings provide an element of self/custom build housing, but I do not have any substantial evidence to show whether or not this would realistically meet the demand identified.
31. It is not clear from the evidence how the appeal decisions provided in respect of development proposals for self/custom build proposals at other locations throughout the country and in South Cambridgeshire are directly comparable to the proposals, in terms of what was proposed, the site context, and relevant development plan policies.
32. Each application is to be considered having regard to its individual merits. Although, I note in relation to the local cases within South Cambridgeshire, in addition to the Inspectors attributing substantial weight to the benefit of

providing self/custom build houses within the district, they also found other contributing factors to allow the appeals. For example, the Inspector allowed the appeal at Gamlingay because it also provided a soft edge to the village and, the appeal at Caxton (for 9 self-build dwellings) was allowed as the Inspector considered, amongst other matters, there would be no significant harm caused to the character and appearance of the countryside. Neither consideration applies in this case.

33. In respect of the recent appeal decision at Kneesworth provided by the appellant, I do not have full details regarding this appeal case. However, whilst the proposal is for a development of self-build dwellings outside a settlement boundary and would include the loss of agricultural land, it is for a different number of dwellings and the site is adjacent to a different village settlement compared to the appeal proposal I am considering. I also note that the Inspector took a different view on the merits of the scheme, including that the site had a contained nature and that its position tight against the settlement, limited the scheme's effect on the character and appearance of the area. Therefore, these decisions only attract limited weight in the overall balance.
34. Other benefits of the proposed development include environmental benefits of biodiversity net gain and landscaping and, economic benefits in regard to local employment during construction; additional residents to support local services and infrastructure, including the local primary school; and increased council tax receipts. I attach some weight to these benefits although, such benefits would normally arise from any new residential development, including development located in an appropriate location. Furthermore, there is no substantial evidence to demonstrate how such benefits would outweigh the harm caused by the development.
35. The proposed scheme would make provision for new public open space; however, no substantial evidence has been provided to show there is a deficit for such in this location. It is also unclear from the evidence how accessible the proposed open space would be, as it appears access would be via the adjacent residential development rather than other public links. As the proposal is in outline with matters related to design and siting reserved for future consideration, I am unable to fully consider whether the development would be of high quality and innovative design. I therefore afford limited weight to these benefits.
36. On balance, I afford the benefit of delivering self/custom build housing and the other associated benefits substantial weight. However, the appeal proposal would cause harm by reason of the inappropriate location of the appeal site, its effect on the character and appearance of the area and by the permanent loss of agricultural land. I attach great weight to the resulting conflict with the development plan policies, and in this case the benefits that would arise from the development would not outweigh the harm.

Other Matters

37. Conditions including restricting one of the plots to single storey and the phasing of the development would not overcome the harm I have identified, in terms of the inappropriate location outside the framework boundary and the effect on openness, for the reasons given above.

38. Consent was granted for the adjacent development of 49 houses at West Croft, outside the village framework boundary primarily because the Council did not have a 5-year housing land supply at such time. Therefore, this is not of direct comparison to the appeal proposal, as a 6.5 years' housing land supply has been demonstrated by the Council.
39. The fact that the proposed development would be acceptable in respect of other technical matters is acknowledged, but the absence of harm is a neutral consideration in the determination of this appeal.

Conclusion

40. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
41. The proposed development would cause significant harm to the character and appearance of the countryside, involve the loss of agricultural land and be in an inappropriate location, in conflict with the development plan. The benefits identified, including the delivery of self/custom build houses to meet unmet demand, do not indicate that a decision should be made other than in accordance with the development plan in this instance. Therefore, for the reasons given above, the appeal is dismissed.

C Billings
INSPECTOR