
Appeal Decision

Site visit made on 19 July 2016

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 29 July 2016

Appeal Ref: APP/P1045/W/16/3148676

Land to the east of Derby Road, Doveridge

- 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 Roche Enterprises Limited against the decision of Derbyshire Dales District Council.
 - The application Ref 15/00886/OUT, dated 8 December 2015, was refused by notice dated 16 March 2016.
 - The development proposed is outline application for up to 17 No. dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original application was submitted in outline with all matters except access and layout reserved for determination at a later date. However, prior to the determination of the application the appellant requested that both access and layout also be considered as reserved matters. The Council agreed and determined the application on that basis. I shall therefore deal with the appeal proposal on the basis that all matters are reserved.

Policy Framework and Main Issue

3. Whilst I have had regard to the local and national policies referred to by the main parties, I have specifically referred only to those which I consider to be most relevant to my Decision. I have also had regard to the legal judgements and previous appeal decisions referred to.
 4. For the purposes of the development plan, the appeal site is outside of the identified settlement boundary for the village of Doveridge and is therefore in an open countryside location. Policy SF4 sets out the Council's approach to development in the countryside. The policy seeks to restrict new development in countryside locations except in specific circumstances such as where it is an essential requirement for agriculture or forestry. Of the types of development listed none are relevant to this appeal proposal. The general thrust of policy H4 is also to restrict new development outside of settlement framework boundaries except in limited circumstances.
 5. It is common ground between the parties that the Council is currently unable to demonstrate a five year supply of housing land in line with the requirements of the National Planning Policy Framework (Framework) and as such paragraph 49
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is engaged. Based on the evidence before me, including previous appeal decisions, I am of the view that policies SF4 and H4 are both policies relevant to the supply of housing as they seek to control the development of housing outside of settlement boundaries. These policies are not therefore up-to-date for the purposes of paragraph 49. This finding also accords with the views of both main parties. As such, I attach limited weight to the conflict of the appeal proposal with policies SF4 and H4 and the Framework's presumption in favour of sustainable development applies in my determination of this appeal (paragraph 14).

6. On the other hand, policy SF5 of the LP relates to the design and appearance of development. The policy seeks to ensure that new development preserves or enhances the quality and local distinctiveness of its surroundings and is well related to surrounding properties and land uses. Policy NBE8 also states that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape.
7. One of the core planning principles of the Framework states that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside (paragraph 17). Paragraph 58 also states, among other things, that developments should respond to local character, and reflect the identity of local surroundings. Paragraph 61 also seeks to ensure the integration of new development into the natural and built environment. In so far as policies NBE8 and SF5 of the LP are generally consistent with these policy objectives, I attach weight to them in accordance with paragraph 215 of the Framework.
8. One of the Council's reasons for refusal also refers to the issue of surface water flooding. Whilst there is no 'saved' LP policy relevant to the issue of surface water flooding, the Council have referred to paragraph 79 of the Planning Practice Guidance (PPG) which states that when considering major development sustainable drainage systems should be provided unless demonstrated to be inappropriate.
9. I have therefore framed my main issue accordingly.

Main Issues

10. The main issues are:

- The effect of the development proposed on the character and appearance of the area; and
- The effect of the development proposed on surface water flooding on the site itself and surrounding area.

Reasons

Character and appearance

11. The appeal site is an open field, approximately 0.6 hectares in size and is laid to grass. It is situated close to the junction of Derby Road with Bell Lane. There is a small cluster of dwellings to the southern boundary of the appeal site, close to the junction. Derby Road runs along the site frontage. The site is otherwise surrounded by open fields, including the land on the opposite side of the highway.

12. The appeal proposal would see the construction of up to 17 dwellings. All matters are reserved.
13. The appellant's Landscape and Visual Impact Assessment (LVIA) concludes that the landscape impacts of the appeal proposal would be extremely localised and limited. Whereas the Council's study of landscape sensitivity to housing development (2015) assesses the area within which the appeal site is situated as being highly sensitive to new housing development.
14. I note that the appellant considers that the Framework promotes a more balanced approach to that taken in the Council's study whereby a site appraisal should be undertaken to assess the likely impact as opposed to promoting the characterisation of a whole area as 'high sensitivity'. However, the extract from the Council study provided in the LVIA shows that within the Doveridge area, specific sites have been assessed on a more individual basis (figure 3). Indeed, the appellant has referred to a site which is the subject of an approved scheme for 70 dwellings on the opposite side of the road to the appeal site and I note that this site was assessed as being of low sensitivity in the study. This suggests that the area was the subject of more than just a broad brush assessment.
15. The landscape study states that areas of high sensitivity within the south of the District predominantly related to, among other things, land which contributes to the rural character of settlements. In coming to a different view on the appeal site, the appellant's LVIA refers to the differences between the appeal site and neighbouring fields and the more typical landscape features found within the wider Landscape Character Area (LCA) which is the 'Needwood and South Derbyshire Claylands' LCA and at a finer grain the site is within the Landscape Character Type 'Settled Farmlands'. Specifically, the lack of landscape features on the appeal site itself with the exception of hedgerows and the instances of other development, including the approved scheme for 70 dwellings which has yet to be constructed.
16. The appeal site and the neighbouring fields close to Derby Road are relatively flat with open boundaries. I am in agreement with the appellant's submitted LVIA that the appeal site and the fields in close proximity do have some features that are not typical of the LCA within which they are situated, for example they are in arable use and are larger in scale with more open boundaries.
17. However, to the west and south, the land levels rise and a low ridge of land runs along the horizon. This is a prominent feature of the area. The fields on the opposite side of the main A50 leading up to this ridge of land are generally small scale, laid to pasture and bounded by mature hedgerows and hedgerow trees. This gives the landscape an enclosed feel and these features are more typical of the LCA within which the site is situated.
18. Due to the flat open nature of the appeal site and surrounding fields and the rising topography of the area, the surrounding countryside is visible in wide and expansive views across the appeal site from several public viewpoints along Derby Road and the surrounding public footpath network close to the site. It is therefore the landscape character of the wider area with features more typical of the LCA which visually dominates and defines the rural character of the area. Notwithstanding that the flatter fields close to Derby Road, including the appeal site, may not have particular landscape features of

note, they are viewed as an integral part of the wider landscape and play an important role in establishing and enhancing the open, rural character of the area.

19. The appellant's LVIA refers to the main A50 and the effect this has on the landscape character of the area. The noise of the traffic is audible from the appeal site. However, the road is situated in a cutting as it passes through the area. It is not therefore visible and the effect it has on the character of the area is minimal as a consequence. The appellant has also referred to other developments including solar farms, and industrial estate and chicken sheds. However, these are not seen within the same visual context of the appeal site due to the separation distances involved and they are screened from view due to the extensive hedgerows and trees along field edges.
20. There are a small handful of dwellings clustered close to the appeal site and the junction of Derby Road with Bell Lane. However, the number of the dwellings is limited and the area is otherwise surrounded by open fields and views of the wider countryside beyond. Small groups of dwellings are common features in rural areas and not necessarily an indication that one is approaching a settlement.
21. The village of Doveridge is approximately 12 minutes' walk away from the appeal site. However, there are several landscape features which serve as a form of visual and physical separation between the appeal site and the main built up area of the village. Specifically, there are open fields between the appeal site and the village and densely wooded areas either side of Derby Road to the north of the appeal site.
22. I am aware that planning permission for 70 dwellings has been granted on fields on the opposite side of the road to the appeal site and this will extend the developed part of village in the direction of the site. However, that scheme will stop some way short of where the appeal site is situated and it will not be directly opposite. The scheme is also situated on the opposite side of the dense grouping of trees and this will serve to contain the development and serve as a form of natural screening. The dense area of woodland at the same point on the opposite side of the road runs along the northern boundary of the appeal site between it and a neighbouring crane hire business. These trees, in combination with those on the opposite side of the road, act as a strong natural feature that marks the transition from the rural open countryside to the more developed parts of the village beyond. The appeal site is therefore at a key, transitional point in the streetscene where the character of the area changes.
23. As the appeal site is situated on the other side of this dense line of trees it is seen as visually and physically separate to the village and is instead viewed within the distinct context of the open countryside beyond. The dense tree screening that exists between the village and the small cluster of existing dwellings close to Bell Lane also enhances the rural character of the area close to the appeal site and contributes to the remote, rural feel which is quite different to the more developed character of Doveridge when walking further along Derby Road in the direction of the village.
24. Whilst the appeal site may not be the subject of any formal landscape designation, the contribution that an area of land makes to the character and appearance of an area is a relevant planning consideration nonetheless. In this

case, given the circumstances I have described, the appeal site in its current form does make a highly positive contribution to the character of the area.

25. The proposed development of up to 17 dwellings would seriously detract from the existing open appearance of the appeal site and would be significantly harmful to its integral role in contributing to and enhancing the rural character of the area. Whilst the proposal is in outline and therefore less than 17 dwellings could be constructed on the site, it would nonetheless result in a significant addition to the level of built development at this point along Derby Road that would not reflect the scale of the existing small cluster of rural dwellings. The proposal would also be situated at a transitional point in the streetscene and the location and level of built development proposed would be significantly harmful to the rural character of the area and it would also weaken the strong natural feature in the form of the extensive mature trees which currently marks a natural boundary to the developed extent of the village. Whilst the effects of the proposal may well be localised, they would be significantly harmful nonetheless.
26. The appellant's LVIA concludes that the visual impacts of the appeal proposal would be extremely localised and limited. The appeal site due to its flat topography and open boundaries (other than to the north where the line of trees is situated) is highly prominent in several public viewpoints. Of those referred to in the appellant's LVIA, I consider viewpoints 1, 2, 3, 4 and 5 to be most significant.
27. Viewpoint 5 is taken from a footpath that is situated to the south of the appeal site and runs in an approximate east to west direction in the fields closest to the site. From this perspective the fields are flat and whilst the rear elevations of the small group of dwellings next to the appeal site are visible, other views of development are generally screened by extensive groups of mature trees when looking in the general direction of the village. This viewpoint therefore has a highly rural feel as one walks through the arable fields in the direction of the appeal site.
28. Viewpoints 3 and 4 are both taken from Derby Road at either side of the appeal site. Again, views of the appeal site and the expansive countryside beyond are prominent from both directions. The small cluster of dwellings is seen as a limited amount of development, separate to the village as a consequence of the dense line of trees to the north of the site.
29. Viewpoints 1 and 2 are taken from a public footpath which crosses fields on the opposite side of Derby Road. Whilst there are mature trees in the field and hedgerows that screen some views, as the field is slightly undulating in nature the appeal site is prominent in direct views at several points along the footpath when walking towards the appeal site. I accept that the approved scheme for 70 dwellings to the north of this footpath will result in built development being in closer proximity to the footpath than is the case presently. However, the rooflines of buildings within the village are already visible from the footpath in that direction and the alignment of the path results in the view being focused to the east in the direction of the appeal site and the wider countryside beyond.
30. The LVIA acknowledges that views of the development proposed would be largely uninterrupted from viewpoints 3, 4 and 5 and that the proposal would prevent views of the farmland beyond the site. The LVIA also states that from viewpoint 2, there are less obstructions to the views of the site.

31. From all that I have read and observed during the site visit, I am in agreement with the Council that the appeal site is in a very visually prominent location when viewed in the round from the highway and public footpath network. I have previously found that the appeal site in its current form makes a highly positive contribution to the character and appearance of the area and that the development proposed would be significantly harmful in this respect. For these reasons, I consider that the appeal proposal would have a significantly harmful effect on the visual amenity of the area when seen from the viewpoints that I have described. Whilst landscaping and other matters are reserved at this stage, there is little specific evidence before me to suggest that a scheme could be provided that would suitably mitigate the visual impact of the proposal even over the longer term. Whilst I accept that the effect of the proposal on visual amenity would be localised, it would be significantly harmful nonetheless.
32. Accordingly, I conclude on this main issue that the development proposed would be harmful to the character and appearance of the area. It would therefore conflict with policies NBE8 and SF5 of the LP and paragraphs 17, 58 and 61 of the Framework (as set out in my Decision above).

Surface water flooding

33. One of the Council's reasons for refusal was that insufficient information was submitted with the original application regarding the effect of the proposed development on surface water flooding on the site itself and the surrounding area. The local drainage authority was consulted on the application and objected to it on the grounds that further information was required.
34. The appeal site is within flood zone 1 which is defined as land with a low probability of flooding. It is approximately 0.6 hectares in size. Whilst I note that several third parties have submitted photographs of the appeal site with standing water on it that is not a unique situation regarding fields in the countryside particularly during prolonged periods of rain during the winter months. I did observe a stone structure that may have been a stone trough on the site during the site visit which a third party has referred to. This was covered in overgrown nettles and appeared to have been disused for some time. However, there is no firm evidence before me to suggest that this stone structure is located over a natural spring. Furthermore, there is no specific evidence before me to suggest that the appeal site has critical drainage problems as notified by the Environment Agency.
35. Accordingly, there is no firm evidence before me to suggest that a suitable drainage scheme could not be accommodated on the appeal site nor that such a scheme would be inappropriate. Furthermore, the appeal proposal falls to be considered with all matters, including layout, reserved. The scheme also proposes up to 17 dwellings, with the appellant having indicated that the amount of development proposed is flexible up to the maximum number of units stated. There is therefore likely to be sufficient flexibility within the proposal in order to accommodate a suitable drainage scheme on the site to ensure that the development proposed would not be harmful with regard to surface water flooding on the site and within the surrounding area.
36. Paragraph 203 of the Framework is clear that it should be considered whether otherwise unacceptable development could be made acceptable through the use of conditions. In this case, I consider that a suitably worded condition

requiring a drainage scheme to be submitted to and agreed in writing by the local planning authority would have overcome the concerns identified.

37. I therefore conclude on this main issue that the development proposed would not have a harmful effect on surface water flooding on the site itself and surrounding area. The proposal would therefore not conflict with paragraph 79 of the PPG (as set out in my Decision above).

Other Matters

38. Notwithstanding the conflict with policies SF4 and H4 of the LP, in light of the Council being unable to demonstrate a five year supply of housing land, the additional dwellings that would be constructed as a result of the appeal proposal is a matter that weighs in favour of the appeal proposal. The proposed affordable housing contribution is also a matter which weighs in favour of the scheme.
39. There would also be some moderate economic benefits associated with the construction phase of the proposal, the likely contribution of future occupants should they choose to purchase goods and services in the village or surrounding area, and the New Homes Bonus and Council Tax receipts. I also attach modest weight in favour to the social benefits should future occupants use local goods and services as this would be likely to enhance and maintain the vitality of the rural community to a limited extent. Although landscaping and layout are reserved matters, it is also possible that some modest environmental enhancements could be achieved through the enhanced planting of native hedgerows.
40. There are a range of services and facilities including a school, shop and club in the village of Doveridge that are accessible from the appeal site, being within easy walking distance. Whilst there may only be a paved footpath on one side of the road for sections of this walk, this is a common feature of pavements within rural areas and during the site visit I was able to cross Derby Road myself in order to access the pavement without undue difficulty. There are also streetlights along at least one side of the road between the site and the village. There is an hourly bus service which future occupants would be able to use to travel to the larger settlement of Uttoxeter and Burton on Trent where a wider range of services and facilities, including employment opportunities, would be accessible. Needing to walk a short distance to access a bus stop is not an unusual situation, even in urban areas, and a walk of around 10 minutes would be likely to be considered acceptable by most future occupants of the development proposed. For these reasons, I consider that the appeal site is in an accessible location.
41. Based on the information before me, the effect of the development proposed on biodiversity, the living conditions of neighbouring occupants, access and parking would not be harmful subject to details that would form part of any subsequent reserved matters application and appropriate conditions where necessary. Whilst I note the concerns of local residents regarding the effect of the appeal proposal on the existing infrastructure of the village and surrounding area, including schools, healthcare providers and traffic levels, there is no firm evidence to indicate that the development proposed would be harmful in this regard.

42. I am also required to consider the effect of the proposal on the setting of heritage assets. There is a Grade II* Listed Building (LB) on the opposite side of Derby Road to the appeal site. The site is separated from it by an expansive area of parkland associated with the LB. The appeal site is therefore well screened from the LB and there is little intervisibility between them. I am therefore satisfied that the development proposed would preserve the setting of the LB.

Conclusion

43. Drawing matters together, I have identified several positive factors that weigh in favour of the appeal proposal. Specifically, the appeal scheme would contribute to the supply of housing in the area (including affordable housing provision) and the appeal site is in an accessible location. There would also be some moderate economic, social and environmental benefits which I have identified that weigh in favour of the proposal. I have therefore had regard to the Framework's presumption in favour of sustainable development in coming to a view on the appeal proposal.
44. I have also identified several neutral factors whereby a lack of harm does not weigh in favour of the appeal scheme. These include that the development proposed would not be harmful to surface water flooding, biodiversity, living conditions, access and parking and that it would preserve the setting of the nearby LB.
45. On the other hand, I have found that the appeal proposal would be significantly harmful to the character and appearance of the area for the reasons I have described. I conclude that the magnitude of this harm does significantly and demonstrably outweigh the benefits of the appeal scheme, when assessed against the policies in the Framework taken as a whole.
46. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

V Lucas-Gosnold

INSPECTOR