
Appeal Decision

Site visit made on 5 January 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/P1045/W/16/3160380

Land on the south side of the road between Flakes Barn and the Cemetery, West End, Brassington, Derbyshire DE4 4HL

- 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 and Mrs J and D Allsop against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00088/OUT, dated 5 February 2016, was refused by notice dated 13 April 2016.
 - The development proposed is a mixed use development comprising of residential dwellings and a village shop including diversion of a public footpath and affordable housing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with the matter of access to be determined. Matters of appearance, scale, layout and landscaping are reserved for future consideration, though an indicative site layout (1403-01) has been provided which suggests a development including 8 dwellings and a village shop could be accommodated. I have determined the appeal on that basis.
3. The description of development in the heading above has been taken from the planning application form. The Council's decision notice, however, provides a different wording. The appellant indicates that the revised description was not agreed between the parties. Accordingly, I have used the one given on the original application.

Main Issue

4. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding landscape; and,
 - whether the proposal would preserve or enhance the setting of the Brassington Conservation Area.
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Reasons

Character and Appearance

5. The Derbyshire Dales Landscape Character and Design Supplementary Planning Document 2007 locates the appeal site within the Derbyshire Peak Fringe and Lower Derwent landscape character area. The appeal site, and the countryside beyond, is identified as 'Settled Farmlands' landscape type. Guidance set out in the Landscape Character of Derbyshire 2004 document (LCD) identifies the landscape as being gently undulating to rolling pastoral, characterised by densely scattered hedgerow trees and trees along watercourses. Villages and sparsely scattered farmland provide the impression of a settled landscape. The wider area features discrete, small villages such as Brassington which are intrinsic to the well settled character of the surrounding landscape.
6. The appeal site is a gently undulating field of pasture on the southern side of West End – the main thoroughfare through the village of Brassington. The site is bound by a low stone wall along the road frontage and scattered hedgerow trees. It has a public footpath which runs south along the eastern boundary of the site. It adjoins a cemetery on one side and a single dwelling, known as 'Flakes Barn', on the other. The site has a notable slope as it extends away from West End towards the open countryside beyond. Consequently, the appeal site exhibits several of the key characteristics of the surrounding landscape.
7. The northern side of West End contains a relatively tight-knit collection of predominately residential buildings. In contrast, built form on the southern side of West End is fragmented and dispersed. The road draws an unequivocal distinction between the clustered built form to the north and the rolling landscape to the south. As a result, given its proximity to Brassington, the appeal site is a prominent example of where the relationship between the village and the surrounding landscape is at its most apparent and sensitive.
8. The area is not part of a designated landscape, but is nevertheless a landscape of considerable value, as noted in the LCD. It is clear from the evidence before me that the landscape is valued by the local population and exhibits several positive characteristics from which importance is placed within the countryside.
9. Saved Policy NBE8 of the Derbyshire Dales Local Plan 2005 (LP) states that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape. I note that Inspectors in recent appeal decisions have concluded that limited weight should be afforded to Policy NBE8 as it is at odds with the balanced approach to landscape impact set out in the National Planning Policy Framework (the Framework). While Policy NBE8 is framed in unduly restrictive terms and does not reflect that 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.
10. The proposal seeks outline consent for a development shown on indicative plans as comprising 8 dwellings and a village shop. It is indicated that 3 of the dwellings would be affordable housing. The indicative layout shows the shop and terraced dwellings located on the frontage of West End, with additional dwellings behind.

11. The appellant considers that the proposal presents an opportunity to provide an attractive and interesting development which would integrate well with and would provide a distinct edge to the village, whilst also maintaining a rural feel. I note the indicative layout shows dwellings along the frontage which would reflect the traditional pattern of development found within the village. I have also considered that the dwellings would be designed to reflect those within the village and the findings of the appellant's Heritage Assessment which notes that the scheme would be set down from the highway.
12. However, the development of the site would involve a significant change in the character of the land. Replacing the gently undulating and open pasture with built development would be in stark contrast to the defining characteristics of the area. In my view, this would be a harmful encroachment into a largely unfettered element of the surrounding landscape.
13. Moreover, whilst there would be pockets of open space within the site and dwellings would be arranged at a relatively low density, the proposal would nevertheless obscure the legibility of the important relationship between the village and the key characteristics of the landscape within which it lies. Furthermore, the proposal would involve the removal of a section of the existing attractive wall which forms a clear boundary between the village and landscape beyond.
14. Whilst I recognise that there are other areas of open land adjacent to the village which make similar contributions to the character of the area, their presence would not compensate for the loss of the open nature of the appeal site.
15. I conclude, therefore, that the proposal would have harmful effect on the character and appearance of the surrounding landscape. Consequently, the proposal would conflict with Saved Policy NBE8 of the LP. It would also conflict with Saved Policies SF5 and H9 of the LP which state that development should preserve or enhance the quality and local distinctiveness of its surroundings and should be in scale and character with its surroundings.

Heritage Assets

16. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a statutory duty upon decision makers to safeguard the significance of heritage assets for future generations. Statute allows for change in the setting of heritage assets, where change does not harm the significance of the asset. This is also reflected in Paragraph 131 of the Framework which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
17. The appeal site lies outside of, but adjacent to, the boundary of the Brassington Conservation Area. The Brassington Conservation Area Appraisal (BCAA) identifies the conservation area as being characterised by a well-preserved settlement pattern and several buildings of historical value. The village displays a tight-knit development with groups of buildings clustered together along the edge of streets. There are pockets of open space which help break up the settlement and which preserve its rural character and roots as they connect with the surrounding landscape. The relationship between the

original medieval village and the rural landscape within which it sits makes an important contribution towards the significance of the conservation area.

18. The setting of the conservation area is characterised by the surrounding landscape, which the BCAA identifies as having one of the best preserved examples of this historic landscape in Derbyshire. The approach from the west of Brassington encompasses views across the rising landscape in which the village sits and from the south, the surrounding landscape forms a significant and important foreground to the village. Indeed, the BCAA identifies places, such as the appeal site, where the rural setting is so immediate that it is part of the street scene. The vistas, buildings and landscape are directly connected. The BCAA notes that the setting of the village is particularly sensitive to encroachment from new development.
19. The proposal would result in a significant encroachment of new development within the open and relatively unfettered surrounding landscape. This would be in stark contrast to the prevailing character and appearance of the setting of the conservation area. Furthermore, it would obscure the juxtaposition of the appeal site's relationship to the village, introducing a somewhat prominent grouping of buildings. As a result, it would erode the important relationship between the historical significance of the village and the key characteristics of the landscape which forms its setting.
20. To the north-east of the appeal site is the Grade II Listed Building, Brassington Hall. However, there is no evidence that the appeal site has any historical association with the hall and the proposal would be some distance from the listed building. As such, I agree with the main parties that the proposal would not have a harmful effect on the setting of the listed building.
21. Nevertheless, I conclude for the reasons above that the proposal would fail to preserve or enhance the setting of the Brassington Conservation Area. Consequently, the proposal would conflict with Saved Policy NBE21 which states that planning permission for development proposals within or adjacent to a Conservation Area will be granted provided that they preserve or enhance the character or appearance of the area.
22. In finding harm in respect of the significance of heritage assets, paragraph 134 of the Framework sets out that where a view is taken that the harm to the designated heritage asset would be less than substantial, this harm should be weighed against the public benefits of the proposal. In this instance, the degree of harm would be less than substantial in the context of paragraph 134. Such a conclusion of the degree of harm to the setting of the conservation area does not equate to a less than substantial objection to the grant of planning permission. Nevertheless, a balance must be struck.

Paragraph 134 Balance

23. The parties agree that the appeal site is suitably located in terms of access to services, facilities and employment opportunities. On the evidence before me, I have no reason to disagree. However, such a matter would be a neutral factor in the balance, rather than a benefit.
24. The evidence before me suggests that there is some need for 3 bedroom affordable homes in the area. It is proposed to provide 3 affordable houses which would be of significant benefit to the area. However, there is no

mechanism before me to deliver such a provision. This limits the weight I can afford it as a benefit. The proposal would, however, make a modest, but nevertheless important, contribution towards the overall supply of housing in the area. This carries significant weight.

25. I also consider that the proposed shop would be a sizeable social and economic benefit to the village and I note that the proposal would help support and maintain existing services within the village. Economically, the proposal would also boost employment during the construction phase and increase spending in the local economy upon occupation of the proposed dwellings.
26. On the other hand, the proposal would fail to preserve or enhance the setting of the Brassington Conservation Area. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The definition of 'designated heritage asset' in Annex 2 of the Framework includes conservation areas. Consequently, I find that the harm to the significance of heritage asset in this instance weighs more heavily than the public benefits of the scheme.

Other Matters

27. Policies SF4 and H4 of the LP seek to restrict development, including new housing, in the countryside. The proposal would conflict with those policies. Nevertheless, paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It goes on to state 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.
28. The appellant argues that the Council is unable to demonstrate a five year housing land supply, in line with paragraph 47 of the Framework. The appellant concludes that the supply is around 4.5 years. The Council disputes this, indicating that it can demonstrate a 5.8 year supply of housing.
29. If I were to conclude that there is a shortfall in the supply of housing to the extent suggested by the appellant, then policies SF4 and H4 of the LP, as they are policies which effect the location and supply of housing, would not be up-to-date and paragraph 14 of the Framework would therefore be engaged.
30. Paragraph 14 states that at the heart of the Framework is a presumption in favour of sustainable development. For decision taking this means that where relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significant and demonstrable outweigh the benefits, when assessed against the policies in this Framework taken as whole; or specific policies in this Framework indicate development should be restricted.
31. Footnote 9 to the Framework indicates that those specific policies include policies relating to designated heritage assets. Paragraph 134 of the Framework is a specific policy that indicates that development should be restricted. As set out above, I have found that the public benefits of the proposal would not outweigh the harm to the significance of the designated heritage asset. To that end, the restrictive policies of the Framework in respect of designated heritage assets apply. As a result, the presumption in favour of sustainable development as set out in paragraph 14 of the Framework is dis-

applied in this case. Whether or not a 5 year housing land supply can be demonstrated is not therefore determinative in this appeal.

32. The Council was recently minded to approve a scheme for 22 dwellings at Old Hall Farm, Marston Montgomery which, like Brassington, is identified as a Tier 4 village in the emerging Derbyshire Dales Local Plan – Pre Submission Draft Plan 2016. However, in that case the Council concluded that the public benefits of the scheme would outweigh the less than substantial harm identified in respect of heritage assets. Moreover, the Council found that there would be no harm to the character and appearance of the landscape. That is not the case here. In any event, I have considered this appeal on its own merits. I therefore afford the scheme at Old Hall Farm little weight.
33. I have considered the concerns of neighbouring residents and Brassington Parish Council in respect of the need for new housing in the area and the conflict with the emerging Brassington Community Plan. However, given my findings in respect of the main issues above, they do not draw me to any different overall conclusion.

Conclusions

34. I have found that the proposal would result in less than substantial harm to a designated historic asset. In addition, I have identified significant harm to the character and appearance of the landscape. The proposal would conflict with the development plan when taken as a whole.
35. Although the proposal would bring benefits of significant weight, I consider that these matters would not be sufficient to outweigh the totality of the harm, giving great weight to paying special attention to the desirability of preserving or enhancing the setting of the conservation area, as reflected in paragraph 132 of the Framework.
36. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR