

## Appeal Decision

Site visit made on 4 October 2016

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

Decision date: 2<sup>nd</sup> November 2016

---

**Appeal Ref: APP/R1038/W/16/3152305**

**Park Farm, Park Avenue, Holmesfield, Derbyshire S18 7XA**

- 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 J Merritt against the decision of North East Derbyshire District Council.
  - The application Ref 15/01225/OL, dated 3 December 2015, was refused by notice dated 27 January 2016.
  - The development proposed is described as the redevelopment of site with 3 bungalows.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved for residential development of dwellings at Park Farm, Park Avenue, Holmesfield, Derbyshire S18 7XA in accordance with the terms of the application, Ref 15/01225/OL, dated 3 December 2015, subject to the attached schedule of conditions.

### Procedural Matters

2. The application is in outline with all matters reserved for future determination. A layout plan submitted with the application shows indicatively that the site capable of accommodating three detached dwellings. I have had regard to this plan in the determination of this appeal.
3. The Council changed the description of application Ref 15/01225/OL to 'outline application with all matters reserved for residential development of dwellings'. This is a more accurate description of the development which I have also used in the determination of this appeal.

### Main Issues

4. The main issues in the appeal are:
    - Whether the proposal is inappropriate development in the Green Belt.
    - The effect on the openness of the Green Belt and the purpose of including land within it.
    - The effect on the character and appearance of the area having particular regard to the location of the site within a Special Landscape Area.
-

- Whether the proposal represents a sustainable form of development with particular regard to the location of the appeal site outside of the settlement development limits of Holmesfield.

## **Reasons**

### *Inappropriate development*

5. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they relate to the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
6. Save for a small garden area in the vicinity of the existing bungalow, it was clear at my site visit that the majority of the site which is not occupied by buildings is either subject to the open storage of material and plant, used for the storage of containers and storage cages or is provided with hard standing. Whilst I accept that access to the wider agricultural land to the east can be gained from the site, I have no clear evidence to suggest that any of the site is, or has been used, for sole agricultural purposes.
7. Although I note the Council's view that there may be small areas within the site that do not constitute previous developed land, taken as a whole, and given the extent of built development and outside storage, I consider that the site is previously developed for the purposes of the definition provided within the Framework.
8. The Council's approach to the consideration of development within the Green Belt is set out in saved Policy GS2 of the North East Derbyshire Local Plan adopted in 2005 (Local Plan). This policy predates the advice provided in the Framework and other than referring to the replacement of existing dwellings it is silent on the redevelopment of previously developed sites. Consequently the weight that can be attached to this policy is limited.
9. The proposed development would result in the replacement of the existing bungalow with a new dwelling of modest size but with an addition of two further dwellings. Given my findings regarding the previously developed nature of the site, I do not consider that the principle of the proposed scheme would be inappropriate development within the Green Belt subject to the consideration of the impact on openness.

### *Openness and Green Belt purposes*

10. A fundamental characteristic of Green Belts, as set out in paragraph 79 of the Framework, is their openness and their permanence. The proposed development would result in the removal of all of the existing buildings and outside storage elements. The appellant indicates that the total floor space occupied by the existing buildings is approximately 280 sq.m. The appellant also suggests that the proposed development would comprise of three single storey dwellings each having a floor space of 90 sq.m and therefore the extent of built development would be less than currently exists.

11. In my view the extent of the proposed area that would be occupied by built development, hard standing and garden area would be broadly commensurate to the area of the site occupied by the current buildings and ancillary storage. Consequently, I consider that there would be little change in the openness of the Green Belt between the existing and proposed development.
12. I therefore conclude that, overall, the scheme would have a broadly neutral effect on the openness of the Green Belt. As such, it would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. Consequently, this reinforces my view that the proposal would not be inappropriate development within the Green Belt.

#### *Character and appearance*

13. Although the site is not readily visible from the village, it is quite visible and prominent when viewed from the wider countryside to the north and east. In such views it appears as an unsightly and unkempt area of land, occupied by a variety of buildings of various design and states of repair and subject to random and unordered external storage. I consider that the current appearance of the site has an injurious effect on the character and appearance of the Special Landscape Area.
14. I agree with the appellant that the site already has an 'urbanising impact' in this part of the open countryside. Although the proposed development would result in a similar extent of built development as existing, it would be provided in a more attractive and ordered form with an increased opportunity for appropriate landscaping. The extent of encroachment into the countryside would remain unchanged.
15. Given the outline nature of the proposals the Council would have control over the appearance, siting and landscaping of the development. In my view, the proposed development provides an opportunity to provide a visual improvement in the appearance of the site in this part of the Special Landscape Area. The proposed single storey height of the buildings would be commensurate with the height of the existing buildings and given the other visual improvement that I have identified above, I consider that the proposed development would be less prominent in views from the surrounding countryside.
16. Taking the above factors into account, the proposed development would not detract from the character and appearance of the Special Landscape Area. Consequently, there would be no conflict with Saved Policy NE2 of the Local Plan. This policy, amongst other things, requires that new development within such areas should not materially detract from the surrounding landscape.

#### *Sustainable Development*

17. The appeal site is located in open countryside outside of the settlement development limits. The appellant indicates that the site is within 45m of the settlement boundary. The Council accepts that it cannot demonstrate a five year housing supply and as such the policies relevant to the supply of housing contained in the Local Plan are out of date.
18. In the absence of a 5 year housing supply, the Council has adopted Interim Planning Policy for New Housing Development in North East Derbyshire. This

policy indicates, amongst other things, that new housing development outside of settlement development limits will be considered in circumstances where the site adjoins a settlement development limit, is well related to the built framework of the existing settlement, and does not result in a prominent intrusion into the countryside.

19. In assessing the suitability of appropriate sites for development in the countryside the interim policy makes no reference to the settlement hierarchy of the District. Although the Council indicate that Holmesfield is a low order settlement, it has a primary school and limited services comprising a Church, Public House and Village Hall.
20. Whilst I recognise the Council's concerns regarding development outside the settlement development limits of Holmesfield, the appeal site is an existing developed and well established site located close to the settlement boundary. The proposed development would not materially alter the relationship of built framework of the existing settlement and nor would it result in a prominent intrusion into the countryside. Indeed, in my view it would enhance the character and appearance of this part of the Special Landscape Area.
21. Although the site does not adjoin the settlement boundary, it is located close to it. It is within an acceptable walking distance of the village and although I accept that occupiers of the dwellings are likely to make considerable use of the car to access major facilities, there are accessible facilities within the village for basic needs. In addition, I have no evidence to suggest that the existing use of the site has any restrictions on vehicular usage or indeed the extent and intensity of operations that can be undertaken. In my view, the proposed redevelopment of the site for housing would not only provide visual improvement, without conflicting with Green Belt purposes, but would be a less intensive use of the site in terms of vehicular activity than that which currently could occur. The proposed development would be no more unsustainable than the current usage of the site.
22. Overall, the site circumstances in this appeal, the opportunity for considerable visual improvement to the Special Landscape Area and the modest contribution to housing supply are factors which weigh in favour of the development.
23. Whilst not fully meeting the requirements of the interim policy by not abutting the settlement boundary, there are circumstances in this appeal which suggest that the proposal would be an acceptable form of development in the countryside. Consequently there would be no conflict with Saved Policies GS1 or GS6 of the Local Plan. These policies, amongst other things, seek to ensure that new development makes full use of previously developed land, preserves the quality of the area's natural assets and that development in the countryside is within keeping with the character of the area and does not represent a prominent intrusion into the countryside.

#### *Other matters*

24. I have taken into account the Council's concerns that the development could set a precedent for further development outside of the settlement development limit along Park Avenue. However, it is a fundamental planning principle that each case has to be considered on its own individual merits. In this case, and for the reasons outlined above, the previously developed nature of the site is a significant factor in my decision to allow the appeal. The intervening land

between the settlement development limits and the appeal site comprises Greenfield land located within the Green Belt. As such the planning considerations for the development of such land are likely to be very different than is this case in this appeal.

25. I also note that the existing development located within close proximity of the site and lying within the settlement development limit is within a Conservation Area. Although the Council have found no impact on the setting of the nearby Conservation Area, I have nonetheless had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and its setting. In this respect, given the separation distance, local topography and screening of the site, I am satisfied that the proposed development would preserve those interests.

### **Conditions**

26. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some for the reasons set out below.
27. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters. I have specified the approved plans in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used, landscaping, details of ground and floor levels and details of boundary treatment.
28. Whilst I note the appellant's comments regarding the provision of a passing place, I observed at my site visit that the access track from Park Avenue is of limited width that would not allow two vehicles to pass. It is also well used by walkers. Consequently, I agree with the Council that, in the interests of highway and pedestrian safety, passing places are required. However, the condition suggested by the Council does not specify the number of passing places to be provided and the suggested width may not be attainable without occupying land that may not be in the ownership of the appellant. Given the relatively short length of the access track I consider that two passing places would be sufficient in a staggered arrangement, one on each side of the track. As the track has a grass verge, I consider that suitable passing places could be provided within the width of the track and without the use of any third party land.
29. Given the distance of the site from the current waste collection point, I agree that a condition is required to make adequate provision for bin storage and collection. In the interests of highway safety I also agree that adequate provision should be made for the parking of two cars for each dwelling.
30. Taking into account the former uses of the site, I agree that a condition is required to make adequate provision for the treatment of any contamination found during the course of the construction works in order to ensure that the dwellings can be safely occupied.
31. The appellant's case is partly founded on the fact that the proposed built footprint would be similar to that of the exiting built footprint and therefore

there would be no greater impact on openness. For the reasons identified above, I have considered this appeal on the basis of appellant's assertion that the three dwellings would have an internal floor area not exceeding 90 sq m. I therefore consider that a condition is required that limits the floor area of each dwelling and their height to single storey to ensure that there is no greater impact on openness and in order to protect the character and appearance of the area.

32. I consider that the Council's suggested condition relating a scheme for mitigating climate change is not sufficiently precise, enforceable or adequately reasoned. Whilst I note the Council's broad aspirations behind such condition, I have no evidence of any environmental objectives or standards that such a wide ranging condition is seeking to achieve. Consequently I am not persuaded that the suggested condition would meet the relevant guidance regarding the use of conditions.
33. The Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Whilst I note that the appellant is content for the imposition of a condition restricting certain permitted development rights I am not satisfied that the Council's suggested condition removing many householder rights is necessary as, other than the enlargement of the proposed dwellings, no detailed explanation for the removal of other permitted development rights is given. However, I have restricted extensions to the proposed dwelling, which appears to me could otherwise be enlarged excessively in relation to the plot size and adversely affect the character and appearance of this part of the Special Landscape Area.
34. Finally, the Council's statement refers to a condition requiring a surface water drainage scheme. However, such condition was not contained within the Council's suggested list of conditions. Given the hillside position of the site I agree that a condition relating to the provision of details of surface water drainage is necessary to ensure that the proposed development can be adequately drained and that the opportunity for sustainable drainage is investigated.

### **Conclusion**

35. I have identified that the proposal would not be inappropriate development within the Green Belt which would not have a greater impact on the openness of the Green Belt. It would not materially harm the character and appearance of the Special Landscape Area. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

## **CONDITIONS SCHEDULE**

1. Plans and particulars of the reserved matters relating to the access, appearance, landscaping, layout and scale shall be submitted to and approved in writing by the local planning authority prior to the commencement of any development and the development shall be thereafter carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: M.15.01 Proposed Indicative Layout; M.15.00 Layout as Existing; Location Plan received 4 December 2015.
5. No building operations shall take place until details and/or samples of the materials to be used in the construction of external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be undertaken in accordance with the approved details.
6. No development shall take place until details of finished ground and floor levels, existing site levels and levels on adjoining land, all relative to the same existing datum point, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
7. No building operations shall take place until two passing places have been constructed on the access track leading to the site from Park Avenue in accordance with details which shall have been submitted to, and approved in writing by, the local planning authority. Such passing places shall be provided within the confines of the width of the access track and shall be a minimum length of 5.5m and located in a staggered arrangement, one on each side of the access track.
8. No dwelling shall be occupied until arrangements for the storage of bins and waste collection have been implemented in accordance with details which shall have been submitted to, and received the written approval of, the local planning authority. The approved arrangements shall thereafter be retained.
9. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the local planning authority.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2, Part 1, Class A or B of that Order.
11. No building operations shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The landscape scheme shall include details of all hard and soft landscaping, planting plans written specifications (including cultivation and other operations associated with tree shrub hedge establishment) schedules of plants noting species plant sizes the proposed numbers and densities and an implementation programme.
12. The dwellings hereby approved shall be single storey bungalows. The internal floor area of each dwelling shall not exceed 90 sq m.
13. All hard and soft landscaping works including planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
14. No development shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The boundary treatment shall be provided in accordance with the approved details and shall be completed before the first occupation of any of the dwellings. The approved boundary treatment shall be retained thereafter.
15. No dwelling shall be occupied until space has been laid out within the site for the parking of two cars to serve each dwelling and that space shall thereafter be kept available at all times for the parking of vehicles.
16. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage (or any subsequent version), and the results of the assessment provided to the local planning authority. The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in

writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation;
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.