
Appeal Decision

Site visit made on 28 February 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 28th March 2017

Appeal Ref: APP/R1038/W/16/3163388

Land at Hard Meadow Lane, Ashover, Derbyshire S45 0BD

- 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 C. Ludlam and Mrs E. M. Nuttall against the decision of North East Derbyshire District Council.
 - The application Ref 16/00977/OL, dated 13 September 2016, was refused by notice dated 4 November 2016.
 - The development proposed is erection of a single dwelling at Hard Meadow Lane, Ashover, S45 0BD.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration. Although the submitted plan RS7/A is not marked as 'indicative' or 'illustrative', because all matters are reserved for future consideration I have dealt with the appeal on the basis that the plan is indicative.
3. Following the submission of the appeal, Ashover Parish Council resolved to withdraw the Ashover Submission Draft Neighbourhood Plan. I have determined the appeal on the basis of the national and local policies adopted at the present time.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area and whether the proposed development would be in a suitable location with respect to its proximity to services and facilities.

Reasons

Character and appearance

5. The appeal site comprises a parcel of land which lies to the north of a property known as Spath Fluor. The site is surrounded by agricultural fields to the north and east and a large copse of trees to the west. The site is accessed from Hard Meadow Lane. The site lies within the open countryside, outside of any settlement development limit and within a Special Landscape Area. Despite the presence of nearby properties, the locality has an overall rural character and appearance.
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6. The appellants submit that the proposed dwelling would be located within a continuous residential link to the centre of Fallgate, which is approximately 300m to the south of the appeal site. I do not agree. Whilst I acknowledge the presence of other properties in the locality, they form a loose-knit and relatively sporadic grouping that does not form part of a recognised settlement and are surrounded by open countryside. Furthermore, the collection of houses known as Fallgate has no settlement development limit and is in itself rural in character.
7. The erection of a dwelling on this site would increase the spread of built development further into the open countryside. Although the dwelling would not be remote from Spath Fluor, the house would stand alone on Hard Meadow Lane. The erection of a dwelling and the use of its surroundings for residential purposes including associated domestic paraphernalia and the parking of cars would have a significant visual presence at odds with the rural character of the area. It would be clearly evident as an incursion of built development which would erode the natural qualities of the site thus detracting from the appearance of the surrounding countryside. It would appear as an intrusion into the landscape that would fail to respect the valued characteristics of the Special Landscape Area.
8. The appellants state that the proposed development would constitute remediation of a brownfield site, given the sites history of mineral workings. They assert that the site is unfit for agricultural use and for any purpose other than for much needed residential development in the area. I have had regard to the submitted information, plans and maps submitted by the appellants in relation to this matter. The Council disputes this information stating that the site is not in a coal mining risk area, that there is no evidence of historical contamination and asserts that maps suggest only a small section of the south west of the site may have contained kilns.
9. Nevertheless, even if I were to accept the appellants evidence, the definition of previously developed land within the National Planning Policy Framework (the Framework), specifically excludes land that has been developed for minerals extraction. Moreover, it also excludes land that was previously-developed but where the remains of the permanent structure or fixed surface structure have been into the landscape. From my observations on site, there was very little evidence of any previous development or workings on the site. I do not therefore accept that the site can be considered previously developed land. There is little substantive evidence to enable me to conclude that the site is now unfit for agricultural purposes but in any event, this would not outweigh that harm that I have found to the character and appearance of the area.
10. I therefore conclude that the proposal would have an adverse impact on the character and appearance of the area and find conflict with Policies GS1, NE1, NE2 and GS6 of the North East Derbyshire Local Plan (2005) (Local Plan). These seek, amongst other things to make full use of previously developed land before green field land, to conserve the varied and distinctive landscape character of the District, to ensure development does not materially detract from the surrounding landscape and does not represent a prominent intrusion into the countryside.

Access to services and facilities

11. In order to prevent intrusive development in the countryside and to encourage sustainable patterns of development, Policy H3 of the Local Plan seeks to restrict new dwellings in the open countryside outside settlement to certain categories of development. As none of the categories listed would apply to the appeal scheme, the proposal would conflict with Policy H3 of the NEDLP.
12. Paragraph 55 of the Framework, which post-dates the development plan, specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances, none of which apply to the appeal scheme.
13. Whilst the proposed dwelling would not be completely isolated physically given the presence of built development close by, the Council are concerned that in functional terms, the dwelling would have poor access to services and facilities thus future occupants would be heavily reliant on the private car.
14. The nearest recognisable settlement is Fallgate, however from the information before me and from my observations on site, there are no services or facilities in Fallgate itself. I find it unlikely that future occupants would walk or cycle to Ashover, which is the nearest settlement (some 800m as the crow flies) with services and facilities given the distance involved, the speed and unlit nature of the country roads. Moreover, given the limited facilities in Ashover, I agree with the Council that future occupiers are likely to need to travel further afield to access services and facilities for everyday needs.
15. The Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The Council state that there are two bus stops in Fallgate some 0.3 miles from the site. The route to the bus stops is along a 60mph unlit road with a considerable portion having no footpath. Although there is a limited bus service running from one of the stops, a more regular service between Chesterfield and Matlock runs from the second. Therefore, access to services and facilities further afield could be accessed by bus services that operate within walking distance of the site. However, this would require the occupants of the proposed house to walk not inconsiderable distances along a route in part with no footpaths and which is unlit. Thus, although future occupiers would have some opportunity for bus travel, I share the Council's concerns that these factors would deter future occupiers from using this sustainable mode of transport.
16. Consequently, there would be a strong reliance on the use of the private car to access services and facilities required for everyday needs further afield. The development would therefore be functionally isolated in terms of its remoteness from everyday services and facilities. It would also undermine the Frameworks aims of locating new dwellings in rural areas close to services and facilities as a means of reducing unnecessary travel by car.
17. I therefore conclude that the proposal would not prove a suitable site for a new dwelling with particular regard to access to services and facilities. It would therefore be contrary to Policies H3 and GS1 of the Local Plan which seek to direct development within settlement development limits and to ensure that new development is well related to existing or capable of providing public

transport networks, other services and facilities and be accessible on foot and by cycle.

Other Matters

18. I acknowledge that the appellants have established links with the community and wishes to remain in the area. I also note that they are currently renting. However, personal circumstances seldom outweigh general planning considerations.
19. I note the appellants' frustrations in relation to previous applications and alleged inconsistencies. However, I must determine the appeal on the basis of the scheme and information currently before me. Whilst I note that the appellants have worked to overcome previous highways objections and that there are no objections from the Council in relation to the impact on the living conditions of neighbouring residents, these matters are insufficient to outweigh the harm that I have found.
20. The appellants have also drawn my attention to a number of recent developments in the locality of the appeal site. However, I have been given very little information on the circumstances which led to their approval and can therefore give them very little weight. In any case, each appeal is considered on its own merits.
21. The appellants state that the proposal would contribute to much needed housing in the area, free up a rental property, would create a home of the highest environment standards and create a habitat for all forms of wildlife. However, the limited benefits arising from only one dwelling do not outweigh the harm that I have found in relation to the character and appearance of the area and accessibility.

Conclusion

22. To conclude, I have found that the development proposed would harm the established character and appearance of the area and that it would not provide a suitable site for housing in terms of accessibility. That brings the development into conflict with the development plan. Thus, the scheme cannot be considered as sustainable development and therefore does not benefit from the presumption in favour of such as set out in the Framework.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR