
Appeal Decision

Site visit made on 3 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 19th May 2017

Appeal Ref: APP/F1040/W/17/3167940

Land at junction of Fishpond Lane and Duck Street, Egginton, Derby, DE65 6HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Anna Harrison against the decision of South Derbyshire District Council.
 - The application Ref. 9/2016/1222, dated 24 November 2016, was refused by notice dated 19 January 2017.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal accords with the strategy in the development plan;
 - Whether the Council can demonstrate a five year supply of new housing land;
 - The effect on the character and appearance of the area.

Reasons

Background

3. The appeal site comprises an area of open grassed land which lies adjacent to a modern detached dwelling (No. 104) and a larger field to the south on the edge of the village of Egginton. There is an existing vehicular access to the side of the site which serves fields to the rear and from which it is proposed to provide a driveway to a new detached dwelling. This would have two floors of accommodation but the upper floor would be partly set in the roofspace and lit by both windows in the gable and dormer windows.

Policy context and five year supply

4. The development plan for the area includes saved policies in the South Derbyshire Local Plan 1998 (the 1998 Plan) and the South Derbyshire Local Plan Part 1 adopted in June 2016 (LPP1). I will consider the degree of accord of any saved policy with the more recent National Planning Policy Framework
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(the Framework) as it arises in the issues below. The Council is also producing a Local Plan Part 2 (LPP2) which is being examined about the same time as this appeal. Although the plan is not formally adopted, the policies in the submitted plan can be given some weight at this advanced stage in the process.

5. The appellant says that at the time that the application was made the Council could not demonstrate a five year supply of new housing sites in accordance with paragraph 47 of the Framework, accordingly it is submitted that paragraphs 49 and the final bullet point of paragraph 14 are engaged and that policies which restrict the supply of housing should be considered as 'out of date'. The appellant's agent refers to the Council's last position statement (July 2016) which concluded that the Council could demonstrate 5.33 years supply. However, as reflected in the findings of the Inspector in appeal APP/F1040/W/W/163147682 (as referred to the Jawbone Lane decision), it was accepted that in the period 2016-2021 there would only be a 4.82 year supply.
6. The Council says that a five year supply could be demonstrated when the LPP1 was adopted in June 2016 and the LPP2 makes further allocations for housing development which will ensure the delivery of a five year supply. However although the examination of the LPP2 is imminent at the time of decision of this appeal, its provisions cannot be regarded as final. This limits the weight that can be given to the input of LPP2 proposals into the land supply calculation. The Council says that planning permission has been granted for some 237 houses since the Jawbone Lane decision which overcome the minor shortfall in supply identified, but I share the appellant's agent's concern about the robustness of this data and the way in which it fits in with the published trajectory of housing supply.
7. Overall, on the evidence put to me I have doubt over whether the Council can demonstrate at the moment that a five year supply of new housing land exists in accordance with paragraph 47 of the Framework. Even so, the proposal needs to be considered in the context that the degree of under provision appears (mathematically) very small and if the single dwelling now put forward was permitted, it would have a very limited effect on rectifying under-delivery.

Accord with the strategy in the development plan

8. The 1998 Plan defines a village boundary for Egginton and the appeal site lies outside but adjacent to this boundary and saved Policy H5 seeks to restrict development outside of the confines of the village and in the countryside. As such saved Policy H8 applies and the proposal for an open market residential dwelling is not one of the exceptions advanced in this policy. Therefore the proposal does not accord with the provisions of this part of the development plan. The Framework has a core principle of recognising the character and beauty of the countryside and I find that these policies broadly accord with the terms of the Framework notwithstanding my findings on land supply above.
9. In terms of the LPP1, the relevant policy is H1 which introduces a settlement hierarchy within which development will be permitted depending on the scale and services in the settlement. Egginton is recognised to be a 'Rural Village' in which development of a limited nature will be allowed subject to (i) it being within the settlement boundary or adjacent as an 'exceptions' site or cross-subsidy development ; or (ii) or a limited infill and conversion of an existing building. The final element of the policy refers to other areas outside settlements where only limited infill and conversions will be acceptable. In this

case part (i) is not applicable as the site is not within the settlement and the scheme is for open market housing and is not put forward as a housing exception or cross-subsidy development.

10. In terms of the part (ii) of the policy, the explanation for the policy does not define 'limited infill' but I take this to mean circumstances where development would fill in a gap between existing buildings or other development. Although the appeal site lies on the edge of existing development, the nature and character of the open field to the south of the site mean that the additional house would not constitute an 'infill' of this frontage. It would not complete or finish the urban form and the same arguments in favour of further additions could be repeated and repeated. Therefore, I find that the proposal conflicts with LPP1 Policy H1. LPP2 Policy BNE5 has a similar test of 'infilling' for new development in the countryside which is breached for the same reasons.
11. Overall, on this issue, reading the various parts of the development plan as a whole, I conclude that while Egginton is a sustainable location for small scale development, the proposal does not accord with its provisions for site specific reasons.

Effect on the character and appearance of the area

12. In assessing this effect I have had regard to the appeals decisions set out in the representations which relate to adjoining land but I have considered the visual impact of the proposal on its individual merits. At my site visit I looked at the site from the public realm of Duck Street and Fishpond Lane particularly where they meet on the corner.
13. When approaching the site from the east along Fishpond Lane to the corner, the open area of land stretching north up to the boundary with the existing dwelling (No. 104) affords views of the open countryside beyond. The land along the frontage has an undeveloped rural character and the appeal site contributes to this in its own right as well as being visually part of the larger area of field to the south. The settlement boundary mentioned in paragraph 8 above, although long standing, still reflects the present character of the land and the clear distinction between the built up environment of the village and the surrounding countryside.
14. Although there is some scattered vegetation along the roadside I do not agree with the appellant's agent that the development proposed would be well screened from the public roads. Even though the house proposed will be slightly lower than No. 104, the resulting development would be prominent to the public realm and would materially erode the open area. Further, because of the layout of the new house on the narrow site, I find that it would appear squeezed onto the end of the built-up frontage rather than result in a harmonious transition of build development with the countryside.
15. Overall, I agree with the Council that the proposed house would encroach into the undeveloped countryside setting of the village and this would significantly harm its character and appearance, contrary to the provisions of Policy BNE4 of the LPP1.

Other matters

16. I note that the appellant was born in the village and continues to live there. She also farms locally and it is said on her behalf that the new house will help to provide some security against theft and other crime on the land. However, the application is put forward as an open market house and I have considered it on this basis and not as one in connection with a functional agricultural need on a farm or for special personal circumstances.

Planning balance

17. The proposal needs to be seen in the context that the government seeks to encourage sustainable development and significantly boost the supply of housing. Within this framework Councils need to be able to demonstrate a five year supply of land for new housing. On the evidence submitted I have concerns that the Council is able to do that at the moment pending the examination and adoption of the LPP2. However, even if I was to apply less weight to the policies in the development plan that generally restrict the supply of housing, and to the conflict with policies that I have identified, in this case the appeal proposal if approved would not make much difference to rectifying any deficit in supply.
18. I also acknowledge that as limited further development, the additional house, and its subsequent occupiers may contribute to the vitality of the rural community and help maintain local services and facilities and there will be a short term limited economic benefit deriving from the construction of the property.
19. On the other hand I have found that the development of the site as proposed would not be an appropriate form of infilling and it would be likely to lead to pressure for more development said to be similar. Further, I have found that the development would be prominent and would be significantly harmful to the rural edge of the village as it would materially erode the open rural character that exists. This harm means that the proposal does not fulfil the environmental dimension of sustainable development as set out in the Framework as the proposal would not contribute to protecting the natural environment.
20. The harm identified needs to be balanced with the benefits of development but overall I conclude that the adverse impacts significantly and demonstrably outweigh the benefits when the Framework is applied as a whole. Therefore, the other considerations do not outweigh the conflict with the development plan even if lesser weight is given to this at the moment.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR