



Appeal Decision

Site visit made on 28 August 2025

by **R Major BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 September 2025

Appeal Ref: APP/R0660/W/25/3365540

Land at Moss Wood, Moss Lane, Brereton, Cheshire CW12 4SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mrs Beevley Moss of Hourigan Planning against the decision of Cheshire East Council.
 - The application Ref is 24/5133/PIP.
 - The development proposed is permission in principle for the construction of 1 no. self-build dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. As part of their appeal submission the Council has amended its reason for refusal by removing, in their words, "...a *generic summary of what the policies seek to achieve*". The Council has confirmed that the amendment to the reason for refusal makes no difference to their case. The appellant had an opportunity to comment on this amended reason for refusal within their final comments.

Main Issue

5. The main issue is whether the location, the proposed land use and the amount of development is suitable for residential development, having particular regard to:
 - the Council's spatial strategy and the relevant development plan policies;
 - accessibility of local services, facilities and sustainable modes of transport; and
 - the effect on the character and appearance of the area.

Reasons

Spatial strategy

6. The appeal relates to a parcel of land located to the south of the residential dwelling known as Moss Wood on Moss Lane, Brereton Heath. I observed that the appeal site comprises lawned grass with a small number of trees and is predominantly screened from Moss Lane by a mature hedgerow.
7. Reference is made to an approved certificate of existing lawful use¹ which, according to the submitted information, establishes that the appeal site comprises garden land within the curtilage of the dwellinghouse at Moss Wood. Whilst I have not been provided with all the details of this certificate of existing lawful use, it is referred to within the Council's Officer Report. As such, I have no reason to doubt the existence of this certificate of existing lawful use and it is a material consideration in the determination of this appeal.
8. It is common ground between the parties that the appeal site is located within the open countryside. Policy PG 6 of the Cheshire East Local Plan Strategy 2010 – 2030 (2017) (CELPS) states that within the open countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. This policy then provides a list where exceptions may be made, including development such as limited infill; re-use of existing rural buildings; extensions to dwellings; and replacement buildings.
9. The appellant has not put forward a case that the appeal proposal, for the construction of a self-build dwelling, meets any of the permitted development types, or the additional list of exceptions, within Policy PG 6. As such, the appeal proposal is contrary to CELPS Policy PG 6.
10. In respect of the Brereton Neighbourhood Plan 2010 to 2030 (2016) (BNP), Policy HOU01 identifies a settlement boundary for Brereton Heath, which is detailed at Appendix C of the BNP.
11. My attention has been drawn to footnote 2 in Policy PG 9 of the Cheshire East Local Plan Site Allocations and Development Policies Document (2022) (SADPD). This footnote explains that the settlement boundaries for Brereton Green and Brereton Heath defined in the BNP are not brought forward to be covered by Policy PG 9. It goes on to state that under the SADPD, Brereton Green and Brereton Heath do not have defined settlement boundaries.
12. Nevertheless, whilst the settlement boundary for Brereton Heath is not applicable for Policy PG 9 and the SADPD, this does however not mean that the settlement boundary is not applicable to the relevant policies within the BNP.
13. As such, the appeal site, as defined by the site edged red, is close to, but outside the settlement boundary of Brereton Heath defined within the BNP. Policy HOU1 states that outside the settlement boundaries no development will be permitted other than in accordance with the other policies of the BNP and the Cheshire East Local Plan.
14. To that end, criterion 1 of BNP Policy HOU02 states that beyond the settlement boundaries identified in the BNP, certain types of housing development may be

¹ Council Ref: 24/3363C

considered acceptable as exceptions to BNP Policy HOU01. Two such exceptions include (a) the redevelopment of previously developed land and (d) Self-Build Schemes according to Policy HOU04.

15. As detailed above, on the evidence before me the appeal site benefits from an approved certificate of existing lawful use which established that the appeal site comprises garden land within the curtilage of the main dwellinghouse at Moss Wood. As such, and having regard to relevant caselaw², the appeal site represents previously developed land and would therefore satisfy criterion 1.a) of BNP Policy HOU02.
16. Nevertheless, criterion 2 of BNP Policy HOU2 also requires the development of sites beyond the settlement boundary to comprise of a small scheme, which must be appropriate in scale, design and character to the locality. In this regard I find the development for one dwelling comprises a small scheme, however for the reasons detailed later in this decision letter I have found that the appeal proposal would cause harm, albeit limited, to the character of the area. As such the proposal would conflict with criterion 2 of BNP Policy HOU2.
17. Turning to self-build and Policy HOU04, criterion 1.a) of this policy states that self-build or custom build housing will be supported where the location and proposed nature of the scheme are both sympathetic to the character of the open countryside and would have minimal visual and environmental impact. As mentioned, for reasons detailed later in this decision letter I have found that the appeal proposal would cause some limited harm to the character of the open countryside and I therefore find conflict with criterion 1.a) of Policy HOU04.
18. Criterion 1.b) of Policy HOU04 also requires that the site immediately adjoins a settlement boundary or represent infill development. The appellant has not put forward an argument that the appeal site represents infill development.
19. Additionally, from the information before me the settlement boundary, as identified within the BNP, is situated to the north of the existing dwelling at Moss Wood. The appeal site, as defined by the site edged red on the submitted drawing, is located to the south of this dwelling. As such the existing dwelling at Moss Wood provides a buffer between the settlement boundary of Brereton Heath and the appeal site. Consequently, the appeal site would not “*immediately adjoin*” the settlement boundary defined within the BNP.
20. I therefore find that the appeal proposal would conflict with both criteria 1.a) and 1.b) of BNP Policy HOU04.
21. In view of all the above, when having regard to the relevant development plan policies and its spatial strategy, the appeal proposal would not represent a suitable location for housing as it would conflict with the principal relevant provisions, which I have set out above, of CELPS Policy PG 6, and BNP Policies HOU01, HOU02 and HOU04.

Accessibility of services and facilities

22. The appeal site is located within the open countryside and I acknowledge that the Framework identifies that sustainable transport solutions vary between urban and

² Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141 (14 March 2017).

rural areas. Nevertheless, I observed very limited services and facilities in the village of Brereton Heath. As such, future occupiers of the proposed dwelling would need to travel to other settlements to access day-to-day services and facilities.

23. I have been made aware of a bus service running in both directions along the A54 which provides access to the larger settlements of Holmes Chapel and Congleton, which both have a range of services and facilities.
24. The information before me details that the bus stop is approximately 540m from the appeal site. This exceeds the recommended distance of 500m set out in table 9.1 of CELPS Policy SD 2. However, I do not consider that the extra 40m walk beyond this recommended distance would, in itself, necessarily deter future residents from using the bus.
25. Nonetheless, I observed that there is no continuous footway or pavement from the appeal site to this bus stop. Therefore, to access this bus stop future occupiers would need to walk within the highway of Moss Lane, which does not benefit from street lighting. This would be particularly difficult and hazardous in darker conditions, and for pedestrians with buggies and/or a disability.
26. In coming to this view, I acknowledge that there are grass verges along Moss Lane, however these are narrow in places and would not be an attractive option for use all year round and in dark or adverse weather conditions. Additionally, these verges would again not be suitable for pedestrians with buggies and/or a disability. I therefore find that the appeal site is not well connected to this bus stop by foot and this might deter future occupants from using the bus to access services and facilities in other settlements.
27. In terms of cycling, limited information has been provided in respect of the locations of any designated cycle lanes to the nearest settlements and given the volume and speed of traffic I observed on the A54, I do not consider cycling to be a realistic alternative to the car for regular journeys to other settlements.
28. As such, on the evidence before me and my own observations on site, the appeal site would not represent a sustainable location for residential development in respect of access to everyday services and facilities. Future residents would therefore be heavily reliant upon the use of the private car.
29. Both parties have drawn my attention to appeal decisions for residential development where the sustainability of Brereton Heath has been considered. Whilst these appeal decisions are material considerations, I have not been provided with all the details and in any case each proposal must be judged on its own merits.
30. Nevertheless, in respect of the appeal at Brereton Hall Lane³, I note the inspector states that given the open countryside location of the proposed development there would be some conflict with CELPS Policies SD 1 and SD 2, which seek to promote sustainable development.
31. The appellant acknowledges there are some similarities between that appeal and the appeal case before me. However, it is also noted that there are some differences, including that development being considered under paragraph 84 e) of the Framework, and that paragraph 11(d) of the Framework did not appear to be engaged.

³ APP/R)660/W/24/3351564

32. With regard to the appeal at Moss Lane⁴, that appeal was determined prior to the adoption of the BNP, CELPS and SADPD and therefore under a different development plan. It also relates to a development for 6no. dwellings. That appeal is therefore not comparable to the appeal scheme before me for one dwelling, which must be assessed against the current development plan.
33. Furthermore, having reviewed that decision letter I note the inspector also found there were very few facilities in Brereton Health and that for most occupiers the convenience of the private car is likely to be the preferred option. Whilst I acknowledge that when engaging the planning balance⁵ the inspector concluded that the harms would not significantly and demonstrably outweigh the identified benefits, undertaking such an assessment of the harms and benefits is very much case specific, dependant on the merits of the case and the evidence submitted.
34. The above matters and differences, as well as the lack of detailed information as to what evidence was before the respective inspectors, limits the weight I can attribute those appeal decisions in my determination of this appeal scheme.
35. The appellant has also stated that the proposed dwelling would be required to provide electric vehicle charging points under Building Regulations, and this would promote the use of low and no emission vehicles. Be that as it may, there is no mechanism before me to secure that all vehicle movements associated with the proposed dwelling would be undertaken by electric vehicles and I am not convinced that any such restriction would be either enforceable or reasonable were it to be imposed at Technical Details stage. This therefore limits the weight I attribute to this matter in favour of the appeal proposal.
36. In view of all the above, I find that future occupiers of the proposed development would be heavily reliant upon the use of the private car and the appeal site would not therefore represent a sustainable location for residential development with respect to the accessibility of local services, facilities and sustainable modes of transport. The proposal therefore conflicts with CELPS Policies SD 1 and SD 2, where they together seek to ensure that development minimises trip generation and is accessible by public transport, walking and cycling. The proposal would also be contrary to the provisions of the Framework where it seeks to ensure that sustainable transport modes are prioritised.

Character and appearance

37. The appeal relates to a lawned garden area located to the south of the residential dwelling at Moss Wood, with this property being the most southern dwelling in the ribbon development along Moss Lane when travelling out of the village in this direction.
38. The front boundary of the appeal site, fronting onto Moss Lane, is defined by a mature hedgerow which is separated from the road by a grassed verge. To the south of the appeal site, and on the direct opposite side of Moss Lane, are open fields. These features provide the appeal site, and this section of Moss Lane, with an attractive green and rural character, in keeping with its countryside designation.
39. Whilst acknowledging that the appeal site has been established as garden land within the residential curtilage of the dwelling at Moss Wood, its current green and

⁴ APP/R0660/A/14/2226315

⁵ Under paragraph 14 of the relevant version of the Framework at that time

vacant appearance forms an important part of the transition from the neighbouring built development to the north into the wider countryside to the south. It makes a positive contribution to the intrinsic verdant and rural character of the area.

40. The appeal proposal seeks to erect a self-build dwelling on this site, utilising the existing access from Moss Lane. The residential development of the appeal site would however extend the existing ribbon development on Moss Lane further south into the countryside and result in built development on a site that currently does not contain any buildings. The erection of a dwelling on this site would therefore have a harmful visual effect upon the appeal site's open character, to the detriment of the visual qualities of the wider countryside landscape.
41. I acknowledge that this is a permission in principle application and various matters including the layout, scale, design and appearance of the dwelling, as well as a landscaping scheme, can be agreed at Technical Details stage. I also note that the retention of the existing vegetation along the front boundary of the site would also provide some visual screening. These factors therefore temper the visual harm arising from the appeal proposal on the character and appearance of the area.
42. Nevertheless, the erection of a dwelling would introduce built development and domestic paraphernalia on this site which would be visually more prominent and harmful to the intrinsic rural character of the area and landscape in comparison to the positive contribution the existing vacant site currently provides.
43. In coming to this view, I note the appellant's comment that as the appeal site comprises garden land within the curtilage of a dwellinghouse an outbuilding could be constructed under permitted development rights. Furthermore, I am aware that domestic paraphernalia associated with the existing dwelling at Moss Wood could also be placed in this area given its established use.
44. Nonetheless, I have limited information before me that the extent and visual impact of an outbuilding constructed under permitted development rights would be comparable to that of the construction of a new dwelling. Furthermore, it is reasonable to conclude that domestic paraphernalia associated with an additional dwelling on this site, in combination with the existing dwelling at Moss Wood, would likely have a greater visual impact than domestic paraphernalia associated with the existing dwelling of Moss Wood on its own.
45. Reference has also been made to the existence of a former tennis court on the appeal site. I have limited information before me in respect of this tennis court and in any case, I do not consider the visual impact of a tennis court to be comparable to that of a dwelling.
46. In view of all the above, I conclude that the appeal proposal would result in a limited degree of harm to the character and appearance of this verdant, rural area. The proposal would therefore not accord with CELPS Policy SE 1, and BNP Policies HOU02 and HOU04, where they together seek to ensure, amongst other things, that development proposals make a positive contribution to their surroundings; are appropriate in character to the locality; and are sympathetic to the character of the open countryside and have minimal visual impact. The proposal would also be contrary to the provisions of the National Planning Policy Framework (the Framework) which seeks to ensure that development adds to the overall quality of the area and that proposals should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

47. The appellant has drawn my attention to two previous planning decisions of the Council for residential development within the open countryside. I am however not bound by previous decisions of the Council. Nonetheless, I have been provided with very limited information in respect of the referenced decision at Lyndale⁶ to enable me to draw any comparisons with the appeal scheme.
48. With regard to the decision at Land off Mill Lane⁷, this relates to a development for up to 8 no. dwellings and therefore the quantum of development is not comparable with the appeal proposal. Furthermore, this decision relates to development outside the settlement of Wheelock. I have limited information to demonstrate that the sustainability of that site, or the settlement of Wheelock, is directly comparable to the sustainability of the appeal scheme before me.
49. As such, these previous decisions from the Council carry very limited weight in my determination of this appeal scheme.

Self-build

50. The appeal proposal has been submitted as a self-build dwelling and the Self-build and Custom Housebuilding Act (2015) (as amended) places a statutory duty on Council's to keep a register of the persons who are interested in acquiring a self-build or custom-build plot, and to grant enough suitable development permissions for serviced plots to meet the demand. The appellant has confirmed that they are on the self-build register.
51. The Council has however confirmed that the number of permissions granted for self- and custom-building housing over the last rolling three-year period has exceeded the number of registrations. This has not been contested by the appellant.
52. Both parties have also drawn my attention to Policy HOU 3 of the SADPD which supports proposals for self-build and custom housing in suitable locations. However, for the reasons given earlier, as I find that future occupiers would be heavily reliant upon the use of the private car, the appeal site would not represent a suitable location for residential development with respect to the accessibility of local facilities and sustainable modes of transport.
53. Nevertheless, I acknowledge paragraph 73 (b) of the Framework supports small sites to come forward for self-build and custom-build housing and therefore the provision of a self-build dwelling is a benefit of the appeal scheme. However, on the evidence before me the Council has permitted sufficient self-build developments to meet its statutory duty. Consequently, the provision of one additional self-build dwelling is a benefit that carries limited weight in favour of this appeal proposal.

Designated sites

54. The appeal site is located within 1km of Bagmere which forms part of the Midland Meres and Mosses Phase 1 Ramsar. Had I been minded to allow the appeal I would have carried out an appropriate assessment (AA) of the effect of the proposal on the integrity of this European designated site. However, as the proposed development is

⁶ Council Ref: 13/2199C

⁷ Council Ref: 25/0456/PIP

unacceptable for other reasons, an AA is unnecessary as doing so would not change the outcome of the appeal.

Planning Balance

55. The proposal does not represent a suitable location for housing when having regard to the relevant development plan policies and its spatial strategy. Future occupiers would also be reliant upon the use of the private car and the appeal site would not therefore represent a sustainable location for residential development with respect to accessibility of local facilities and sustainable modes of transport. The proposal would therefore conflict with CELPS Policies PG 6, SD 1 and SD 2, and BNP Policies HOU01, HOU02 and HOU04. I find the harm arising from this conflict to be significant. The proposal would also result in limited harm to the character and appearance of the area, contrary to CELPS Policy SE 1 and BNP Policies HOU02 and HOU04.
56. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this respect the Framework seeks to direct new housing to suitable locations, to actively manage patterns of growth and to protect the intrinsic character and beauty of the countryside. The Framework also expects development to promote sustainable travel modes, such as walking and cycling, that limit future car use. I therefore give significant weight to the conflict between the proposal and CELPS Policies PG 6, SE 1, SD 1 and SD 2, and BNP Policies HOU01, HOU02 and HOU04. As the proposal would be contrary to these policies there would be conflict with the development plan as a whole.
57. The Council has confirmed that it cannot demonstrate a five-year supply of deliverable housing sites. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the appeal are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
58. Footnote 9 explains the policies referred to are those in paragraphs 66; 84; 91; 110; 115; 129, 135 and 139 of the Framework (as the appeal proposal is not for a major housing development, and does not propose a main town centre use, paragraphs 66 and 91 are not relevant to this appeal).
59. In respect of paragraph 84, the appeal site is located in proximity to the existing built development within Brereton Heath and it does not therefore represent an isolated home in the countryside. I find paragraph 84 is therefore not applicable. Nevertheless, even if applicable, the proposal would not adhere to any of the five criteria within paragraph 84 which permits isolated homes in the countryside.
60. I acknowledge that this is a permission in principle application with various matters to be considered at Technical Details stage. Nevertheless, as I have found that harm, albeit limited, would be caused to the rural character and appearance of the area from the introduction of built development onto this site, I find the proposal would conflict with paragraphs 129 (e), 135 and 139 of the Framework.
61. Furthermore, I have found that the appeal site is not located within a sustainable location and would not limit future car use as the site does not have good access to

facilities, services and public transport connections. The proposal would not therefore accord with paragraphs 110, 115 (a) and 129 (c) of the Framework.

62. In addition, the Framework seeks to significantly boost the supply of homes and make efficient use of land. The Council has confirmed that it can currently demonstrate a 3.8-year supply of deliverable housing sites. As such, whilst the provision of one additional dwelling would make a very limited contribution to the Council land supply position, taking into account the Council's shortfall in deliverable housing sites, I attach moderate weight to the social benefits arising from the provision of one dwelling which could be delivered relatively quickly on this small site.
63. The proposed dwelling would also be a self-build property and I acknowledge paragraph 73 (b) of the Framework supports small sites to come forward for self-build and custom-build housing. However, as detailed earlier the Council has confirmed that the number of permissions granted for self- and custom-building housing over the last rolling three-year period has exceeded the number of registrations and this has not been contested by the appellant. As such, and in these circumstances, I attribute limited weight to the provision of one self-build property.
64. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short term benefits. In accordance with paragraph 83 of the Framework further economic benefits would also arise from additional spending in the wider area by future occupants of the dwelling. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
65. The proposal would represent the efficient use of previously developed land and criterion 15 of CELPS Policy SD 1 states that development should, wherever possible, make efficient use of land and make the best use of previously developed land. CELPS Policy SE 2 also encourages the redevelopment of previously developed land. The appellant has also stated that paragraph 125 (c) of the Framework lends support to this appeal proposal. However, whilst this paragraph does state that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes, as detailed earlier the appeal site is defined as open countryside and not within the settlement of Brereton Heath. As such, I find that paragraph 125 (c) does not lend specific support to this appeal proposal. Nevertheless, I conclude that the efficient use of previously development land does carry moderate weight in favour of the appeal scheme.
66. The appellant states that the appeal proposal would allow them to down-size from their existing property and remain in the village. However, I have no substantive evidence before me that there are no properties available within the village that would allow them to achieve this purported benefit. I attribute this matter very limited weight in favour of the appeal proposal.
67. In view of the above, I find that the adverse impacts arising from the appeal site's unsustainable location, the impacts on the Council's development strategy for the location of new development, and the limited harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

68. I conclude that the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR