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## Appeal Decision

Hearing held on 25 May 2016

Site visit made on 25 May 2016

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 June 2016

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**Appeal Ref: APP/R1010/W/15/3138391**

**Land adjacent former Hilltop Farm, A617, New Houghton, Derbyshire**

- 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 Mrs K Jephson against the decision of Bolsover District Council.
  - The application Ref 15/00124/OUT, dated 13 March 2015, was refused by notice dated 19 August 2015.
  - The development proposed is described as 'residential development on land adjacent to the Former Hilltop Farm, New Houghton, Derbyshire'
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved except for access. I have dealt with the appeal in the same manner and have thus treated all plans, apart from those details relating to access, as indicative only.

### Main Issue

3. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on character and appearance and best and most versatile agricultural land.

### Reasons

4. New Houghton is a fairly small village located to the north west of Mansfield. The majority of the village lies to the east of the A617. This road is a fairly busy route which links Mansfield to the M1. A limited number of houses in the village are served off this road, notably those in Hardwick View Close (HVC) which lies on the north west edge of the village and is adjacent to the southern boundary of the site. The village has limited services and facilities, including a post office and shop, and a primary school. The larger village of Glapwell lies to the north along the A617.
  5. The appeal site consists of the majority of 2 fields. The south east boundary of the site is formed by HVC, the village allotments and open space. Backing onto the north east boundary of the site are the rear of 2 storey and single storey houses located on Pavilion Gardens and Recreation Road. To the north west lies the former Hilltop Farm. Maps show this as a collection of farm buildings
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- but at the Hearing it was confirmed that these had been demolished. There is no physical evidence of the former farm from the A617, where the land appears as a copse on the hill top. The proposal seeks to construct around 180 houses. The site would be served by 2 accesses; a new roundabout would be built on the A617 and the site would also be linked through to the B6417 via Recreation Road. The land is reasonably high in the local landscape, gently rising towards the former Hilltop Farm and is set significantly higher than the development at Pavilion Gardens, which is relatively low in the landscape with just the roofs of this development largely visible from the A617.
6. The appeal site lies within an 'important open area' as designated by Policy GEN10 of the Bolsover District Local Plan, 2000 (the Local Plan). This policy states that in such open breaks between settlements planning permission will only be granted for development provided that it does not detract from the objective of maintaining their open character. Supporting text states that the open land between settlements can be important to the character of distinct places, providing a setting and separating them from other concentrations of development.
  7. The site lies within the national landscape character area of NCA30, Southern Magnesian Limestone. This area has the key characteristics of fertile arable land, with large fields bounded by hedges, creating a generally large scale, open landscape. A number of abbeys, estates and country houses are located in the area and long views are often possible. There is a wooded farmland landscape in places, and the area has localised industrial influence, with transport routes, power lines and former coal mines and works present. At the county level the site falls within the Southern Magnesian Limestone Character Area and the Limestone Farmland Landscape Character Type (LCT). The appellant's landscape statement<sup>1</sup> describes the key characteristics of the LCT relevant to the site as gently rolling limestone plateau, large and medium estate woodlands and amenity trees around villages, a nucleated settlement pattern, and panoramic views across lowland to the west.
  8. Such characteristics accord with my observations from my site visit; the gently undulating countryside allows far reaching views across the landscape from the A617 towards the horizon to the north east and south west, with views punctuated by transport infrastructure and power lines. Towards the south views are constrained by the richly wooded Pleasley Pit Country Park.
  9. The landscape statement further breaks down the local character into six 'landscape character zones' (LCZ). This defines the area of the appeal site and surrounds (including the village to the north east) as LCZ1 – New Houghton to Stoney Houghton, with the south side of the A617 from the boundaries of Pleasley Pit to the edge of Glapwell as LCZ2 – Hilltop Farm to Rowthorne. This area also includes land from the north west side of the access track to the former Hilltop Farm along the northern side of the A617.
  10. LCZ1 is defined as rolling to undulating countryside containing a variety of natural and man made features, including dominant urban ones such as the A617, pylons and existing settlements which partly influence the LCZ. The assessment defines this landscape as having an overall medium sensitivity, with elements such as openness and views of large skies sensitive to change,

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<sup>1</sup> Landscape Statement, Influence Environmental Ltd, 09/11/15

- with the sensitivity reduced by visibility of development, settlement edges, and transport and electricity infrastructure.
11. LCZ2 is described as rolling countryside with an intact and legible field pattern. This area is described as having an overall high sensitivity due to the susceptible nature of the landscape features including hedgerow patterns and trees, open character and wide undeveloped skylines. Intrusions by transport and electricity infrastructure reduce the sensitivity. The assessment considers that the open break as described by Policy GEN10 is broadly encompassed by the LCZ2 area.
  12. Whilst I can appreciate the difference between the northern and eastern parts of LCZ1, in the vicinity of the appeal site the boundaries between areas LCZ1 and LCZ2 are not readily discernible. To my mind, there is little difference between the appeal site and the land to the south of the A617, or to the north west of the Hilltop Farm access track. Both areas are home to attractive undulating reasonably tranquil countryside with dominant field patterns, an open character, and views of large skies with far reaching views to the north east and south west. Both areas are affected by the same transport and similar electricity infrastructures, and in both settlement edges are visible and clearly defined. Both areas are susceptible to change and I therefore consider that the appeal site and land immediately to the north west between the site and the access track would also fall within an area of high sensitivity. I also note in this respect the acknowledgement that boundaries between the LCZ areas are difficult to define due to the transitional nature of landscape character.
  13. Furthermore, in terms of the gap between the two settlements, the appeal site also performs a similar function to LCZ2 as defined. From the fringes of Glapwell the edge of New Houghton is clearly visible at HVT, with the red brick gables and rear walls of this development distinctly visible and as yet unsoftened by tree planting. The sense of the gap is created by the space that remains between the two settlements and Pleasley Pit. The ridge and trees at the former Hilltop Farm appear as features in the landscape and do not define the gap or the setting and edge of New Houghton in my view, and nor do I consider that the existing development to the north of the site defines the western limits of New Houghton. These properties are set considerably lower in the landscape and have substantially less effect than the proposal would have on the gap between New Houghton and Glapwell. The development of the site, a sizable area, would visibly and substantially reduce this gap and would therefore be contrary to Policy GEN10.
  14. A substantial landscape buffer of some 40m at its widest point would be planted on the Glapwell side of the proposal to help to soften the edges of the development. Additional hedgerow and tree planting is also proposed. However, such landscaping would take time to establish; for instance the landscaping which is adjacent to HVT has yet to significantly soften or hide the edges of this development. Furthermore, I am not convinced that such landscaping would adequately screen the development, given the topography of the site, particularly in the area nearest to the former Hilltop Farm. I consider that the proposal for 180 houses and related infrastructure, including the proposed roundabout, would reduce the open character of the site substantially, causing substantial harm to the landscape character of the area.

15. The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. It is common ground between the parties that this is the case in this instance. However, there is disagreement over whether policy GEN10 can be considered as a relevant policy for the supply of housing.
16. Such relevant policies are not only policies in the development plan that positively provide for the delivery of housing but also extends to plan policies that influence the supply of housing by restricting the locations where they may be developed. Relevant policies for the supply of housing are those that create and constrain housing supply. Policy GEN10 specifically seeks to restrict development, and it therefore acts as a constraint on the supply of housing. Consequently it falls within the ambit of paragraph 49 of the Framework.
17. Paragraph 14 of the Framework states that where relevant policies are out of date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate that development should be restricted.
18. The proposal would clearly provide significant benefits. Around 180 houses would be constructed in an area with a lack of housing supply. Such houses would have considerable economic and social benefits, both through the construction jobs that the proposal would generate, and the longer term economic and social benefits to the area and specifically to New Houghton that the future residents of the proposal would provide, through increased use of local services and facilities. Furthermore, the provision of 5% affordable housing would also be a benefit of the scheme.
19. Policy ENV2 of the Local Plan seeks to protect best and most versatile (BMV) agricultural land, and states that permission will not be granted for development which involves the loss of such land unless there is a strong need for development on the site which overrides such need to protect. The Framework states the planning system should contribute to the natural environment by protecting valued soils, and that local planning authorities should take into account the economic and other benefits of such land. The parties agree that the appeal site falls within Grade 2 and 3 quality. The appellants statement notes that the site is likely to fall within Grade 2 land quality according to the 'old East Midlands Agricultural Land Classification Map', but also notes that over 50% of the land in the District falls within such land quality. My attention was also drawn at the Hearing to various other proposals in the District given permission on BMV land.
20. I consider in this case that the strong need for housing development within the District, as indicated by the agreed position of 3.3 years of housing land supply would constitute a 'strong need' for housing development which would, by itself, comply with Policy ENV2 and the Framework in this respect.
21. New Houghton is served by a primary school, which is located towards the eastern edge of the village. The Council have concerns over the distance from the proposed site and the school, and consider that this would lead many future residents to drive to the school for pick up and drop off purposes. Various guidelines and information were submitted in evidence putting the

converse view. On my visit I walked various routes which future residents may take to access the school, many of which are along dedicated footpaths or quieter roads than the A617.

22. The availability of the footpaths and easier walking routes would likely convince some parents to walk the approximately 1km route rather than drive to the school; however, I am not convinced that all parents would, particularly those sited on the western corner of the site furthest away from the school, or in times of inclement weather. There is also a noticeable change in levels from the higher level of the site towards the school which may dissuade some from walking the routes. The site would thus not be fully sustainably located. The proposal would conflict in this respect with the core planning principle of the Framework that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. I ascribe limited weight to this adverse impact.
23. The proposal would erode the gap between New Houghton and Glapwell and would have a substantial adverse effect upon the character and appearance of the local area. Furthermore, whilst I have concluded that Policy GEN10 is not up to date, I still subscribe weight to this policy. As well as having a restraining effect upon development, the policy also has a strategic purpose which seeks not just to prevent the coalescence of settlements but also to protect setting, which the proposal would adversely affect. The proposal would have a substantial adverse impact on the character and appearance of this landscape area, and would be contrary to the core planning principle in paragraph 17 of the Framework which states that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.
24. When taken together I consider that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits of the proposal that I have outlined. I therefore conclude that the proposed development would not provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on character and appearance and best and most versatile agricultural land. Whilst I find no harm to Policy ENV2 of the Local Plan, overall the proposal would be contrary to the Framework and to Local Plan Policy GEN10.

#### *Other Matters*

25. Policy GEN11 of the Local Plan states that permission will only be granted for development adjoining settlement boundaries if it can be demonstrated that the design, scale and massing of buildings together with landscaping proposals will minimise the visual impact of the development on the countryside. The appellant is of the view that the proposal would comply with this policy and that it provides a policy context for considering housing development beyond the constraint of current settlements. The Council are of the view that the policy is only relevant where the principle of development is acceptable; that is, when other policies such as GEN10 have been complied with. Although not clear within the Plan, such an interpretation would make sense or else there would be little point in having settlement boundaries. Moreover, given my conclusions above I do not consider that the proposal would minimise the visual impact of the development on the countryside.

26. Reference is made to proposals of redevelopment at Hilltop Farm, and I note the inclusion of this site within the Local Plan text stating that redevelopment of the site would not infringe Policy GEN10. However, as noted above, there appears to be no built development at Hilltop Farm remaining. Furthermore, at the Hearing it was confirmed that the previous permission for the site involving hotel development had expired. There is therefore no approved redevelopment proposal for the site. I also note that the Local Plan states that redevelopment strictly within the farmyard curtilage would not infringe the open break.
27. The appellant raises concerns over the conduct of the Council during the determination of the application, including an apparent change in the Council's views towards the application during the process. I have dealt with the proposal on its planning merits.

**Conclusion**

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jon Hockley*

INSPECTOR

Richborough Estates

**APPEARANCES**

**FOR THE APPELLANT:**

K Jephson	Appellant
Mike Downes BA B.PI MRTPI	Aspbury Planning
Sara Howe	Influence Environmental
Jon Powrie	Powrie-Smith Architects
Laura M'Combe	Aspbury Planning
Gaynor Mallinson	Aspbury Planning

**FOR THE LOCAL PLANNING AUTHORITY**

Tim Ball	Bolsover District Council
Councillor Pauline Bowner	Bolsover District Council

**INTERESTED PARTIES:**

Susan Yates	Local resident
Gary Yates	Local resident
Karen Brooks	Local resident
Brian Turvey	Local resident
Jennifer Turvey	Local resident
Nigel Oliver	Local resident
Garry Mason	Local resident
Mr Allen	Local resident

**DOCUMENTS SUBMITTED AT THE HEARING**

1. Suggested conditions
2. Unilateral Undertaking

3. Court of Appeal decision [2016] EWCA Civ 168
4. Excerpt from 'Local Plan for Bolsover District – Identified Strategic Options', Consultation Document October 2015.
5. Excerpt from 'Guidelines for Providing for Journeys on Foot', Institution of Highways and Transportation [undated]
6. Bolsover District Council Decision Notice 14/00518/OUT, Land to North West of Broad Lane, Hodthorpe.
7. A3 colour copies of selected figures from Landscape Statement, Influence Environmental Ltd, 09/11/15
8. Excerpts and plans. 99/00171/REM, Hotel at Hill Top Farm, New Houghton
9. Print out from Planning Resource concerning an outline permission granted by Bolsover District Council for a scheme of 950 houses at Bolsover.

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