

Appeal Decision

Site visit made on 2 May 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 8 June 2017

Appeal Ref: APP/M1005/W/17/3167303

Land at Gun Lane, Nether Heage, Belper, Derbyshire DE56 2JX

- 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 C & G Cotterell against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2015/0754, dated 7 August 2015, was refused by notice dated 21 September 2016.
 - The development proposed is residential development with associated highway improvements (outline).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An amended illustrative Site Layout (Drawing No 1069-003C) was submitted with the appeal showing 14 dwellings whereas the previous illustrative layout showed 21 dwellings. The amended layout was not before the Council when it made its decision and there is no indication that potential interested parties have been consulted. However, as the application is made in outline with all matters reserved, and without express limitation on the number of dwellings proposed, I am satisfied that consideration of the revised illustrative layout would not result in material prejudice.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would amount to sustainable development having regard to the development plan and the National Planning Policy Framework (the Framework).

Reasons

Character and appearance

4. The appeal site is a field bound by hedging and trees on all sides. It is on the edge of the built up part of the village of Nether Heage and would be accessed from Gun Lane, a quiet rural lane flanked by hedging and stone walling on both sides with wide ranging views to the north east down into a valley. To the south east is a pair of detached bungalows; further along Gun Lane and
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Malthouse Lane are dwellings of a variety of sizes mainly laid out along road frontages. Overall the area has a rural and linear character and appearance.

5. I have considered the Landscape and Visual Appraisal submitted in support of the application and that commissioned by the Council. I have noted the views of the appeal site from various locations nearby, the character of the surrounding landscape and how the features of the surrounding area have influenced the illustrative scheme. I have also noted features of the landscape such as the LB Plastics site, trees and hedging and the topography of the appeal site and the surrounding area.
6. The revised illustrative layout shows 14 dwellings and garages informally arranged around cul-de-sacs and an access road taken from Gun Lane. I acknowledge that the vegetation on the appeal site boundaries would be retained and added to as part of the scheme. I note that this would soften views of the development and assist to blend it into the landscape. I also note that this, together with the topography would restrict some views of the development.
7. However, Nether Heage is a relatively small rural village characterised mainly by linear development along rural roads. The appeal site is a large square area of sloping land on the edge of the village. Notwithstanding additional landscaping, the proposed development would be visually prominent when passing by on Gun Lane or looking towards it from the north east.
8. Even though the development would be constructed using materials prevalent in the locality, the introduction of a significant bulk of development in this location would erode the soft transition from the countryside to the main built up part of the village and would have an urbanising effect on the rural landscape.
9. Furthermore, it would inevitably appear as a significant block of built development tagged onto the village and result in a pattern of development that would be in direct conflict with the adjoining existing linear development on Gun Lane. Thus, the proposed development would be harmful to the character and appearance of the area and harmful to the landscape setting of the village.
10. For these reasons, the proposed development would be in conflict with saved Policies EN7 and H12 of the Amber Valley Local Plan (2006) (LP) and Policies H2 and EE1 of the Ripley Neighbourhood Plan (2015) (NP) and the National Planning Policy Framework (the Framework) which, taken together, aim to ensure good design and that new development does not have an adverse impact on the character and appearance of an area and the landscape.

Sustainable development

11. Saved Policies EN1 and H5 of the LP seek to direct development proposals such as the appeal scheme to within the built framework of settlements. The appeal site is outside of the built framework of the village.
12. Furthermore, Policy H1 of the NP allocates sites for housing and Policy H2 of the NP states favourable consideration will be given to proposals for (a) development of 15 or more new dwellings on sites where the applicant can demonstrate that such proposals would meet needs which cannot be met on

- sites allocated in Policy H1 and (b) proposals for the development of less than 15 dwellings.
13. The Written Ministerial Statement of 12 December 2016 (WMS), makes clear that relevant policies for the supply of housing should not be deemed out of date in a neighbourhood plan in circumstances where the neighbourhood plan has been part of the development plan for two years or less, it allocates site for housing and the Council can demonstrate a three-year supply of deliverable housing sites.
 14. The Council states that it is currently able to demonstrate a 3.2 year supply of deliverable housing land in accordance with paragraph 49 of the Framework, this figure is not contested. Thus, as Policy H5 of the LP relates to the supply of housing it is considered out of date and reduced weight is afforded to the conflict with Policy EN1 of the LP. However, I attach significant weight to the WMS and in the current circumstances Policy H1 and H2 of the NP relevant to the supply of housing are not out of date and thus are afforded significant weight.
 15. I acknowledge that the illustrative details show 14 dwellings and Policy H2 of the NP states such schemes will be considered favourably. However, it cannot be the case that any development is acceptable providing it is within the threshold set by the policy. The sub text to the housing policies in the NP is clear in that the Town Council recommends that, among other things new housing development is in scale and character with the surroundings and has regard to the distinctive landscape features of the area. For the reason given above I have already found the proposed development to be out of scale with the development it would adjoin and would be harmful to the landscape setting of the village. Thus, the scheme is in conflict with these requirements.
 16. I attach considerable weight to the addition of 14 new dwellings to the supply of housing in the area. I note these would be of a broad mix designed to meet housing needs. I have also considered the draft planning obligation which would ensure that 30% of the dwellings would be affordable as well as secure contributions towards waste management, public open space and education. I also attach weight to the economic and social benefits of the scheme in terms of customers and employees for local businesses and services and the economic benefits associated with construction and I have noted the benefit of extending the footpath.
 17. However, whilst the combined benefits of the scheme are significant they are outweighed by the harm to the character and appearance of the area I have identified above. Consequently, when assessed against the policies in the development plan taken as a whole, on balance I conclude that the proposal would not accord with the development plan and is not therefore sustainable development.

Conclusion

18. For the reasons set out above, having had regard to all other matters raised the appeal should be dismissed.

L Fleming
INSPECTOR