
Appeal Decision

Site visit made on 20 June 2017

by Katie McDonald MSc MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/M1005/W/17/3172806
Over Lane, Hazelwood, Belper DE56 4AG

- 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 Mr Robert Heathcote against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2016/1205, dated 17 November 2016, was refused by notice dated 8 February 2017.
 - The development proposed is one new 3-bed home.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the surrounding area.

Reasons

3. The appeal site is an undeveloped, greenfield parcel of land sited on the north eastern side of Over Lane and is currently used as an orchard. There are various fruit trees and bushes on site along with a shed, greenhouse and touring caravan. The site is bounded by hedges and there is a bus stop to front.
4. The surrounding area has a tranquil rural character, being predominantly undeveloped countryside interspersed with sporadic housing plots to form the small neighbourhood of Hazelwood. The site is outside the built framework of settlements within the Amber Valley.
5. The development plan includes the saved policies of the Amber Valley Borough Local Plan 2006 (LP) and the Hazelwood Parish Neighbourhood Plan (made November 2016) (NP). LP Policies H5 and EN1 relate to development outside the built framework of settlements and it is not disputed by the appellant that the proposal would not comply with the criteria that is contained within those policies. NP Policy NP1 is also relevant. Amongst other things, this supports proposals for single dwellings which satisfy the principles of sustainable development on sites within and well integrated with the groups of continuous buildings forming settlements, which include Over Lane. The appellant considers that the NP has a different approach to the LP. Nonetheless, it reflects local circumstances, and the objectives of NP1 are fundamentally

similar to the LP insofar as it seeks to balance sustainable development with the general aim of safeguarding the rural character and appearance of the area. Together with LP Policies H5 and EN1 it is also consistent with one of the core planning principles of the National Planning Policy Framework (the Framework) that planning should recognise the intrinsic character and beauty of the countryside.

6. The Council acknowledges that it is currently unable to demonstrate a five year housing land supply, having a supply of 3.79 years. In these circumstances, paragraph 49 of the Framework states that the relevant policies for the supply of housing should not be considered up to date, and a presumption in favour of sustainable development should apply. This is made within the context of paragraph 47 of the Framework, which sets the objective of boosting the supply of housing. I note that the Council considers that NP Policy NP1 is also out of date because it does not meet the circumstances set out in a Written Ministerial Statement (December 2016). I do not disagree. Paragraph 14 of the Framework confirms that where the relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.
7. Whilst I consider that LP Policies H5 and EN1 and NP Policy NP1 are out of date, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations to be made in accordance with the development plan, unless material considerations indicate otherwise. The Framework is one such consideration which I have taken into account in the overall planning balance set out below.
8. The site forms part of a large gap between Wulstan and The Shanty, approximately 105m wide. Whilst Over Lane and part of Lumb Lane is identified as a main cluster of the Hazelwood neighbourhood in the NP, it does feature undeveloped areas and gaps. I consider that these gaps are fundamental to the rural and tranquil nature of the countryside location, demonstrating its historic development and enable it to retain its bucolic, open character.
9. Whilst I appreciate that the site would be located in the cluster of dwellings on Over Lane and part of Lumb Lane, due to the large gap between Wulstan and The Shanty, the proposal would not be within and well integrated with a continuous group. Rather, it would be a piecemeal form of development that would arbitrarily extend the built frontage to the lane. Owing to this, it would not have a close association with the established group of buildings. I accept that the appearance and design of the dwelling itself would be in line with the Village Design Statement. Nonetheless, by reason of its siting and its substantial built form, the proposal would start to erode the special, rural setting of this area, consolidating development by closing the gap between sites and introducing intrusive development into the countryside. This would cause significant harm to the character and appearance of the surrounding area and the environmental dimension of sustainable development would not be achieved. The proposal would therefore be contrary to the overall objectives of LP Policies H5 and EN1 and NP Policy NP1.
10. The dwelling house would contribute towards the delivery of housing in the area with associated social and economic benefits. However, given that the proposal is for a single dwelling, these benefits would be very modest. On the

other hand, the development would result in significant harm to the rural character and appearance of the area. I consider that the adverse impact of granting permission that I have identified would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Although the relevant policies are out of date, the proposal would nevertheless conflict with the development plan and this conflict would not be outweighed by other material considerations including the provisions of the Framework and paragraph 14 in particular.

Other Matters

11. I note the appellant's evidence relating to a recent appeal decision for a detached house at Kalamunda. The Local Planning Authority also refers to another appeal decision for a dwelling at Mount Farm Barn. However, both decisions were issued prior to the making of the NP which I find carries considerable weight in the decision; and in any event, each proposal falls to be considered on its own particular merits and that is what I have done here.

Conclusion

12. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR