
Appeal Decision

Site visit made on 11 April 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 25 April 2017

Appeal Ref: APP/R1038/W/17/3167214

Orchard Cottage, Palterton Lane, Sutton Scarsdale, Derby S44 5UT

- 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 M Baldwin OBE against the decision of North East Derbyshire District Council.
 - The application Ref 16/01135/OL, dated 20 October 2016, was refused by notice dated 16 December 2016.
 - The development proposed is Outline planning for one dwelling to rear of Orchard Cottage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for scale and access. For completeness, I have used the post code from the appeal from in setting out the address above.

Main Issues

3. The main issues are: (i) the effect of the proposal on the character and appearance of the surrounding countryside, having regard to the development plan and the National Planning Policy Framework (the Framework); and (ii) whether the proposal would preserve or enhance the character and appearance of Sutton Scarsdale Conservation Area (SCCA).

Reasons

Planning Policy

4. The Council accept they are currently unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 47 of the Framework. While the Council continue to grant planning permissions in suitable locations, the Annual Monitoring Report from 1 April 2016 puts the housing supply at 3.8 years. Thus paragraph 49 of the Framework is engaged and relevant policies relating to the supply of housing should be considered to be out-of-date.
 5. The North East Derbyshire Local Plan (Local Plan) is the current development plan for the administrative area of North East Derbyshire. Saved Local Plan Policy GS6 is a policy concerned with the supply of housing land as its objective is to direct new development away from the countryside and to within the built framework of existing settlements. The term countryside, for the purposes of
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the Local Plan's policies is the area outside the Settlement Development Limits (SDL). Saved Policy GS6 is broadly consistent with the Framework as it seeks to recognise *the intrinsic character and beauty of the countryside*. However, due to the SDL, I attach saved Local Plan Policy GS6 a moderate weight only. I attach saved Local Plan Policies BE1, BE11 and H12 full weight, given that they are not policies relevant to supply of housing.

6. Although I note the Council has published the North East Derbyshire Local Plan (2011-2033) *Consultation Draft* (CDLP), this is at a very early stage. Even though the CDLP may be informed by evidence, it has not been examined in public. As a result, I consider it would only attract a very limited weight. Even so, the Council's decision notice, delegated report and appeal correspondence do not refer to any of its policies. So, I have assessed the proposal against the saved Local Plan policies and the Framework.

Character and appearance of the surrounding countryside

7. The appeal site is located on the southern side of Palterton Lane behind the two storey Orchard Cottage which is set within spacious verdant grounds lined by mature trees along the side and rear boundaries. Both Orchard Cottage and the appeal site lie outside the SDL for Sutton Scarsdale which is to the north. As such the site is considered to be within open countryside.
8. The proposed dwelling, which is a re-submission of an earlier scheme that was dismissed at appeal in 2010¹, would be located on a grassed area to the rear of Orchard Cottage. The appellant explains that the dwelling would be single storey in height with a low ridgeline.
9. The proposal would be sited within the existing stone boundary wall which distinguishes the curtilage of Orchard Cottage to the open countryside beyond. However the rear of the site is very visible from Shire Lane to the south and west due to the openness of the adjacent land and the gaps in-between the existing mature trees. As a result, the proposal would be clearly seen on approach to the settlement on Shire Lane. Thus, the proposal would be in a prominent location, even with the mature trees around the edge of the site.
10. The appeal scheme indicates that it would include a 10 metre deep planting strip which would encompass the dwelling on three sides. The Council accept that this would enhance the existing mature trees which are to be retained. Details of any landscaping would be subject of a reserved matters application, if I were minded to allow the appeal. I acknowledge the site is a residential garden and planting could take place in any event. However I am not persuaded that there is sufficient detail before me to indicate that the site would, if developed in the manner suggested, reflect the site's countryside character without appearing to be prominent. Furthermore any planting would take some time to establish. I therefore consider that the landscaping is likely to result in an uncharacteristic, dense landscaping belt being formed. This would not promote or reinforce local distinctiveness or reflect good inclusive design which functions well and adds to the overall quality off the area as explained in paragraphs 56, 57, 58, 60 and 61 of the Framework, even accounting for the scheme's outline form, evolution and lack of advertisements.
11. For these reasons, I conclude on this issue that the proposal would have a

¹ Appeal Decision Ref: APP/R1038/A/10/2120596

significant effect on the character and appearance of the surrounding countryside. The proposal would not accord with saved Local Plan Policies GS6, BE1 and H12 or paragraphs 56, 57, 58, 60 and 61 of the Framework. Jointly these, among other things, seek new development to protect the open countryside and respect the character and appearance of the site, its surroundings and the area in which it is located with particular regard to maintaining and contributing to local distinctiveness.

Character and appearance of the SCCA

12. The existing garden and mature trees along the boundaries to the garden especially are a key component of the character and appearance of this part of the SCCA. The proposed dwelling would result in a large amount of built form in the attractive open rear garden. Moreover the planting would introduce an incompatible deep screen which would not conserve or enhance the character or appearance of the SCCA.
13. Even so, with regard to paragraph 134 of the Framework the harm to the SCCA would be less than substantial. This is a harmful impact which would adversely affect the significance of the SCCA as a heritage asset. Public benefit would arise from the extra dwelling in an area where there is currently no five-year supply of deliverable housing sites. Other benefits would arise from the use of stone and slate; the use of the existing access and infrastructure; protection of existing trees and new planting, but also by maintaining good interface distances and living conditions for neighbouring occupants. However, the harm to the SCCA and the site would, to which I attach considerable importance and weight, in my view, clearly outweigh these modest public benefits.
14. I therefore conclude, on this issue that the proposal would not preserve or enhance the character and appearance of SCCA. The proposal would not accord with saved Local Plan Policy BE11 and paragraph 134 of the Framework. Together these seek to ensure that new development within and adjoining conservation areas conserves or enhances the character.

Conclusion

15. Paragraph 14 of the Framework indicates that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless, amongst other things, specific policies in the Framework indicate development should be restricted. Footnote 9 identifies that designated heritage assets can be such a policy. So, while the Council cannot currently demonstrate a five-year supply of deliverable housing sites, significant adverse weight is attached to the harm to the countryside and the SCCA. I therefore conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits which would arise from the proposal, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore represent a sustainable form of development.
16. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR