
Appeal Decision

Site visit made on 18 July 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 10 August 2017

Appeal Ref: APP/R1038/W/17/3174515

Land between 'Butts Chapel Studio' and 'Marshbrook', Butts Road, Ashover S45 0HW

- 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 & Mrs R Dykes against the decision of North East Derbyshire District Council.
 - The application Ref 17/00095/FL, dated 23 January 2017, was refused by notice dated 24 March 2017.
 - The development proposed is described as the proposed erection of 1no. three-bedroom dwelling (redolent of a converted range of ancillary outbuildings).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal is a sustainable form of development having regard to the Council's spatial strategy for new housing, 5 year housing land supply and the location of the site outside of the settlement development limits for Ashover.
 - The effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Sustainable development

3. The appeal site comprises a triangular shaped area of overgrown land located to the east of Marshbrook. A public footpath abuts the northern boundary of the site with open countryside lying beyond. The site is located within a Special Landscape Area (SLA) and outside of the settlement development limits (SDL) of Ashover. As such the site is located within the countryside.
4. The North East Derbyshire Local Plan 2005 (NEDLP) was adopted some time before the publication of the National Planning Policy Framework (the Framework). 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. The Council acknowledge that it does not have a five year supply of deliverable housing sites.

5. The proposal should, therefore, be considered in the context of paragraph 14 of the Framework which sets out the presumption in favour of sustainable development. It also states that where the development plan is absent, silent or out of date permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits.
6. The Council's approach to the consideration of new development outside of settlement development limits is set in Saved Policies GS1, GS6 and H3 of the NEDLP. Saved Policy GS1 seeks to ensure that all proposals contribute to achieving a sustainable pattern of development. Criteria a) states that development proposals will be located within defined Settlement Development Limits, unless the development is acceptable in the countryside or there are overriding exceptional circumstances. Insofar as the policy relates to settlement development limits and, therefore, restricts the supply of housing, I consider the policy to be out of date. However, the objectives of achieving a sustainable pattern of development remain valid.
7. Saved Policy H3 of the NEDLP states that housing should only be located outside defined settlement development limits if the proposal falls within one of the categories listed. As the policy seeks to restrict the supply of housing I consider it to be out of date insofar as it relates to this appeal.
8. Saved Policy GS6, amongst other things, seeks to restrict new development in the countryside to that which requires a countryside location. As this relates to the supply of housing I consider this part of the policy also to be out of date. However, the policy also requires that any development that does occur should be in keeping with the character of the area and should not represent a prominent intrusion into the countryside. I consider that this part of the policy remains valid.
9. In the absence of an up-to-date Plan the Council has prepared an Interim Planning Policy which provides guidance for proposed residential development outside defined settlement development limits. Whilst it is a material consideration, it does not form part of the Development Plan and, therefore, holds limited weight.
10. The Council have argued that the site is not suitable for housing due to its unsustainable location. However, paragraphs 7 and 8 of the Framework advise that there are three dimensions to sustainable development: economic, social and environmental that should be sought jointly and simultaneously through the planning system. I will now consider each of these in turn.
11. The proposed development would generate short term employment opportunities during the construction phase and the occupation of the dwelling would provide a limited contribution to help support local services. These economic and social benefits would gain some support from the Framework. However, these benefits must be balanced against any adverse impacts.
12. The site is within a gap between buildings and as such cannot be considered as being truly isolated. Nevertheless it does not form part of the more recognisably developed part of Ashover and the Council indicate that it is located approximately 175m from the SDL. I agree with the Council that the appeal site appears visually detached from the village.

13. The Council has referred to the fact that Policy S33 of the emerging North East Derbyshire Local Plan (2011 –2033) identifies that Ashover is a settlement with limited sustainability and a location where no housing future allocations are proposed. I recognise that this plan is at an early stage in its preparation and therefore only limited weight can be attached to the policies contained therein. However, it nonetheless provides an indication of how the council considers the sustainability of Ashover and its future development capacity.
14. Notwithstanding my findings regarding the weight to be attached to policies within the NEDLP in relation to housing supply, the fact remains that the proposed development is in the countryside and outside of the SDL. Although Ashover has a number of services and facilities, the need to travel outside the village to access some key services and employment cannot be overlooked.
15. The environmental dimension of sustainability includes the need to move to a low carbon economy. Although Ashover has a limited public transport provision and that the appeal site is connected to the village by a footway, it is highly likely that the future occupants of the dwelling would need to use a private car to access facilities elsewhere. Notwithstanding the proximity of site to the village, I consider that future residents would be reliant on car use to a considerable extent and would therefore not meet that requirement.
16. Whilst the occupants of the proposed dwelling would make use of the services and facilities in nearby settlements which would support their vitality, they would be doing so using unsustainable transport means. Moreover, as the proposal is for a single dwelling, I do not consider that it would contribute to the enhancement or maintenance of the vitality of Ashover or nearby settlements to any significant degree.
17. Taking the above factors into account, the proposed development would not fully enable the three dimensions of sustainability to be jointly and simultaneously achieved. Consequently, I find that the proposal would not lead to a sustainable form of development in this rural area. As such, it would be contrary to paragraphs 17 and 55 of the Framework.

Character and appearance

18. This part of the SLA along Butts Road is characterised by open rolling countryside interspersed with sporadic residential properties with recognisable large gaps between dwellings. There are no other dwellings on Butts Road between the Butts Chapel Studio and the SDL of Ashover. This factor contributes to my view that the appeal site is visually identified as being in a part of the countryside where large gaps between dwellings forms an integral part of its character.
19. Although the SLA is not subject to any national landscape designation it remains recognised in the current development plan as a part of locally valued landscape. Although overgrown, the appeal site makes an important contribution to the open rural character of the area in views from the road and the adjacent public footpath and forms part of the gap between Marshbrook and Butts Chapel Studio.
20. Although the proposed dwelling is modest in size and has been sensitively designed it would nonetheless result in an extension of residential development into the open countryside and erode part of the characteristic gap between the

two nearby properties. It would significantly alter the appearance and rural character of area in both views from the road and the wider rural setting and result in an intrusion of built development into the countryside.

21. The current rural appearance of the site would be lost and the proposal would result in the urbanisation of this part of the countryside by the erosion of the gap and the clustering of built development positioned close to Marshbrook. This would contribute to the appearance of a more urbanised cluster of development outside of the SDL that fails to conserve the generally open rural character of the surrounding landscape. Due to the harm that the proposed development would cause to the character and appearance of the local valued landscape it would not promote the environmental dimension of sustainable development referred to in paragraph 7 of the Framework.
22. Notwithstanding the fact that there are other properties in the locality, the proposed development would be in the countryside and in an unsustainable location. Whilst its location may be no more unsustainable than the neighbouring properties, development should not be perpetuated in unsustainable locations.
23. For these reasons the proposed development would unacceptably harm the character and appearance of the surrounding area. As such, it would be contrary to Policies GS6 (b) and (f) and NE2 (a) of the NEDLP insofar as they relate to landscape matters. These policies, amongst other things, indicate that development within the countryside and SLA's will be permitted in circumstances where it is in keeping with the character of the countryside, does not materially detract from the surrounding landscape and does not represent a prominent intrusion into the countryside.

Other matters

24. The appellant has drawn my attention to a number of recent appeal decisions for development outside of SDL's. I note that the Narrowleys Lane appeal (Ref: APP/R1038/W/15/3133527) related to proposed development located adjacent to the SDL of Ashover and was an outline proposal for up to twenty six dwellings whereas the proposal in this appeal is for one dwelling located some distances from the SDL. As such, the circumstances and planning considerations in that case, and the other appeal decisions referred to by the appellant, are not directly comparable to those in this appeal. I have, in any case, reached my own conclusions on the individual merits of the appeal proposal on the basis of the evidence before me.
25. Interested parties have drawn my attention to the historical importance of the Butts Chapel Studio. However, I have no evidence to indicate whether this is a designated heritage asset nor has the Council identified any harm to the setting of this building or any conflict with any relevant policies contained within the development plan. Notwithstanding these matters a small gap between the Chapel and the proposed dwelling would be retained. As such, I am satisfied that the proposed development would not unacceptably affect the setting of the Chapel.

Conclusion

26. Notwithstanding the benefits of the scheme including the contribution to the supply of housing, I consider that the proposed development would not be

consistent with the principles of sustainable development having regard to the requirement in paragraph 8 of the Framework that economic, social and environmental gains should be sought jointly and simultaneously. As such the proposal as a whole would not constitute sustainable development. In addition, it would cause significant harm to the character and appearance of the countryside. These adverse effects would significantly and demonstrably outweigh the benefits of the limited contribution that the proposal would make to housing supply. For the above reasons, taking into account all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR