
Appeal Decisions

Site visit made on 19 January 2016

by David Richards B Soc Sci DipTP MRTPI

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

Decision date: 09 February 2016

Appeal A: APP/P1045/W/15/3131542

Land off Park Lane, Two Dales, Matlock, 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 Wildgoose Construction Ltd against the decision of Derbyshire Dales District Council.
 - The application Ref 15/00034/OUT, dated 8 August 2014, was refused by notice dated 30 June 2015.
 - The development proposed is outline application for the residential development.
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Appeal B: APP/P1045/W/15/3135878

Land off Park Lane, Two Dales, Matlock, 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 Wildgoose Construction Ltd against the decision of Derbyshire Dales District Council.
 - The application Ref 15/00480/OUT, dated 10 July 2015, was refused by notice dated 10 September 2015.
 - The development proposed is outline application for the erection of up to 13 dwellings.
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Decision: Appeal A: APP/P1045/W/15/3131542

1. The appeal is dismissed.

Decision: Appeal B: APP/P1045/W/15/3135878

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Wildgoose Construction Ltd against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Clarification

4. The Appeal A application was made in outline, with all matters of detail reserved for later consideration. It was accompanied by an illustrative layout Drawing Ref: 1000-003 dated July 2014. The Appeal B application was also in outline, with all matters of detail reserved. It was accompanied by a revised layout Drawing Ref: 1000-003 Rev A, dated July 2015 which were intended to address some of the concerns over design and layout expressed by the Council and residents in connection with the first application. The revised scheme
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specified a mix of one and two-storey dwellings and the internal layout and the disposition of the dwellings in the plot also differs in ways described below in the reasons section. The access would be in the same location in both proposals, and appears to have the same geometry, though the appellant states that the Appeal B scheme would retain as much as the frontage stone wall and hedgerow as possible and give a more rural character to the scheme by continuing the frontage hedgerow around its radius and into the site.

Main Issue

5. The main issue in both appeals is the effect on the proposal on the character and appearance of the surrounding area.

Reasons

The Appeal Site

6. The site is a grassed open field some 0.75 ha in extent and lies on the northern edge of Two Dales. It has a pronounced slope upwards from its lowest point in the south-eastern corner to its highest point in the north-eastern corner with a change in levels of some 12 metres.
7. The site is bounded on its south-eastern side by Park Lane which becomes Hallmoor Road as it skirts round the site on its eastern side. To the north, the boundary is defined by a timber post and rail fence associated with the neighbouring property at Hall Moor House¹, which also has a stable block and a belt of mature trees that extends along the boundary. These are protected by a Tree Preservation Order (TPO) (Reference: DCC/TPO/088/A17). All of the trees are generally considered to be in good condition, with an average life expectancy of more than 40 years.
8. On its western side the field extends up to a stone wall which separates the site from gardens associated with properties at The Park and others to the north.
9. The most prominent feature within the street scene associated with the site is a substantial stone wall and hedgerow alongside the road.

Planning Policy

10. The Derbyshire Dales Local Plan (LP) was adopted in 2005. The majority of the policies contained within the plan were saved in 2008, including Policies SF5 and NBE8 which were cited in the refusal reason.
11. The Council submitted a revised draft Local Plan to the Secretary of State for examination on 13 May 2014. The examination opened on 22 July 2014 but was adjourned shortly thereafter. In his report to the Council the Inspector concluded that the level of housing provision was inadequate and advised that the LP would not be found sound. In recognition that the matter of objectively assessed need (OAN) is currently being revisited, the Council accepts that it is unable to demonstrate a five year supply of land in accordance with the guidance in the National Planning Policy Framework ('The Framework'). According to the latest OAN figures released in September 2015, the supply is some 3.56 years.

¹ The spelling of 'Hall Moor' as one or two words varied according to context.

12. The site is outside the defined settlement boundary as identified in the LP. However, the Council acknowledges that in the absence of a five year supply, adopted local plan policies relevant to the supply of housing are considered to be out of date and planning decisions on housing development must therefore be made in the context of Paragraph 14 of the Framework.
13. Policy NBE8 of the LP is concerned with Landscape Character and provides that permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the local landscape.
14. In two recent appeal decisions² in Derbyshire Dales inspectors have concluded that the tightly restrictive approach of Policy NBE8 could no longer be regarded as consistent with the Framework. The Council accordingly accepts that the effect that the development will have on character and appearance and indeed on the setting of the settlement of Two Dales must primarily be judged against the Framework's Core Principles and its wider objectives.
15. While Policy NBE8 relates to the supply of housing, it addresses matters which self-evidently remain important considerations in the determination of applications, having regard to the policies in the Framework as a whole.
16. Although the Framework requires a balanced approach to such matters, it does not suggest that they are not important. While Policy NBE8 is framed in unduly restrictive terms and does not reflect the balanced approach, the concern with protecting the character and appearance of the countryside and landscape is supported by paragraphs 17 and 109 of the Framework.
17. The appellant also calls into question the relevance of saved Policy SF5 to the appeals insofar they are concerned with matters of detail which are for the most part reserved matters for later consideration. However, the policy is concerned with the design and appearance of development, and with ensuring that development preserves or enhances the quality and local distinctiveness of its surroundings and reinforces the sense of place engendered by the presence of distinctive local building styles. While both submitted layouts are illustrative, development of the site in the general form illustrated in either of the proposals will have effects on the quality and local distinctiveness of the surroundings. The policy reflects a number of the key considerations set out in Paragraph 58 of the Framework and accordingly continues to have significant weight.
18. Paragraph 6 of the Framework clarifies that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 describes sustainable development as having three dimensions: economic, social and environmental and makes it clear that the planning system should contribute towards: building a strong, responsive and competitive economy; to supporting strong vibrant and healthy communities; to delivering a sufficient amount of housing; to creating a high quality built environment and to protecting and enhancing the natural built and historic environment. Paragraph 8 states that to achieve sustainable development, economic, social and environmental gains should be sought simultaneously.
19. Amongst the core planning principles set out in paragraph 17 are that planning should proactively drive and support economic development to support the homes and thriving local places (amongst other things) that the country needs,

² APP/P1045/A/13/2195546 & APP/P1045/A/14/2227116

recognise the intrinsic character and beauty of the countryside and that it should contribute to conserving and enhancing the natural environment. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by 'protecting and enhancing valued landscapes'.

20. Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development. 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 housing land.
21. Paragraph 14 of the Framework states that where the development plan is out of date planning permission should 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.

Effect on the character and appearance of the countryside

22. Local landscapes have been classified in The Derbyshire Landscape Character Assessment and the Derbyshire Dales Landscape Character and Design SPD, which place the site within the Dark Peak character area, described as 'An upland landscape of high moors and settled valleys'. The specific landscape character in this location is described as 'a settled pastoral landscape on gently sloping lower valley sides'. Key characteristics of this landscape type are considered to include: moderate to steep regular fields enclosed by mixed species hedgerows and occasional dry-stone walls; network of winding lanes with irregular verges, sometimes sunken on steeper slopes; enclosed landscape with views filtered by trees.
23. The LVIA carried out on behalf of the Appellant identifies the settled valley pasture landscape type as meriting a medium/high sensitivity overall. However, on the basis that the site does not contribute to the wooded character of the landscape type and the wall not being a traditional dry-stone wall it concludes that the residential development of the site would not lead to anything more than 'a very minor loss or alteration of key elements/features or characteristics of the landscape type'. In view of the proximity of more recent development such as Porteus Close, which represents a small estate of more modern design and uses contrasting rather than traditional local materials, the appellant's LVIA considers that introduction of housing would not be uncharacteristic with the immediately surrounding landscape as a whole. On this basis it concludes that the magnitude of change to the landscape would be considered negligible, and the impact on the significance of the landscape character as minor or negligible/minor adverse.
24. An analysis of visual impact from a number of locations in the general vicinity of Darley Dale was also undertaken in the LVIA. I acknowledge that these views are reasonably representative of the visibility of the site from the surrounding area beyond the immediate context of the site. The small scale of the site and the nature of the surrounding landscape means that the proposed development would have limited visual impact in the context of the wider landscape setting. Where views could be obtained, the development would be seen as a small extension to the present built up area, generally against the background or in the context of existing development.

25. The LVIA acknowledges that for viewpoints closer to the site, the proposed development would potentially have a greater visual impact. It comments that 'this however is considered inevitable for most types of development in most locations, and therefore should not lead to the proposal being unacceptable in visual impact terms'.
26. In my judgement, this analysis underplays the important contrast between the character of development to the east and south within the current built up area of Two Dales and the character of the appeal site, which I find has a strong affinity with the open countryside character of the upper valley slopes. It provides an important open setting for the hanging woodlands above, reflecting the change in character from the more densely settled lower slopes. I consider that the extension of development onto these rising slopes would result in significant harm to the setting of Two Dales, and the character of the countryside hereabouts. This would conflict with the Framework Core Principle of recognising the intrinsic character and beauty of the countryside.
27. The Council describes the site as lying at a transitional point between the high moorland valley to the more settled slopes of the river valley. The character of the higher ground is densely wooded with narrow winding and steep lanes and roads connecting the moorland landscapes with the villages below.
28. The appellant disputes that Park Lane/Hall Moor Road is typical of this network of narrow winding and steep lanes. I acknowledge that Porteus Close, which is clearly within the existing built-up area, has some impact on the character of Park Lane. However, it does not impact significantly on the character of the appeal site on the opposite side of Park Lane. This upper part of Park Lane (before the junction with Wheatley road is reached) is bordered on its eastern side by a more traditional style of development including Stanton Barn and the Grade II listed 'The Cottage'. Development to the north and west of the site is of a much more scattered and intermittent nature, interspersed with more open pasture and garden land. The existing boundary of the site with Park Lane is intact and while its policy status as a settlement boundary cannot be relied on in current circumstances, I consider that it is a clear and logical physical boundary to the settlement at this point, which respects what I consider to be a marked change in character.
29. Development of the site, whether it were to be in accordance with either of the illustrative plans under consideration, would in my judgement involve a significantly harmful change in the present character of the land, replacing the characteristic open pasture and boundary features with residential development which would be at odds with the defining characteristics of the countryside setting of Two Dales. The creation of an access to the site would involve the removal of a section of the existing attractive wall, with a corresponding suburbanising influence on the existing character of Park Lane/Hallmoor Road.
30. I acknowledge that the illustrative plan in the Appeal B scheme has been amended to address some of the points raised in connection with the earlier application. The appellant contends that it would have a more organic feel, with properties set further back from Park Lane to reduce their prominence in the streetscene. Dwellings have been repositioned away from the higher ground to reduce the prominence of the development and to achieve a less regimented layout. The introduction of single storey dwellings would reduce the overall mass of the development, and the impact on other dwellings. The orientation

of ridges along the contours is said to be a more sensitive approach which would draw the eye towards Hall Moor Woods and maintain its role as a backdrop to the streetscene. I accept that there is also scope for landscaping and planting to mitigate the impacts of development, and help to assimilate it into the surroundings. In this instance, however, while such design measures would be beneficial in character and visual terms, they would not be sufficient to overcome the harm arising from the change in character of the site arising from the extension of development into the surrounding countryside.

31. I have previously accepted that the development would have limited visual impact, other than from neighbouring properties and from Park Lane/Hallmoor Road itself. However, I do not consider that this supports a conclusion that the overall landscape impact would be negligible or minor/negligible. It would be a significant harmful change in the immediate context.
32. This part of the Derbyshire Dales District is not part of a designated landscape, but is nevertheless a landscape of considerable amenity value, as recognised in the character assessments and LVIA, particularly the upper valley slopes which provide a dramatic setting for the more densely settled lower slopes. It is a landscape valued by residents, and exhibits many of the characteristics of the countryside, including those identified in the LVIA, on which visitors to the area can be expected to place a high value. While I accept that the settlement boundary and associated policies cannot in isolation be relied on to protect the character of such areas from development, the environmental effects of a proposal remain an important consideration in determining whether a proposal is acceptable or not.
33. I conclude that both appeal proposals would give rise to significant harm to the character and appearance of the countryside. This would conflict with the Framework aims of recognising the intrinsic beauty and character of the countryside and of protecting valued landscapes. This is not a matter capable of being overcome by reserved matters condition relating to the detailed design and appearance of the scheme.

Other matters

34. Darley Dale Town Council and many local residents consider the existing road network to be unsuitable for the traffic likely to be generated by the proposal. They point out existing congestion at the junction between the A6 and the B5057 Chesterfield Road which they describe as 'extremely difficult and dangerous', and the unsatisfactory five-way Park Lane/B5057 junction. Current problems are said to have the effect of encouraging existing users to seek alternative substandard routes, including Hallmoor Road and Wheatley Road, to access the wider road network. This is no more than a brief summary of a detailed analysis put forward by a local member of the Two Dales Residents Action Group. The full report refers to numerous accidents, near misses and incidents due to poor visibility and substandard alignment at the five-way junction, congestion arising from narrow lanes and parked vehicles, dangerous manoeuvring and potential for danger to pedestrians, schoolchildren and other road users.
35. My visit to the site took place at 11.00 a.m., and so well outside the morning and afternoon peaks. Nevertheless I observed the pinch points described and recognise the potential for some of the problems described to occur and the frustrations that can arise. Such problems are not uncommon in rural areas

where the road infrastructure was built for quieter traffic conditions. I appreciate that from the perspective of existing residents, traffic arising from further development would be highly unwelcome.

36. This would, however, be a relatively small development, and the application of standard trip generation rates indicates that additional peak-time traffic is unlikely to exceed twelve two-way movements in the morning peak, or one vehicle movement every 5 minutes. The afternoon peak extends over a longer period, and the corresponding frequency would be one every 8.5 minutes. While I appreciate that residents regard even the existing situation as unacceptable, I do not consider that the additional traffic arising from the development would amount to a sufficient reason to dismiss the appeal.
37. A number of objectors also considered that there would be harm to their living conditions from loss of outlook or overlooking. While I acknowledge that the outlook from some properties would change the specific harm that would arise is a matter of character and appearance, which I have already addressed. The proposals are in outline, and in my judgement there would be sufficient separation to avoid harmful effects on living conditions.

Balance of considerations

38. The Framework seeks to boost significantly the supply of housing. The lack of a five year supply is accepted, the current assessment against the OAN being some 3.56 years. This attracts considerable weight in favour of the development proposals.
39. With regard to sustainability, the Council accepts that Two Dales and the adjoining settlement of Darley Dale has a range local facilities and a regular bus service to larger settlements along the A6 corridor which would reduce dependence on the private car. The development would make a social contribution by providing housing which contributes to an unmet identified need. The appellant has indicated a willingness to make a contribution of 33% towards the provision of affordable housing off-site which would be acceptable to the Council, though no signed and dated agreement was submitted with the appeal. However while the housing contribution of the development would be positive, it would be relatively small in scale. Similarly with the economic dimension, while the proposal would provide jobs during the construction phase, and some additional expenditure to support local services, the economic impact and the degree to which it would support the local communities would be relatively insignificant. Accordingly, I attach limited weight to the social and economic contribution of the proposed developments.
40. With regard to the environmental impact I have concluded that there would be a significant adverse impact on the landscape and countryside character of the surroundings, which in my judgement significantly and demonstrably outweighs the positive benefits. I therefore conclude that the appeal should be dismissed.

David Richards

INSPECTOR