
Appeal Decision

Site visit made on 18 April 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 19th May 2017

Appeal Ref: APP/F1040/W/16/3166115

219 Bretby Lane, Bretby, Burton on Trent DE15 0QR

- 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 & Mrs John Orton against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/0818, dated 5 August 2016, was refused by notice dated 11 October 2016.
 - The development proposed is the erection of one dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved except for access. I have considered the appeal on this basis.

Main Issues

3. The main issues in this case are;
 - Whether the development would be in an acceptable location in relation to local and national policies on housing in the countryside, having particular regard to access to facilities by a range of modes of transport;
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on highway safety, with particular regard to visibility.

Reasons

Location and Access to Facilities

4. The appeal site comprises part of the side garden of 219 Bretby Lane. This is a detached dwelling set within a relatively spacious and verdantly landscaped plot. The dwelling currently has two points of access, one of which would be utilised by the development. To the rear of the site lies a large garden centre and car park, the access to this is to one side of the site. To the other is a detached dwelling that is also set within a large plot. Opposite the site is a pair of semi-detached dwellings.
-

5. The nearest settlement to the site is Bretby. There is no defined settlement boundary for this village. However, the small cluster of dwellings within which the site lies is detached from what might logically be considered the main built form of this small village by both distance and open fields. There is an absence of core village facilities within the immediate vicinity of the site and, other than the garden centre and small number of dwellings, the site and its surroundings lie predominantly within a rural setting of open fields and agricultural land rather than forming an integral part of a village. For the purposes of considering the development against relevant local and national policies, I therefore consider the site to lie outside a settlement within the countryside.
6. The development plan consists of the South Derbyshire Local Plan Part 1 (2016)(LP1) and the saved policies of the South Derbyshire Local Plan (1998)(SDLP). The South Derbyshire Local Plan Part 2 (LP2) has been submitted for Examination. Paragraph 216 of the National Planning Policy Framework (the Framework) states that from the day of publication, decision-takers can give weight to relevant policies in such plans according to certain criteria. As I have not been given detailed information as to the extent of any unresolved objections I can give only limited weight to these emerging policies at this time.
7. LP1 Policy H1 states that in rural areas outside settlements development will be limited to the infilling of small gaps. Notwithstanding the limited weight given to this policy, I note the LP2 Policy BNE5 continues with this approach. SDLP Policy H6 and LP2 Policy BNE5 define infill as the filling of a small gap, for normally not more than two dwellings within small groups of houses. I have used this as a guide. I do not accept the appellants' argument that a site does not need to have development to either side of it to constitute a 'gap'. The approach suggested could simply lead to the extension of a ribbon of development into the countryside, which would be at odds with the intention of the policy.
8. There is a dwelling to one side of the site and the access to the garden centre to the other. However, it is clear on the ground that No 219 is the last building along the frontage of Bretby Lane for some distance. The garden centre buildings are set well back from the roadside and thus do not create any sense of a continuous built-up frontage. Beyond the entrance to the garden centre, the character of the area is that of the open countryside and thus the site cannot realistically be considered to represent a gap in the existing built form. The development would clearly lead to an extension of development along the frontage of the lane and thus I do not consider it would logically constitute infill. The requirements of LP Policy H1 would not therefore be met.
9. SDLP Environment Policy 1 (EV1) and Housing Policy 8 (H8) seek to restrict development outside settlements to that which is necessary to support established rural based activities. There is no suggestion that the development would meet the requirements of these policies. In terms of the location of development, both parties have drawn my attention to paragraph 55 of the Framework. This states that to promote sustainable development in rural areas, dwellings should be located where they can maintain or enhance the vitality of rural communities. An example given is where development in one village can help support facilities in another. The site is not in a village and there is no evidence before me that the vitality of the nearest settlements is under threat, such that the development of a single dwelling in the countryside

beyond their extent would be of any particular benefit. The economic benefits derived from one additional dwelling in such a location would be limited in any event.

10. Other than the garden centre, which is unlikely to provide much in the way of meeting everyday needs, there is nothing before me which suggests that the site has good access to services or facilities. Neither party has drawn my attention to the existence of any particular facilities within Bretby. However, it would be reasonable to assume that as the village is in the lowest tier of the settlement hierarchy, and does not warrant a settlement boundary, that it is not well served by facilities meeting the daily needs of residents. Neither has any evidence been put forward which demonstrates that the site would be well served by public transport, including the proximity of bus stops, regularity of services or destinations. Without any substantive evidence to the contrary, I conclude that future occupants would be reliant on the car for the majority of their everyday needs.
11. A reliance on the car is not necessarily unusual in rural areas. Nonetheless, the Framework still encourages development to be located where it can make the fullest possible use of public transport, walking and cycling. The development would not lead to a significant number of trips, but the likely effect of allowing development in locations such as this would be a cumulative increase in less sustainable trips across the area. The likely dependency on the car would also suggest that there would be little functional link or connection between this location and a particular settlement or set of services. This would further diminish any potential benefit to the vitality of any nearby community.
12. Paragraph 55 also seeks to avoid isolated homes in the countryside unless one of a number of 'special circumstances' are met. It does not define what is meant by isolated. However, whilst the development would not be remote from other buildings, it would be located in the countryside, outside any defined settlement and would be effectively and functionally isolated from everyday services and facilities. When considering paragraph 55 as a whole, I consider that the site should be considered isolated in the context of this policy. There is no suggestion that the development would meet any of the 'special circumstances' needed to justify a development in this location.
13. The development would therefore result in conflict with LP1 Policy H1 and SDLP policies EV1 and H8 and paragraph 55 of the Framework which seek to locate development in the most sustainable and accessible locations and resist isolated development in the countryside.

Character and appearance

14. The application is in outline only and both design and layout are reserved matters. Nonetheless, the likely effect on the countryside character of the site from any form of residential development can still be given consideration.
15. The street scene in this location has an overwhelming rural character. The garden and in particular the boundary treatment is verdantly landscaped and contributes positively to this character. The development would not constitute infill and would inevitably lead to the incremental extension of the physical built form into the countryside. While it may be possible to develop the site without removing the existing boundary treatment, any form of development here would still be likely to be visible from the roadside and would clearly result in a

change in character of the site from an open and undeveloped garden. This would serve to diminish the rural character of the area. A dwelling located as shown on the indicative plan would also result in a reduction in the plot width of No 219, shrinking the current spacious nature of the site to the likely detriment of the street scene.

16. The Council's third reason for refusal relates to their concern in relation to the potential loss of hedgerow and trees fronting onto the site. However, I have concluded below that there would be no necessity to make any alterations to the existing visibility splays. As such, there would equally be no requirement to remove the hedgerow or tree from the frontage. If I had been minded to allow the appeal, then this is an issue that could have been addressed at reserved matters stage. I therefore see no conflict with LP1 Policy BNE4, SDLP Environment Policy 9 or Paragraph 109 of the Framework which seek to protect landscape features such as trees or hedgerows.
17. Nonetheless, whilst the scale of encroachment in this case would not be large, it would still result in additional sprawl of the built form outside a village into the countryside. This would materially harm the rural character and appearance of the wider area. Accordingly, there would be conflict with SDLP Policy EV1 which seeks to ensure the character of the countryside is protected. It would also conflict with the Framework's core planning principle of protecting the intrinsic beauty of the countryside as set out in paragraph 17.

Highway safety

18. The development would utilise one of the two existing accesses into the site. One fronts directly onto Bretby Lane and the other is accessed from a track that runs between No 215 and No 217. The access fronting directly onto Bretby Lane appears to be the most commonly used. As this access would continue to serve a single dwelling, the development would not lead to any material increase in the level of usage of this access. This access would appear to have been in place for some time and there is nothing before me which suggests that current levels of visibility have led to any issues in terms of safety. I do not consider that the development would lead to any material increase in risk from the use of this access.
19. The secondary access did not appear to be in as frequent use from No 219, but there also appeared to be no physical reason why it could not be used. The access track also already serves other dwellings. Whilst the development would be likely to lead to some increase in the use of the access, the level of intensification is unlikely to be significant. Again, I have nothing substantive before me which suggests the existing use of this access has been the cause of any accidents or that the additional vehicular movements resulting from the development would be such to result in material harm.
20. From what I saw, visibility from the main access is reasonably extensive and the hedgerows do not impede this to a significant degree. Visibility for the secondary access is more restricted, but nevertheless, I did not consider it to represent an inherently dangerous situation exiting the site, particularly in the context described above.
21. I am mindful that local road users will be aware of the potential for vehicles to be leaving these areas and, notwithstanding the speed limit of the road, it is clear that you are approaching a small cluster of dwellings from either

direction. These factors would help to ensure drivers will be aware of the potential for cars leaving properties and would take necessary precautions. The presence of the access to the garden centre and junction with Mount Road would also have some likely effect on the speed of vehicles passing the site and their awareness of the vehicles exiting or entering the various accesses and junctions.

22. I do not consider there is sufficient evidence that the marginal increase in use of existing long standing residential accesses would result in a material increase in risk to highway safety. As such, I find there would be no conflict with LP1 Policy INF2 which seeks, amongst other things, to ensure appropriate provision is made for safe and convenient access to development.

Other Matter

23. Although a small part of the site falls within the Bretby Conservation Area (BCA) the indicative layout does not suggest that a dwelling would encroach into this area. The narrowness of the site at this point would also suggest that any change in character here would be negligible. Therefore, notwithstanding my concern over the general impact on the character and appearance of the street scene, the development would be unlikely to have any material effect on the BCA itself or its setting.

Conclusion

24. Notwithstanding my conclusion on highway safety, I have found that the development would conflict with the development plan and Framework in terms of their policies on housing in the countryside and resisting isolated development outside settlements. It would also result in harm to the rural character and appearance of the area. Balanced against this is the provision of a single dwelling to the housing land supply, to which I given moderate weight. None of the other matters raised would carry any more than limited weight in favour of the development.
25. I have had regard to the appeal decisions put to me by both parties and the dispute regarding the 5 year housing land supply. In particular, I have noted the decision at Jawbone Lane¹, its conclusions relating to the housing land supply and the Council's views on this decision. However, even if I were to find that the Council were not able to demonstrate a 5 year supply of deliverable housing land and the relevant policies for the supply of housing were not considered up-to-date, I would still conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of one dwelling when considered against the Framework as a whole.
26. As a result, the application of paragraph 14 of the Framework would not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan. For this reason, I conclude that the appeal should be dismissed.

S J Lee INSPECTOR

¹ Appeal reference: APP/F1040/W/16/3147682