



Appeal Decision

Site visit made on 16 September 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/M1005/W/19/3233180

Land off Ashbourne Road, Blackbrook Easting: 433074 Northing: 347792

- 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 Mrs Joanna Boam against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2018/0916, dated 4 September 2018, was refused by notice dated 21 May 2019.
 - The development proposed is an outline application for the development of 7 dwellings at Land off Ashbourne Road, including associated access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access. The description of development set out above has been taken from the planning application form. However, the proposal was amended during the course of the planning application which resulted in a reduction from seven dwellings to three dwellings. Furthermore, the appellant has confirmed that, as a result of the amendments, that layout and access details are finalised in the proposed layout. Part E of the appeal form states that the description of development has changed, and I note the correspondence between the main parties about the change. Given the consensus, and as interested parties were consulted on this basis, I have considered the appeal based on the following description of development: *"outline application for the development of 3 dwellings at land off Ashbourne Road, including associated access."*

Main Issue

3. The main issue is the effect of the proposed development on the setting of the Derwent Valley Mills World Heritage Site (WHS).

Reasons

Approach to the decision

4. The Council recognised that it could not, at the time when the planning application was considered, demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need. At this point in time, the Council said that it could demonstrate a housing land supply position of around 3.36 years. However,

since the withdrawal of the emerging Local Plan earlier this year, the appellant informs me that the Council can now demonstrate a 5.42 year supply of deliverable housing sites. The Council do not dispute this, and I have no contrary evidence before me.

5. However, the appellant considers that saved policies H3 and H4 of the Amber Valley Borough Local Plan (Local Plan) are out-of-date. In terms of saved Local Plan Policy H3, it may be logical that changes may have occurred to the settlements listed in the policy, but just because Blackbrook is not listed does not render the policy out-of-date. Moreover, there is little analysis before me which outlines, beyond generalised assertions, how the settlements have changed and why the Council's approach to new development in urban areas and villages is inconsistent with the Framework.
6. The appellant explains that saved Local Plan Policy H4 is restrictive as it refers to infilling of small gaps unlike the approach taken by paragraph 78 of the National Planning Policy Framework (the Framework). While Framework paragraph 78 says that planning policies should identify opportunities for villages to grow and thrive, saved Local Plan Policy H4 does not prevent this from being realised. The planning applications near to the site referred to by the appellant would bear this point out. I consider, saved Local Plan Policy H4 sets out a local approach subject to assessing the character of a site's surroundings. Thus, it is not inconsistent with the Framework.
7. The site forms a parcel of land with Plains Lane forming the north-eastern boundary with Ashbourne Road to the south-east. The site is in the countryside where new development outside the built framework of settlements, according to saved Local Plan Policy EN1, will only be permitted where it accords with the listed criteria. The proposal would not meet any of the criteria. Saved Local Plan Policy H5 outlines that planning permission will not be granted for housing development unless the proposals are in the form of one or more of three listed criterion. None of these relate to the appeal scheme.
8. Nevertheless, having regard to the proposal, in terms of considering the proposed access arrangements, I consider that the appeal scheme would provide a safe and suitable means of access to serve the three proposed dwellings subject to the imposition of planning conditions. I note the Highway Authority expressed a similar view.

The site, the WHS and Buffer Zone

9. The appeal site is in the small village of Blackbrook off Ashbourne Road. Housing, of varying age, size, type and finish, in the village are found along Ashbourne Road, Plains Lane and Longwalls Lane. To the west of the site on Ashbourne Road there are a number of dwellings situated within large plots and with defined gaps between each dwelling. Most of the village is omitted from a Special Landscape Area (SLA) which surrounds it.
10. The site is within the WHS Buffer Zone. The Derwent Valley Mills World Heritage Site Management Plan (Management Plan) explains that the WHS contains a series of 18th and 19th century cotton mills and an industrial landscape of high historical and technological significance. The WHS saw the birth of the factory system, when new types of building were erected to house the new technology for spinning cotton developed by Richard Arkwright in the late 18th century. The scale, output, and numbers of workers employed were

without precedent and saw, for the first time, a large-scale industrial production in a hitherto rural landscape on the basis of water power. The need to provide housing and other facilities for workers and managers resulted in the creation of the first modern industrial settlements.

11. The protection of the WHS's setting is particularly important, because of the critical significance to the Property's Statement of Outstanding Universal Value (SOUV) of the location of the mills and their associated settlements, within a rural landscape, arrested in time. Because it is of vital importance to the maintenance of the SOUV for the setting to remain rural, local planning authorities have adopted policies to ensure the protection of this setting.
12. Blackbrook comprises a small group of buildings, originally, loosely ranged around the flour mill and forge/smithy. Historically, the pattern of residential development has either been dispersed or of a linear form, against the road or on the edge of fields. Within the Buffer Zone, settlements such as Blackbrook can be viewed as built up areas within the landscape. However, despite the line of twentieth century semi-detached dwellings to the south-west, the site has a distinctly rural character due to its open undulating landform bound by low hedgerows. I recognise that landscaping does affect the visual connectivity between the site and the land to the west, but the site, and the land which adjoins it to the south-west and west collectively provide a rural setting to Blackbrook that is evident from Ashbourne Road and Plains Lane. I agree with the main parties that the site is not a 'relict' rural landscape and the site is not part of the SLA. However, the site, which is not in the centre of Blackbrook as the appellant suggests, does contribute to the rural character of the locality and the approach to the WHS even though it does not affect views into or out of the WHS.
13. I note that the Council has not raised any issue on sustainability grounds, and I understand that schemes near to the site have been granted planning permission¹ by the Council in recent times. Despite the appellant's explanation, I have limited details of these schemes before me, no copies of approved plans and no details of the circumstances which led the Council to take these decisions. As such, I afford these schemes little weight as I cannot determine whether they are directly comparable to the appeal scheme.
14. While, three terraced dwellings may reflect the character of what was historically built for industry workers, and they would be set back from the road, the proposed layout would fundamentally change the character of the site and its positive contribution to the setting of the WHS.
15. Although the Buffer Zone is not itself a heritage asset, its role is to protect the setting of the WHS. Having regard to Framework paragraph 196 the harm to the setting of the WHS would be less than substantial. Even so, this still amounts to a harmful impact which adversely affects the significance of the WHS as a designated heritage asset. The appeal scheme would result in three new dwellings that would add to the mix and supply of housing in the Borough. Public benefits would also stem from the improvements to the junction of Plains Lane and Ashbourne Road which would improve highway safety and accessibility to the bus stops. There would also be limited economic benefits associated with the construction of the dwellings, jobs and future occupants spending in the local economy.

¹ Council Refs: AVA/2018/0977; AVA/2017/1322; and AVA/2017/1294

16. The appellant confers that additional landscaping would be public benefit, but this is a matter reserved for future consideration. While the southern part of the site would be kept free of development given its function as a floodplain, this is not a public benefit given the clear advice to direct new development away from such areas. Drawing these matters together, the harm to the setting of the WHS, to which I attach great weight, in my view, clearly outweighs these modest public benefits.
17. I conclude that the proposed development would not preserve or enhance the setting of the WHS and as such the proposal would not comply with saved Local Plan Policy EN29 and Framework paragraph 196. Jointly, these seek, among other things, development proposals within the WHS Buffer Zone to preserve or enhance the setting of the WHS, and were less than substantial harm would be caused to the significance of the designated heritage asset, weigh this harm against the public benefits of the proposal, including securing its optimum viable use.

Conclusion

18. The appellant is of the view that the tilted balance set out in Framework paragraph 11 should be engaged. For the reasons set out earlier I disagree. However, even if I did agree with the appellant's stance, then the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
19. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR