



Appeal Decision

Site visit made on 28 April 2025

by Mike Worden BA (Hons) DipTP MTRPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2025

Appeal Ref: APP/R0660/W/24/3351564

The Homestead Brereton Heath Lane, Brereton Heath, CONGLETON, CW12 4SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs. R; B. Forsythe against the decision of Cheshire East Council.
 - The application Ref is 24/2239C.
 - The development proposed is Construction of an accessible, low-energy detached dwelling on land to the rear of The Homestead, Brereton Heath Lane, Brereton Heath.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is an appropriate location for the proposed development having regard to relevant local and national planning policies relating to new development in the countryside.
 - Whether the proposal would provide adequate mitigation to protected species.

Reasons

Appropriate Location

3. The appeal site forms part of residential garden of a house, The Homestead, on Brereton Heath Lane. This lane runs westwards from the A54 and consists of mainly detached houses of varying styles sitting either side of it. Most houses are set back from the lane. Small cul de sac developments have taken place off Brereton Heath Lane close to the junction with the A54. Further cul de sac developments have been completed on the A54 on the north side of the junction with Brereton Heath Lane.
4. The appeal site lies on the north side of Brereton Heath Lane around 400m from the junction with the A54. The appeal site lies to the side and to the rear of the Homestead.
5. The proposed development is an accessible, low energy detached dwelling. It would sit to the rear of the Homestead. It would be accessed from Brereton Heath Lane using the existing access to the Homestead and a separate new access to serve the Homestead would be created. That access is not part of the proposal before me.

6. The parties dispute whether or not the appeal site lies within the open countryside. The Brereton Neighbourhood Plan 2010-2030 (the NP) was adopted in 2016. It defines settlement boundaries for both Brereton Heath and Brereton Green. Policy HOU1 of the NP states that housing development may be permitted within the settlement boundaries where it is appropriate to the character of the area and accords with the other policies of the NP and with the Cheshire East Local Plan. Appendix C of the NP shows the settlement boundary of Brereton Heath and the appeal site would lie within it.
7. The Cheshire East Local Plan Strategy (CELPS) was adopted in 2017. Policy PG6 of the CELPS sets out the approach to development within the open countryside. It states that the open countryside is defined as any area outside of a settlement boundary and sets down criteria for development which would be allowed. Importantly Policy PG6 states, by reference to a footnote, that settlement boundaries will be reviewed and defined through the production of the Site Allocations and Development Policies DPD and neighbourhood plans.
8. The Site Allocations and Development Policies Document (the SADPD) was adopted in 2022. Policy PG9 of the SADPD sets out the approach to settlement boundaries. Footnote 2 to the policy states that the settlement boundaries for Brereton Green and Brereton Heath defined in the NP are not brought forward to be covered by Policy PG9 of the SADPD and that both will not have defined settlement boundaries.
9. The SADPD is the more recent document and therefore can be afforded more weight than the NP in this regard. The effect of this is that whilst the NP sets out a settlement boundary for Brereton Heath, the SADPD supersedes that definition. The appellant considers that Brereton Heath Parish Council did not agree to this position during the local plan process. However, it is nonetheless clearly stated in the adopted development plan and it is not for me to consider matters related to the examination of the plan. This means that when having regard to the development plan, the appeal site should be treated as being open countryside.
10. The appellant acknowledges that the appeal site is now deemed to be located within the open countryside by virtue of the adoption of the SADPD although considers it to be within an established built-up area and with no substantive breaks in built form and as such it does not appear as open countryside.
11. PG6 of the CELPS states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or other uses appropriate to a rural area will be permitted. It is not disputed that the proposal does not fall into any of these categories.
12. PG6 list 6 exceptions to this approach. Criteria (ii) to (vi) are not relevant to this proposal. Criterion (i) is in that it relates to limited infilling, the infill of a small gap within one or two dwellings in an otherwise built-up frontage elsewhere, defined affordable housing, or where the dwelling is exceptional in design and sustainable development terms. The proposal is not for an affordable housing unit.
13. The proposed dwelling would sit fully to the rear of the existing house. Whilst the houses on Brereton Heath Lane are not uniform in terms of their building lines, the proposed development would not constitute the infill of a small gap in an otherwise built up frontage. This is common ground between the parties.

14. The proposed dwelling would be a two storey, three bedroomed detached property. It would have a short flat roof, and then a sloping roof section at first floor running its full length. It would be built of Cheshire red brick, with timber panels and grey aluminium trimmings. It would be built to Passivhaus standards and incorporate materials to maximise energy efficiency and include measures such as green roofs, photovoltaic and solar thermal panels, rainwater harvesting systems and mechanical ventilation with heat recovery. It would face northwards with the solar panels located on the roof and southern slope.
15. Policy PG6 does not define exceptional. I consider that the house is of a good bespoke design and incorporates good quality materials and energy efficiency measures. I recognise that it would be one of few Passivhaus schemes in the borough, with currently only one registered.
16. The National Planning Policy Framework (the Framework) refers to exceptional design of houses in the countryside at paragraph 84. There is also reference at paragraph 139 to circumstances where significant weight should be given to outstanding or innovative design. I consider that both paragraphs are relevant to the consideration of this appeal.
17. Paragraph 84e of the Framework relates to isolated homes in the countryside but nonetheless does provide some assistance in terms of what may be considered as exceptional quality. It refers to design of exceptional quality in that it would be truly outstanding, reflecting the highest standards in architecture and would help to raise standards more generally in rural areas, and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. I consider that since this is national policy guidance and relates to planning, more weight can be afforded to it than the appellant's definition of exceptional with reference to the Oxford English Dictionary.
18. The proposal would sit behind the existing house and would promote a development pattern not typical of Brereton Heath Lane away from the junction end where most dwellings front the road and there is very limited backland type development. I have had regard to the position of the dwelling called Manesty, but do not consider that to be typical of the pattern of development on the lane.
19. I consider that the siting of the proposed dwelling behind the Homestead would detract from the overall design value of the proposed scheme, and in this sense I have had regard to paragraph 139b of the Framework which refers to proposals raising the standard of design more generally in an area so long as they fit within the overall form and layout of their surroundings. The proposal before me, does not.
20. Whilst the proposed design would be good and commendable in many respects, I do not consider that it would fall into the category of being truly outstanding nor be reflective of the other references in paragraph 84e of the Framework. It would promote sustainability particularly in terms of energy efficiency and Passivhaus standard but this would in itself not tip the proposal into the exceptional in design requirement to accord with PG6 of the Local Plan.
21. The proposal would also conflict with 1(i) of Policy SE1 of the CELPS which requires design solutions to achieve a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements. Similarly, there would be some conflict with Policy GEN1 of the SADPD which seeks to promote good

design, and this conflict relates principally to criteria 3 which requires development to fit in with the overall form and layout of its surroundings.

22. The proposal would, by definition, be located in open countryside and would not meet some of the requirements of Policy SD1 and Policy SD2 of the CELPS which seek to promote sustainable development. There is a bus service along the main road around 400m away. The Inspector in the Ivanhoe appeal recognised that there would be some alternative to the use of a car albeit that that site was closer to the main road than the current appeal site. The Rose Cottage appeal related to a significantly greater number of dwellings than the current one and was also located on Holmes Chapel Road closer to the bus route. Both appeals predate the adoption of the CELPS. I conclude that there would be some conflict with Policies SD1 and SD2.
23. For these reasons set out above, I do not consider that the proposal would fall into the category of being exceptional in design and sustainable development terms. The proposal would therefore be contrary to Policy PG6 of the Local Plan.

Protected Species

24. The appellant's Great Crested Newt Survey shows that there are Great Crested Newts (GCN) in a pond approximately 50 metres to the north of the site. The survey shows that the appeal site provides terrestrial habitat and that its loss to development will be likely to affect GCN. The route to secure a European Protected Species Licence would require planning permission to be granted prior to its submission and an appropriately worded condition, along the lines of that suggested by the appellant, imposed. The alternative would be a District Licence.
25. There is no evidence before me that suggests that a licence would be unlikely to be granted. However, since I am dismissing the proposal on other grounds, I do not need to consider the GCN matter further.

Other Considerations

26. The appellant states that the Homestead is not suitable to meet the long term needs of the family and that demolishing it and replacing it with a new property on the same site would be energy inefficient. This is more of a personal factor and I give it little weight in my planning balance.
27. I also give little weight to the factor of the reputation of the architectural firm who designed the proposal and I have determined the appeal on the basis of the submitted plans and other evidence before me.

Planning Balance and Conclusion

28. The proposal would constitute a well-designed and energy efficient building. However, it would be located to the rear of the existing property and would therefore be at odds with the general pattern of development on Brereton Heath Lane which is relevant when considering the overall design merits of the scheme in the context of whether it is considered as exceptional.
29. For the reasons set out above, the proposal would not be exceptional in design and sustainable development terms. The site is not an appropriate location for the proposed development having regard to relevant local and national planning policies relating to new development in the countryside. The proposal would be

contrary to Policy PG6 of the CELPS and there would also be some conflict with Policies SD1 and SD2 of the CELPS and Policy GEN1 of the SADPD.

30. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

31. The appeal is dismissed.

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Mike Worden

INSPECTOR