

**CD6.24**

**Appeal Decision: Langley Lane**

**Preface:**

This appeal decision is important because it confirms a plan led approach, and that any review of settlement boundaries should take place through the preparation of a replacement local plan. The sustainability of Broughton does not outweigh the conflict with the development plan.

Relevant paragraphs: 11, 12 and 16 which are highlighted green

## **CD6.24**

# **Appeal Decision – Langley Lane, Broughton**

### **Preface:**

This appeal decision is important because it deals with a recent appeal at the far end of Broughton where the Inspector consider the location in the settlement is sustainable which is relevant to the consideration of the appeal scheme.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.



## Appeal Decision

Site visit made on 25 January 2022

**by Helen Hockenhull BA (Hons) B.PI MRTPI**

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

**Decision date: 14<sup>th</sup> February 2022**

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**Appeal Ref: APP/N2345/W/21/3280197**

**Land at Langley Lane, Broughton, Preston, Lancashire, PR3 5DD**

- 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 Andrew Forrest against the decision of Preston City Council.
  - The application Ref 06/2020/1215, dated 5 November 2020, was refused by notice dated 5 February 2021.
  - The development proposed is 10 no self-build/custom-build dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application was submitted in outline with all matters reserved for future consideration except for access. The submitted sketch scheme showing the position of 10 dwellings on the site is indicative, as is the detailed landscape plan. I have considered these on this basis in my determination of this appeal.

### Main Issues

3. The main issues in this case are:
  - whether the site forms an appropriate location for self-build/custom build housing;
  - the effect of the development on the character and appearance of the area.

### Reasons

#### *Appropriate location*

4. The appeal site forms an area of rough open grassland to the north of 139 Whittingham Lane, Broughton. It is bounded to the northwest by Langley Lane and Whittingham Lane to the southeast. The majority of the site lies in open countryside and an Area of Separation. A small part of the southern section of the site lies within the settlement boundary of Broughton.
5. The Central Lancashire Core Strategy (CS) in Policy 1 seeks to focus growth and investment on well located brownfield sites, identified strategic locations and other main urban areas whilst protecting the character of suburban and rural areas. Part f) of the Policy states that in smaller villages such as Broughton, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need. The proposal

- for 10 custom and self-build dwellings would be small scale but would not form an infill development and would not involve the conversion of buildings.
6. The appellant has argued that the development proposed would meet a local need for custom and self-build dwellings. I am advised that there are three persons registered on the Council's Self Build Register which has a base date of 31 October 2020. The appellant points me to the Central Lancashire Housing Study, March 2020. This references the research undertaken by the National Custom and Self Build Association together with Ipsos Mori in 2016, which indicated that 1 in 50 of the adult population wanted to purchase a custom build home over the next 12 months. If this is applied to Preston, a need of 2292 serviced plots would be required.
  7. The above figure is completely at odds with the current number of persons on the Council's Self Build Register. I accept that some people may not be aware of the Register or may choose not to be included, which may to an extent explain the low number. However, this research, in my view, appears to reflect aspirations rather than genuine need or the ability to build a home of this type. It is unclear whether it considers such matters as the availability of finance. Nevertheless, I acknowledge that it indicates a potentially higher level of demand in the borough than is indicated by the Register.
  8. Turning to consideration of supply, I am advised that since December 2014, 99 applications have received Self Build Housing CIL. Furthermore, a total of 64 of these consents have commencement notices which equates to a delivery of 9.1 custom and self-build homes per year. In addition, there is a resolution to grant an application<sup>1</sup> for 26 self-build plots subject to a legal agreement. This level of supply meets and significantly exceeds the numbers on the Council's Register.
  9. In the absence of substantive evidence to the contrary, I am not persuaded that there is a local unmet need for self-build/ custom build provision. That need is currently being provided for and there are an adequate number of approved schemes to cater for those who wish to build such a property, whether or not they are on the Register. Accordingly, I find that the proposal would fail to comply with CS Policy 1.
  10. Policy EN1 of the Preston Local Plan 2012-2026 (LP) permits development in the countryside to that needed for purposes of agriculture or forestry or other uses appropriate to a rural area, the re use or rehabilitation of existing buildings and infilling within groups of buildings in smaller rural settlements.
  11. The appellant acknowledges a conflict with LP Policy EN1 but argues that the policy should be afforded reduced weight for two reasons. Firstly, the settlement boundary of Broughton is out of date as it does not encompass all the built development which comprises the extent of the village. I am aware that a number of applications and appeals have led to development proposals being approved on the edge of Broughton extending the village into the countryside.
  12. It is however not unusual to find a situation where, due to recent approved developments, a settlement boundary needs to be reviewed. However, this should take place as part of the preparation of a replacement local plan. It does

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<sup>1</sup> 06/2021/1226 Bridge House, Tabley Lane, Preston

not in isolation, mean that relevant development plan policies are out of date and should attract reduced weight. Furthermore, just because other developments have been approved in the open countryside outside Broughton, does not justify the approval of further development. Consideration must be given to the planning merits of each case.

13. Secondly, the Appellant suggests that Policy EN1 is inconsistent with the National Planning Policy Framework (the Framework). It pre-dates the 2019 and 2021 versions of the document. Paragraph 174 b) of the current Framework, requires that the intrinsic character and beauty of the countryside should be recognised. Policy EN1 limits development in the open countryside to certain specified developments. It does not seek to protect the countryside from development without discrimination as suggested by the appellant. It clearly permits development but in certain circumstances.
14. I note that the justification text to Policy EN1 in paragraph 8.4 states it is important that Areas of Open Countryside are protected from unacceptable development which would harm its open and rural character. This does not suggest that all development should be restricted. It recognises the character and beauty of the countryside in line with paragraph 174 of the Framework. Accordingly, there is no disconnect between the Policy and the justification text.
15. Given the above I consider that Policy EN1 is consistent with the Framework, and it should be accorded full weight in the planning balance. Policy EN1 is consistent with CS Policy 1, and the spatial strategy for growth, minimising the scale of development at the smaller settlements to that required to maintain their sustainability.
16. The appellant brings my attention to several appeal decisions in the area around Broughton which have concluded that the village is a sustainable location for development. There is nothing before me to lead me to a different conclusion. Whilst this weighs in favour of the scheme, it does not outweigh the conflict with the development plan.
17. In summary, I find that the appeal proposal fails to comply with CS Policy 1 and LP Policy EN1.

#### *Character and appearance*

18. The appeal proposal would result in the extension of the settlement of Broughton to the north. The appellant argues that the appeal scheme would be compatible in terms of scale with a number of the approved developments which have extended the settlement boundary of the village. Whilst that may be the case, it is notable that these developments were approved when the Council could not demonstrate a five-year housing land supply.
19. CS Policy 21 requires new development to be well integrated into existing settlement patterns, appropriate to the landscape character type and designation within which it is situated and contributes to its conservation, enhancement and restoration or the creation of appropriate new features.
20. The appellant has prepared a Landscape and Visual Impact Assessment (LVIA) which outlines that the site is located in County Landscape Character Area 5h Goosnargh–Whittingham. This is described as undulating lowland farmland forming a transition between the upland Bowland Fells to the northeast and the

agricultural Amounderness Plain to the west. It is a pastoral landscape which is relatively open, with much hedgerow loss and few trees or woodlands although hedgerows along the network of lanes are important landscape features.

21. Turning to the landscape impact of the proposal, the site is in a prominent position at the junction of Whittingham Lane and Langley Lane. On the Whittingham Lane boundary, the site is enclosed by an existing mature hedge and specimen trees. Views across the site to Langley Lane and the wider countryside can be achieved. In contrast to Whittingham Lane, Langley Lane itself has a very rural character with boundary hedgerows and trees giving the lane a verdant appearance. Its character is such that it is clearly outside the settlement envelope in the open countryside. This context provides a rural setting to the site.
22. The existing boundary planting to the site would be retained and new planting provided within the site. The retention of these landscape features is to be supported, particularly as they are key characteristics of the landscape character area. It is notable that the LVIA indicates a change in level of 5–7 metres south to north. Langley Lane drops down to Dean Brook and there is a steep bank to the side of the road with the site at a higher level.
23. The existing hedgerow along Whittingham Lane would be inadequate to effectively screen the development so that it would be highly visible to users of Whittingham Lane. On Langley Lane due to the level difference between the road and the site, the proposed dwellings would be seen between and possibly above the level of existing trees. This visibility would be increased in the winter months when trees and hedgerows are not in leaf.
24. The retention of the trees along the north section of the site along Dean Brook would assist to screen views from the north. I agree with the appellant that the limited visual envelope of the site would mean that the landscape impact would be localised. Nevertheless, it would have a significant adverse impact on the character and appearance of the area.
25. The appellant argues that the development would provide a modest extension to the settlement in a location characterised by ribbon development. My assessment is that the character of the area is one of edge of settlement with lower density development on the transition between the village and the wider countryside. The ribbon of development along Whittingham Lane would mean that the development would not be isolated or detached from the built form of the village. However, the density of this development reduces as one travels further north past the appeal site. Properties are set in spacious plots with individual accesses and landscaped frontages. The appeal proposal would provide a small estate of 10 dwellings at a higher density with a single centrally positioned access. A development such as this with a suburban character, would be at odds with the pattern of development in this area.
26. Given the above, I consider that the proposal would not integrate into the existing settlement pattern and would cause harm to the character and appearance of the area, failing to respect the intrinsic character and beauty of the countryside. The scheme would therefore conflict with paragraph 174 b) of the Framework and CS Policy 21.

## Other matters

27. The appeal site lies within an Area of Separation. CS Policy 19 and LP Policy EN4 seek to ensure that Broughton, Goosnargh and Grimsargh are protected from merging and that identity, local distinctiveness and green infrastructure are protected. There is common ground between the parties that the appeal scheme would not conflict with these policies, causing no harm to the integrity or purpose of the Area of Separation. I have no reason to disagree.
28. The site has moderate ecological value with Dean Brook to the north of the site forming part of a local wildlife corridor. It is proposed that this area would be positively managed with new planting to increase the biodiversity value of the site. This weighs in favour of the scheme.
29. CS Policy 7 requires that schemes of more than 5 market dwellings in rural areas should provide 35% affordable housing. The appellant proposes to provide an off-site contribution to affordable housing in order to comply with this policy requirement. The submitted Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 does not include reference to this obligation, it only refers to the disposal of the self-build properties. There is therefore no mechanism before me to ensure that the affordable housing contribution is made.

## Planning balance

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
31. The appellant's original planning statement that accompanied the planning application argued that the Council could not demonstrate a 5-year supply of housing land. Therefore, in accordance with paragraph 11 d) of the Framework the most important policies for determining the appeal proposal, that is CS Policy 1 and LP Policy EN1 would be out of date. Planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The tilted balance should therefore be applied. This argument is not however pursued in the Appeal Statement.
32. Since the submission of the original planning application the situation has moved on. The Councils Housing Land Position Statement of March 2021 indicates that a 15.3-year supply can now be demonstrated. This is not challenged by the appellant. In these circumstances, I conclude that paragraph 11d) of the Framework, ie. the tilted balance, is not engaged.
33. I have found that whilst the proposal is small scale, it would not meet a local need and would cause harm to the character and appearance of the area. The scheme would therefore conflict with CS Policies 1 and 21 and also LP Policy EN1. In addition, the development would not make an appropriate contribution to affordable housing in the absence of an obligation in the submitted Unilateral Undertaking.
34. I acknowledge that the site is in a sustainable location and that the construction of the development would contribute to the local economy. I also take account of the proposed ecological management plan which would form a

further benefit of the scheme. These benefits however do not outweigh the policy conflicts and harm I have identified.

35. Accordingly, the material considerations in this case do not indicate that the scheme should be determined other than in accordance with the development plan.

**Conclusion**

36. For the reasons given above, and having had regard to all other matters raised, I dismiss this appeal.

*Helen Hockenhull*

INSPECTOR