

Appeal Decision

Hearing held on 16 May 2017

Site visits made on 15 and 16 May 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 30 June 2017

Appeal Ref: APP/P1045/W/16/3160553

Land off Old Road, Darley Dale, Matlock, Derbyshire DE4 2ER

- 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 Wildgoose Homes against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00041/OUT, dated 21 January 2016, was refused by notice dated 13 April 2016.
 - The development proposed is residential development of up to 60 dwellings (outline).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis, treating the proposed site layout and sketches as illustrative.

Main Issue

3. The main issue in this case is the effect of the proposal on the character and appearance of the area with specific reference to landscape character and the Matlock to Darley Dale A6 corridor.

Reasons

Character and appearance

4. The appeal site is an irregular trapezium shaped parcel of land bound by Old Road to the south and the A6 Dale Road to the north and is located approximately 400m south east of the Dale Road/Station Road junction. The land is set to grass and is used for the grazing of horses. The field boundaries alongside the A6, Old Road and the south eastern boundary are defined by stone walls and the north western boundary is defined by a hedgerow with occasional trees.
 5. The settlement of Darley Dale is situated within the valley of the River Derwent, on the edge of the Peak District National Park which overlooks the valley from the west and south west. The river floodplain contains the settlement on its south western side. To the north east steeply sloping valley sides' rise up to moorland at Sydnop Hill, Round Hill and Black Hill. The main part of Darley Dale extends along either side of the A6.
 6. The surrounding area is characterised by a mixture of sporadic residential and commercial development, open fields and significant levels of vegetation. Land immediately to the south of the site is in a range of uses including residential,
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agricultural and a carriageway museum. There is an extensive row of mature trees located along the southern side of Old Road.

7. Policy NBE8 of the Derbyshire Dales Local Plan (Local Plan) (2005) states that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape.
8. Policy NBE9 of the Local Plan seeks to protect the Important Open Spaces alongside the A6 through Darley Dale in recognition of their role in preventing the coalescence of settlements. The emerging Local Plan continues the commitment to safeguard the intrinsic character and quality of the open spaces and to prevent the further coalescence of Matlock and Darley Dale.

Landscape effects

9. The submitted Landscape and Visual Impact Assessment January 2016 (LVIA) identifies that the site falls within National Character Area 51 'Dark Peak' which extends over a large area of north-west Derbyshire.
10. At a regional level, the Landscape Character of Derbyshire¹ shows the site within the landscape character type 'Settled Valley Pastures'. This is described as '*a settled, pastoral farming landscape on gently sloping lower valley sides, dissected by stream valleys. Dense watercourse trees, scattered boundary trees and tree groups around settlement contribute to a strongly wooded character*'.
11. The Derbyshire Dales District Council Landscape Sensitivity Study (the LSS) (2015) identifies the land to the south and south east of Darley Dale as being of high sensitivity. In contrast to the LSS, the LVIA categorises the sensitivity of the site character and its fabric to the type of change proposed as 'Low' or 'Low' to 'Medium' on the basis that whilst it exhibits positive character the field is farmed as improved pastureland with grazing the main activity and as there are no specific features or habitats which could be assessed as being of high value. It also considers that the site adjoins the existing built development on the edge of Darley Dale and would not, on its own, lead to the coalescence of settlements.
12. However, the local landscape to the south and west of the A6 and outside the floodplain demonstrates most of the characteristics of the 'Settled Valley Pastures' landscape character type. Indeed, some of the attendant characteristics are apparent on the appeal site itself including pastoral farming with improved pasture; wooded character with scattered hedgerow trees to the western boundary; and small irregular fields enclosed by mixed species hedgerow and occasional stone walls.
13. Even taking into account the proposed housing allocation at land adjacent to the commercial building, the site would be separated from the main built-up edge by the Warney Brook valley and adjoining fields. In addition, the site is open on its eastern edge and thus has a high visual prominence from the A6 and is also highly visible from Old Road to the west. Furthermore, the site lies within the area of land between Two Dales and Upper Hackney and thus plays a role in helping to prevent the coalescence of settlements. For those reasons and on the basis of the criteria set out in the LSS, I consider that the site has a high susceptibility to change and a high sensitivity to the type of development proposed.
14. The proposal would be for around 60 dwellings and the indicative plans show housing set back from the A6 with new tree planting and green buffer along the

¹ The Landscape Character of Derbyshire, Derbyshire County Council

boundary, off street parking, flood balancing and a children's play area. The existing pavement would be widened and a new low stone wall built to match the existing. The vehicular access would be off Old Road and housing and trees would front Old Road. The proposed access would lead to a central green space with play area and swale.

15. The LVIA assesses that the proposed development would initially have a 'Moderate' to 'Major Adverse' significance of effect upon the character of the site and its fabric during the construction phase and at completion (year 0) reducing to 'Minor Adverse' significance of effect at year 15 when the structures and landscape have matured. In the immediate vicinity of the site during construction and completion, the LVIA considers that the significance upon landscape character would be 'Moderate Adverse'. In the broader landscape, the significance of effect is assessed as 'Minor Adverse' due to the location of the development adjacent to existing and established developments within the A6 corridor as well as the influence of local trees and woodland. At year 15 when landscape treatment and planting has established the significance of effect is assessed as 'Negligible to Minor Adverse'.
16. Although some ribbon development has taken place along the A6 corridor, there are large areas of agricultural land and other rural land uses which remain including the appeal site. The site exhibits positive character and includes characteristics of the 'Settled Valley Pastures' landscape character type. The River Derwent is undoubtedly an important feature of the wider landscape. However, I consider that the Warney Brook and its tree lined banks also have a significant presence in the context of the landscape to the south of Darley Dale. The immediate valley of the Brook is quite contained and defined by the trees which line its sides. The appeal site is only separated from the Warney Brook by one field and there are clear views of the tree lined Brook from the appeal site. Furthermore, to the south of the commercial building, garage and garden centre there are also views along its valley to the moorland to the north east. Consequently, I consider that the appeal site forms part of the wider network of fields which provide the landscape setting for Brook.
17. The line of trees on the south side of Old Road screens views to the River Derwent and the Peak District National Park to a degree. Nonetheless, views exist of the hills above the trees and filtered views through the trees and in winter views would be more apparent.
18. Furthermore, I consider that the appeal site together with the field opposite also make a significant contribution to the setting of the village itself, acting as a gateway when approaching from the south. Residents who regularly use the A6 have clear views across the site due to its open nature adding to the site's value to the local community. Whilst the development of the site would not lead to the coalescence of settlements on its own it would, nevertheless, contribute to the further coalescence of Darley Dale/Two Dales and Hackney/Upper Hackney. Consequently, I consider that the site makes a significant contribution to landscape character within the immediate vicinity of the site, the wider landscape and the character and appearance of the area.
19. In terms of the physical landscape effects, the field boundaries such as the stone wall and the boundary trees and hedgerow to the north western boundary of the site would be kept. The existing boundary walling beside the A6 would be realigned in order to widen the roadside footpath. Thus, those elements of the landscape character type would be retained. Nonetheless, the agricultural character of the site would change significantly to that of a residential, urban nature. It would result in the loss of the irregular shaped field and improved pasture which are representative

of the landscape character type. It would also result in the loss of a field which forms part of the wider field pattern of the Warney Brook valley to the south of Darley Dale.

20. It would introduce substantial built development resulting in a significant loss of openness, a feature of the north-eastern boundary of the site. It would also result in the loss of visual connectivity currently enjoyed along the Warney Brook to the high moorland in the north east and to a lesser extent the PDNP to the west. Furthermore, the open landscape setting to the south of the village and the gateway feature would be lost. Moreover, the development would reduce the undeveloped frontage to the A6 by approximately 135m and erode the allocated Important Open Space which seeks to prevent the coalescence of Darley Dale and Matlock. Consequently, I agree with the Council that the LVIA has failed to recognise the significance of the above factors.
21. The proposal would result in a marked, permanent and irreversible change to the site itself, the immediate vicinity of the site and the wider landscape. Given the prominence of the site on the A6, a key approach into Darley Dale the impact would be keenly felt by local residents. Consequently, I find that the LVIA underestimates the magnitude of impact and significance of effect on landscape character of the proposal on both the immediate and wider landscape. I, therefore, consider that the magnitude of impact on the character of the site during construction and completion would be 'High Adverse' which in a landscape of high sensitivity to the proposed change would result in a 'Major Adverse' significance of effect. The significance of effect in the immediate vicinity of the site and the wider landscape during construction and at completion (year 0) would also be 'Major Adverse'.
22. The proposed landscaping would soften the appearance of the development to a degree; however, there is no guarantee that this vegetation would remain in perpetuity. The proposed landscaping would take some time to establish and even at 15 years would not be fully mature. The impact of the development would, therefore, be experienced for a significant period of time. Furthermore, trees may need to be removed and any replacement planting would inevitably take time to establish. Even in the longer term, I do not consider that landscaping would fully mitigate the harm to the landscape which I have identified. As a result, I only place limited weight on the value of vegetation in screening the development during its lifetime.
23. Moreover, the proposed landscaping would not mitigate for the loss of the specific landscape characteristics, loss of openness or the coalescence of settlements. For the above reasons, I find that the LVIA overplays the effect of landscaping in mitigating the impact of the development. Indeed, the proposed landscaping along the A6 would enclose the north-east boundary compounding the loss of openness at this location.
24. Consequently, I consider that at year 15 the magnitude of impact arising from the development would still cause a noticeable deterioration in the view and would, therefore, only be reduced to 'Medium Adverse' as a result of the landscaping. In a landscape of high sensitivity, I consider that the significance of effect would be 'Moderate to Major Adverse', particularly in the immediate vicinity of the site.
25. I, therefore, conclude that the LVIA underestimates landscape sensitivity of the site, the magnitude of change and the impact significance. I also consider that the LVIA significantly overplays the extent to which the proposed landscaping would mitigate this impact.

Visual Impact

26. The LVIA established a Theoretical Zone of Visibility as a starting point for the assessment of the visual effect of the proposal. It goes on to undertake a baseline assessment of visual receptors likely to be affected by the development and contains a number of representative viewpoints taken from specified locations, finding no more than a 'Moderate to Major Adverse' significance of visual effect during construction and completion and no more than a 'Low Adverse' significance of visual effect at 15 years when the landscaping has matured. The assessment of visual effects contained in the LVIA has been revisited by the appellant's landscape consultant. For the avoidance of doubt, I have used this updated table as the basis for the determination of the appeal in conjunction with the written commentary in the LVIA.
27. The LVIA identifies three key categories of visual receptors including residents, amenity users and road users. It assesses that the significance of visual effect in the immediate vicinity of the site on Old Road (viewpoints 1 and 2) and the A6 (view point 3) would be 'Moderate to Major Adverse' during construction and at year 0 reducing to 'Moderate Adverse' once the proposed landscaping has matured (year 15). However, although the development would be set back and a degree of permeability may be retained, the proposal would result in a significant amount of built development in close proximity to highly sensitive visual receptors (residents, motorists, pedestrians, visitors to the museum and area) on the A6 and Old Road and the loss of open views across the site.
28. The proposal would result in a significant change to the character of the site from agricultural to urban. It would result in the loss of open views currently experienced across the site and the loss of the visual connection along the Warney Brook Valley to the moorlands in the north east. As such the proposal would result in a marked, permanent and irreversible change in views in the immediate vicinity of the site. Consequently, the proposal would result in a significant deterioration in the view and that the significance of effect at viewpoints 1-3 would be 'Major Adverse' at construction and year 0.
29. Even at year 15, the landscaping would not be fully mature and the development would still be clearly visible, albeit in filtered views, for the lifetime of the development at all 3 viewpoints. Indeed the proposed landscaping along the A6 would lead to a further loss of openness. Furthermore, for the reasons stated at paragraph 22 above, I only place limited weight on the value of vegetation in screening the development during its lifetime. Consequently, I consider that the magnitude of effect on highly sensitive visual receptors would be 'Medium Adverse' and the significance of effect would be 'Moderate to Major adverse' at year 15 in the vicinity of the site.
30. In response to concerns raised by the Council, an addendum to the LVIA assessed the visual effects of the proposed development from viewpoints to the north and east. At Oddford Lane (viewpoint 7), the LVIA assesses the overall significance of visual effect at construction and year 0 as 'Moderate to Major Adverse' reducing to 'Low to Moderate Adverse' at year 15 on the basis that the site is largely screened by a roadside hedge. However, on my site visit I noted that the appeal site is clearly visible in views over the hedge and across the field and would be visible by receptors of a medium to high sensitivity including residents, pedestrians and cyclists and to lesser extent motorists. Whilst the commercial building to the north-west of the appeal site is visible, the overwhelming impression is that of a rural landscape. The higher hills of the Peak District are visible above the trees and in winter, filtered views of the Peak District would be visible through the trees.

31. There would be views across the hedgerow and a grassed field to the north-eastern boundary of the housing development with dwellings off-set to the A6. The proposal would introduce substantial built development significantly changing the view to one of a more urban nature. The filtered views through the trees in winter of the Peak District hills would also be lost. Although views above the trees of the Peak District hills would remain visible, residential development would dominate the foreground. Consequently, I consider that the overall significance of effect at construction and year 0 would be 'Moderate to Major Adverse'. Once again, I find that the ability of landscaping to screen the development has been over-estimated. Consequently, I find that the significance of visual effect from viewpoint 7 at year 15 would be 'Moderate Adverse'.
32. The LVIA assesses the overall significance of visual effect at viewpoint 8, at the northern end of Holt Road as 'Negligible to Low Adverse' at construction stage and at year 0 on the basis that the site would only be partially visible in the middle distance to the south of the factory site due to screening afforded by existing buildings and mature trees. However, this location has broad elevated views across the Derwent Valley, south of Darley Dale to the western horizon in the Peak District National Park and the proposal would, therefore, still be clearly visible and cause a minor deterioration in view from this location resulting in a 'Low Adverse' magnitude of change. Taking into account the medium to high sensitivity of receptors, I consider that the overall significance of effect would be 'Moderate Adverse'. At year 15, given the limited weight to which I attach to landscaping, the significance of visual effect would reduce to 'Minor to Moderate Adverse'.
33. View point 9, Holt Road Centre is located 100m south of viewpoint 8 from a location approximately half way along Holt Road. The LVIA concludes that, although VP9 is slightly further away the visual impacts would be similar to those experienced from VP8 and I agree. Thus my conclusions in respect of viewpoint 8 also apply to viewpoint 9.
34. Viewpoints to the west of the site were assessed at the Derwent Valley Heritage Way (view point 4), the Square and Compass Public House/Flatts Farm Darley Bridge (viewpoint 5) and off Kirby Lane, Darley Bridge (viewpoint 6). The LVIA considers that the overall significance of visual effect would be negligible at construction, year 0 and year 15. I observed on my site visit that the development would be largely screened by mature trees and existing buildings on Old Road and as such I agree that the proposal would not result in a noticeable deterioration or improvement in the views from viewpoints 4, 5 and 6 to the west. Consequently, I have no reason to disagree with this assessment.
35. In terms of the visual impact of the proposal, I conclude that the LVIA has underplayed the magnitude of visual impact particularly in the immediate vicinity of the site and to a lesser degree at view points to the north and east of the site. In particular, I consider that the LVIA has significantly overplayed the ability of landscaping to screen the visual impacts of the proposal.

Cumulative Landscape and Visual Effects

36. The Darley Dale to Matlock A6 corridor retains an agricultural landscape character, although there is some development on either side of the A6. Policy NBE9 of the Local Plan seeks to protect Important Open Spaces alongside the A6 through Darley Dale in order to prevent the further coalescence of Matlock and Darley Dale. Criterion D states that planning permission will only be granted for development on open spaces in this area if it does not have an adverse impact upon the open character of the area.

37. The LVIA concludes that the design for the development maintains visual connectivity between the areas north east and south west of the site. It states that due to the small scale of the proposed development, it will have very limited impact on the separate identities of Darley Dale and Matlock. Attention is drawn to a number of sites which have been granted planning permission by the Council and/or allocated in the emerging Local Plan. The appellant considers that the Council has been inconsistent in applying the LSS and also with regards to the site assessment in the Strategic Housing Land Availability Study (SHLA) and the consideration of other planning permissions within the area designated as an Important Open Space.
38. Limited information is before me in relation to land adjacent Bakewell Road, however, I note that the site was deemed to be undevelopable and constrained in the SHLA partly due to flood risk and impact on landscape character. The site situated to the rear of RBS to the north west of the site is a draft allocation in the emerging Local Plan. However, I noted that the site immediately abuts the settlement edge of Darley Dale and has a greater level of visual containment than the appeal site.
39. The former St Elphin's school site is the redevelopment of a former private school with accommodation for those over age 55 along with an incorporated care facility as an exception to open market housing. The development is, therefore, on previously developed land, although some of the development is outside the footprint of the former school.
40. The Meadow View Care Centre is an associated development to the Whitworth Hospital site providing care for the community and is now open market housing. The Poppy Field's development is an affordable housing site which was allowed as an exception to policy on a former nursery site. I noted on my site visit that the Poppy Field's and Meadow View development are adjacent to the built up area of Matlock. Allocation HC2 (K), Normanshurst would be situated behind the existing residential development and Council building and set well back from the road and would, therefore, have less visual impact than the appeal proposal.
41. For the reasons stated, I consider that none of these cases are directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision. In any event, they do not alter the landscape and visual effects that would arise from this scheme. Furthermore, these cases serve to demonstrate the need to protect the remaining area of open space in order to avoid a coalescence of Darley Dale and Matlock. I have insufficient evidence before me to assess the assertion that the site assessment in the SHLA has been inconsistent.
42. The LVIA concludes that due to the existing and proposed enclosure of the site the significance of long term, residual cumulative visual effect arising from the development would be negligible to minor adverse. However, it seems to me that the LVIA and subsequent evidence for the appellant significantly down plays the landscape and visual effects of the development and I have found that the likely impacts would be greater. In particular, the development would have a significantly harmful landscape and visual effect in the immediate vicinity of the site. I also find that the LVIA significantly overplays the role of the proposed landscaping in screening the appeal proposal. Furthermore, the proposal would reduce the agricultural 'gap' alongside the A6 by 135m resulting in the further coalescence of Matlock and Darley Dale.
43. For the reasons stated, I conclude that the proposal would result in significantly harmful landscape and visual effects and harm the character and appearance of the area. It would, therefore, be contrary to Policies NBE8 and NBE9 of the Local Plan.

Furthermore, conflict arises with paragraphs 17 and 109 of the National Planning Policy Framework (the Framework) which states that planning should take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside and protect and enhance valued landscapes. I have had regard to the indicative plans of the proposal in reaching this conclusion. Moreover, it appears to me that it would not be possible to develop the site for up to 60 dwellings in any other way without causing similar harmful effects on the landscape and character and appearance of the area.

Other matters

44. A signed section 106 agreement has been submitted which would make provision for obligations for 30% (up to 18 units) affordable housing on site with an 80/20 split in favour of social rented units and an education contribution of £136,788 for the creation of 12 additional primary school places at Darley Churchtown CE Primary School. I understand that the latter is merely that which is necessary to offset any harm to education provision in the area which would be caused by the scheme.

Planning balance

45. I have concluded that the proposal would result in significantly harmful landscape and visual effects and would harm the character and appearance of the area. Conflict, therefore, arises with paragraph 17 and 109 of the Framework.
46. On the other hand, the proposal would contribute to housing supply, including affordable housing. It would also have some economic benefits in the short term during the construction phase and in the longer term as occupiers would support local businesses. Furthermore, parties agree that the appeal site has access to public transport and local services. These factors weigh in favour of the proposal.
47. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing sites. Paragraph 59 of the recent Supreme Court judgment² of 11 May 2017 makes it clear that the primary purpose of paragraph 49 is to trigger the operation of the tilted balance in paragraph 14 where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.
48. At the time the Council determined the application it did not have a five year supply of housing. However, based on recent analysis of development that will come forward in the next five years in order to support the emerging development plan it now considers that it can identify a five year supply of housing equivalent to 5.82 years. The Council also considers that allocations within the emerging local plan will provide sufficient supply over the plan period as a whole. The appellant's latest position is that there is only a 4.3 years supply of housing land, revised from an earlier assessment of 3.6 years supply.
49. Discussion took place at the hearing regarding a number of issues relating to housing supply including whether the 2012 or 2014 sub-national population and household projections should be utilised; whether the Sedgfield or Liverpool method should be used for dealing with any shortfall; whether a non-implementation allowance should be applied to sites with planning permission; and the likelihood of proposed housing sites in the emerging plan coming forward in the

² Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council

five year period. The evidence before me on this latter point is very limited. Overall, I therefore find evidence relating to housing land supply to be inconclusive.

50. However, even if there is only a 3.6 or 4.30 year supply of housing land as the appellant suggests, and that as a result paragraph 14 is triggered, having regard to the Framework as a whole, I conclude that the adverse impacts of granting permission for this scheme would significantly and demonstrably outweigh the benefits.

51. I have concluded that the proposal would result in significantly harmful landscape and visual effects and harm the character and appearance of the area. Conflict, therefore, arises with paragraphs 17 and 109 of the Framework. The proposal would not, therefore, constitute sustainable development.

Conclusion

52. For the reasons stated and taking all other considerations into account, the appeal should be dismissed.

Caroline Mulloy

Inspector

APPEARANCES

FOR THE APPELLANT:

Richard Piggot	Planning and Design Practice Ltd
Ian Reid	Ian Reid Planning (Landscape Consultant)
R Spears	Wildgoose Homes
Chris May	Pegasus Group
Johnathon Wildgoose	Wildgoose Homes

FOR THE LOCAL PLANNING AUTHORITY:

Helen Frith	Derbyshire Dales District Council
Howard Crow	Derbyshire Dales District Council
Paul Wilson	Derbyshire Dales District Council

Evidence Submitted at the Hearing:

- 1) Updated Appendix 1 of the Council's statement.
- 2) Map showing planning permissions; existing and emerging local plan allocations in the area of Important Open Space.