
Appeal Decision

Site visit made on 2 May 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 6th June 2017

Appeal Ref: APP/P1045/W/17/3167657

Land east of Derby Road, Doveridge

- 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 Roche Enterprises Ltd against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00780/OUT, dated 18 October 2016, was refused by notice dated 20 December 2016.
 - The development proposed is described as "outline application for up to 2 dwellings with all matters reserved except for access".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all matters reserved for future consideration except for the means of access. Drawings showing an indicative layout of the development were submitted with the application, and I have had regard to these in determining this appeal.
3. The Council originally refused planning permission for two reasons. The Council's second reason for refusal stated that insufficient information had been submitted to demonstrate that adequate visibility sightlines from the proposed accesses could be achieved. Subsequently, the appellant submitted further drawings with the appeal documentation that identified visibility splays in each direction. Following receipt of these drawings, the Council has confirmed it is no longer seeking to pursue this reason for refusal. It has therefore not formed part of my deliberations.
4. The appeal site is part of a larger field that has recently been subject to a dismissed appeal for 17 dwellings (ref APP/P1045/W/16/3148676). Given the recent date of that decision (29 July 2016), I attach significant weight to the previous Inspector's findings, albeit I recognise that this decision related to a larger site.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the surrounding area.
-

Reasons

6. The appeal site comprises part of an agricultural field on the eastern side of Derby Road. It is next to a small cluster of dwellings around the junction of Derby Road with Bell Lane, including a row of properties immediately to the south. The site forms part of an area of open land between the cluster of dwellings and the village of Doveridge. It is visible from various points along Derby Road and from the surrounding footpath network.
7. The Council's Landscape Sensitivity Study (2015) identifies the site as being within an area that is highly sensitive to new housing development. However, I agree with the appellant that this does not rule out residential development but requires individual appraisal of development proposals.
8. Whilst the appeal site is bordered to the south by existing properties, it is otherwise surrounded by open land including on the opposite side of the road. In this position, the development would appear as an extension to the existing ribbon of development into open countryside. It would not sit comfortably within the existing cluster of dwellings in my view. Whilst the development would be viewed in the context of the cluster of dwellings and existing trees, it would nevertheless appear as a prominent intrusion into open countryside.
9. The current appeal site consists of approximately a third of the site area that was considered in the previous appeal. That Inspector found the wider site to be in a visually prominent location when viewed from the highway and public footpath network. They also found that it makes a highly positive contribution to the character and appearance of the area. Accordingly, the Inspector concluded that that development would have had a significantly harmful effect on the visual amenity of the area.
10. The current appeal site is also visually prominent despite its reduced size. Whilst only 2 dwellings are proposed, it is likely that these would be large detached properties given the shape of the site. The appellant states that the development could be bounded by a hedgerow to create a soft buffer. However, this measure would not significantly mitigate the impact of the development in my view.
11. A nearby site further along Derby Road has recently been granted planning permission for up to 70 dwellings (ref 15/00389/OUT). However, that site is some distance to the north and is separated from the appeal site by open fields and parkland. It is also situated on the opposite side of a grouping of trees that will serve as a form of natural screening. I therefore do not consider that this development will change the character of the immediate area to such an extent so as to justify the appeal proposal. I further note that my colleague came to a similar view on this matter when considering the previous appeal.
12. My attention has also been drawn to a recent appeal decision for 2 dwellings on land a short distance to the south of the current appeal site (ref APP/P1045/W/16/3145895). In that case, the Inspector found that the development would result in only limited harm to the character and appearance of the surrounding area, and allowed the appeal. In coming to that view, he found that the proposal would *"balance the built form of development around the junction without causing an unacceptable extension of ribbon development along Derby Road"*. That site is located close to the centre of the cluster of dwellings, and is opposite existing properties on the other side of Derby Road.

That does not apply to the current appeal site, which is more peripherally located, and would extend the existing ribbon of development on the eastern side of Derby Road.

13. For the above reasons, I conclude that the development would significantly harm the character and appearance of the surrounding area. It would therefore be contrary to Policies SF5 and NBE8 of the Derbyshire Dales Local Plan (2005). These policies seek, amongst other things, to ensure that new development preserves the character, appearance and local distinctiveness of its surroundings.
14. The Council has also drawn my attention to Policies S3, PD5, and HC1 of the emerging Derbyshire Dales Local Plan, which was submitted to the Secretary of State for examination in December 2016. In this regard, paragraph 216 of the Framework states that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the Framework. In this case, however, I have no information before me regarding the extent of any unresolved objections to these emerging policies. Accordingly, I attach only limited weight to them.
15. There is a dispute between the parties as to whether the Council can demonstrate a 5 year supply of housing sites. In this regard, I only have partial information before me regarding the Council's position. However, given the environmental harm I have identified above, and the relatively modest economic and social benefits associated with 2 additional dwellings, the lack of a 5 year supply would not alter my view in this case. The harm I have identified would clearly and demonstrably outweigh the benefits of the development.

Other Matters

16. The parties agree that Policy SF4 of the Derbyshire Dales Local Plan (2005) is out of date, regardless of whether a 5 year supply can be demonstrated, because it does not consider the need for development beyond the plan period (to 2011). However, I am not convinced that this is the correct approach. In this regard, I note that paragraph 211 of the National Planning Policy Framework ('the Framework') states that policies in the Local Plan "*should not be considered out-of-date simply because they were adopted prior to the publication of this Framework*". Paragraph 215 of the Framework further states that "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework*". The Council refer to *Daventry District Council v SSCLG and Gladman Developments Limited* [2015] EWHC 3459 (Admin) to justify their approach. However, that judgement states:

"Of course, Mr Kimblin was correct to say that the Local Plan became time-expired in 2006. I accept that this was particularly relevant to consideration of housing allocation/supply figures, which are calculated in respect of specific time periods. However, the Inspector had fully investigated housing allocation/supply at DL 33 to 43. The Inspector conducted this investigation to meet the requirements of NPPF 47 and 49. NPPF 47 requires local planning authorities to "boost significantly the supply of housing" by ensuring that their Local Plan meets the "full, objectively assessed needs" for market and affordable housing. They are required to identify a supply of

specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional percentage 'buffer'. By NPPF 49, if they are not able to demonstrate a five year supply of deliverable housing sites, their "policies for the supply of housing" are to be treated as out-of-date. It follows that if a planning authority is able to demonstrate a five year supply, its policies are not to be treated out-of date for this purpose. Importantly, a planning authority is entitled to decide for itself the locations to which it allocates its housing supply, consistently with national and local policy." (paragraph 46)

This does not support the contention that Policy SF4 should be regarded as being out of date simply because the Local Plan is time-expired.

17. Interested parties have raised concerns in relation to highway safety, and state that accidents have occurred in the vicinity of the site. However, visibility from the proposed accesses would be adequate in my view. In this regard, I note that the Highway Authority has withdrawn its objection to the development.
18. Layout and design are reserved matters. However, I am satisfied that it would be possible to create a development that would not unduly harm the privacy of neighbouring residents. Furthermore, it is highly unlikely that a development of this scale and type would give rise to significant noise or light pollution.

Conclusion

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

Thomas Hatfield

INSPECTOR