

Appeal Decision

Site visit made on 30 August 2016

by D M Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 30 September 2016

Appeal Ref: APP/P1045/W/16/3152291

Former Neil Thompson Nurseries, Nottingham Road, Tansley, Matlock DE4 5FR.

- 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 S Wood against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00005/OUT, dated 5 January 2016, was refused by notice dated 13 April 2016.
 - The development proposed is a residential development comprising 10 houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis, treating the site plan as illustrative.
3. I have taken the site address from the Appeal Form as this is more precise than the version provided on the Application Form.
4. There is no dispute between the parties that the Council cannot demonstrate a 5 year supply of housing. In such situations paragraphs 47 and 49 of the "*National Planning Policy Framework*" (the Framework) states that the relevant policies for the supply of housing should not be considered up to date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Main Issues

5. The main issues are; the effect of the development on the character and appearance of the area, highway safety, and whether the site could be adequately drained.

Reasons

Character and appearance

6. The appeal site comprises a rectangular plot of land to the south of Nottingham Road on the eastern edge of Tansley. It is located beyond the built-up section of the village and the surrounding area is characterised by a combination of
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open fields affording long distance views of the countryside interspersed by sporadic development arranged in loose linear form along Nottingham Road. There are a range of house types in the immediate area including traditional stone-built cottages, a more modern bungalow and large detached residences. Whilst most dwellings address Nottingham Road there is considerable variety in their set-back from it. Nonetheless, the low-density and generous spacing between plots combined with the proximity of open countryside lend the area a semi-rural quality.

7. The site is mainly laid to grass and contains an assortment of trees. It is therefore an intrinsically open and green space. Due to the low stone wall and hedge fronting Nottingham Road, there is significant visual exposure of the site. Although there is a ribbon of residential properties on the opposite side of the road, a marked transition from village to countryside is evident at this point on the southern side of the road and the appeal site makes a significant contribution in that regard.
8. The appeal site lies some 180 metres outside the Settlement Framework Boundary defined by the "*Derbyshire Dales Local Plan 2005*" (the LP) and is therefore countryside where a restrictive approach to further development applies. Policies SF4 and H4 of the LP state that housing in the countryside will not be permitted unless it is in connection with agriculture or forestry and consists of affordable housing for an identified need. The appeal scheme does not fall into any of these categories and therefore it would conflict with the LP.
9. The supporting text to Policies SF4 and H4 makes it clear that their primary purpose is to preserve areas of attractive countryside. In that regard the policies are not concerned with the supply of housing. However, in seeking to control the principle of development beyond settlement boundaries, they are inconsistent with advice in paragraph 55 of the Framework. Given this inconsistency, I attach less weight to the LP and consider the more recent Framework should take precedence on this particular issue. As a result, the relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework are engaged, should the scheme be found to constitute sustainable development.
10. Amongst other things the Framework identifies the legitimacy of promoting or reinforcing local distinctiveness, seeks to encourage high quality design, and which establishes a core principle to recognise the intrinsic character and beauty of the countryside. It further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. At the local level, these objectives are reflected in Policies SF5 and H9 of the LP. Accordingly, I attach considerable weight to them.
11. Whilst only illustrative, the layout plan shows how the dwellings might be arranged around a short cul-de sac. It shows an enclosed, relatively high-density physically distinct development of 10 dwellings served from the existing single point of access. The scheme includes additional planting in the strip of land directly south of Nottingham Road. I acknowledge that this in addition to the existing landscaping along the eastern site boundary would assist in softening the visual appearance of the development. However, it is inevitable that the erection of 10 dwellings, together with domestic boundary treatments would completely change the open and green character of the land.

12. The self-contained layout would contrast markedly with the open character to the south of Nottingham Road and impose an unduly urbanised built form on the landscape. It would effectively introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangement of dwellings along Nottingham Road.
13. Based on the foregoing, I find the scheme would introduce a harmful change in the character and appearance of the site from an open rural setting to a highly urbanised one, and one jarring in its physical form with the existing immediate pattern of built development. I therefore conclude that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area. Accordingly, it would be contrary to Policies SF5 and H9 of the LP and the aims and objectives of the Framework.

Highway Safety

14. When I conducted my site visit, I noted that visibility in both directions was good, something which is supported by the Appellant's plan which shows a 75 metre splay drawn to nearside carriageway edge. The only obstruction to visibility in the westwards direction was the bus stop flagpole and public footpath waymarker. However, these only occupied a small proportion of the overall visibility envelope. In these circumstances Section 10.7 of "*Manual for Streets 2*" advises that there will not be a significant impact on road safety and I see no reason to take a contrary view in this instance.
15. I have noted the Highway Authority's concerns about land ownership. However both sightlines appear to be contained wholly within the Public Highway which is generally accepted to include verges at the back of the carriageway. The Highway Authority has not submitted any evidence, such as a plan of the public highway, to support its view that third party land is required to secure the sightlines. Even if I am wrong on the land ownership issue, there is an agreement with the adjacent landowner to maintain visibility and the erection of any new structures, which might obstruct visibility, would be outside of the scope of the GPDO and require planning permission. So irrespective of the extent of the red-line boundary, it is inconceivable that visibility to the left would be obstructed at some future point. Accordingly, I consider that visibility from the site access would be within acceptable limits.
16. In terms of pedestrian safety, there is a small section of footway to the left of the site access which accommodates the west-bound bus stop as well as an informal crossing point which in turn provides access to the east-bound bus stop and footway which continues uninterrupted into the village centre. The crossing is fitted with dropped kerbs and tactile paving and appears to have been installed relatively recently. There is good visibility in both directions and the street lighting extends past this point. Therefore given the scale of the development and the limited numbers of journeys on foot likely to be generated, I have no reason to consider that pedestrians would be put at unacceptable risk. Accordingly there would be no conflict with Policy TR1 of the LP or advice in the Framework both of which promote safe access to the road network.

Drainage

17. I concur with the Appellant that the Council's third reason for refusal is unreasonable. Given the Appellant's considerable land holding in the area there is little doubt that the appropriate infrastructure could be provided in a satisfactory manner. Given the application was made in outline, I agree that these matters could be dealt with by a suitable planning condition in the event I am minded to allow the appeal.

Overall Conclusions and Planning Balance

18. The scheme would undoubtedly provide considerable benefits in terms of fulfilling the *social* dimensions of sustainable development through a contribution towards the Council's housing stock. Given the Council's acknowledged housing land supply position and the aims of the Framework to significantly boost the supply of housing, I attach considerable weight to this benefit.
19. The development would also support the *economic* role through the purchase of materials and services in connection with the construction of the dwellings, an increase in local household expenditure as well as revenues to the Council from the New Homes Bonus.
20. In *environmental* terms, the scheme would incur loss of a field in the countryside. It would impose a considerable extent of discordant built development upon open countryside contrary to the Framework's aspirations for planning to recognise the intrinsic character and beauty of the countryside, and to promote local distinctiveness and high quality design.
21. Taking all these considerations in the round, the development would deliver considerable benefits consistent with the Framework. Of particular weight would be 10 new homes in a District which is unable to demonstrate a five-year housing land supply. Nevertheless, either on their own or in combination, these considerations do not outweigh the significant *environmental* harm I have identified to the character and appearance of the area arising from the scale and form of development. On balance, I therefore find that the adverse impacts of the proposal would significantly and demonstrably out-weigh the benefits such that the scheme would not constitute sustainable development for which there is a presumption in favour.
22. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector