The Planning Inspectorate

Appeal Decision

Site visit made on 3 September 2019

by Karen Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 09 October 2019

Appeal Ref: APP/F1040/W/19/3231668
Malthouse Farm, Lullington Road, Coton In The Elms, Swadlincote DE12 8EP

- 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 Wadsworth against the decision of South Derbyshire District Council.
- The application Ref 9/2018/1336, dated 6 December 2018, was refused by notice dated 18 April 2019.
- The development proposed is a change of use and alteration of outbuildings to form one dwelling house; construction of a new dwelling in lieu of existing buildings with approval for conversion to one dwelling; construction of new garages and garden stores; change of use of starvation paddock to domestic garden and provision of a new carriage driving arena; change of use of land to rationalise garden and paddock boundary and provision of new parking areas.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal decision are (i) Whether the appeal site forms a suitable location for development, having regard to the national and local planning policies; and (ii) the effect of the proposed development on the character and appearance of the area.

Reasons

Location of development

3. The appeal site consists of a residential property with several agricultural outbuildings and stables within the site. Although nearby, it is outside the settlement boundary of Coton in the Elms, therefore by definition this would be within the countryside. There are two dwellings proposed on the site and I have identified these as 'unit 1' and 'unit 2'.

4. There is little in the way of day to day services and facilities within Coton in the Elms. I noted on my site visit there is a nearby bus stop, but the service is limited to a few services to and from Swadlincote on Mondays to Saturdays. As such, future occupants of the development would be largely reliant on the private motor car to access services and facilities. However, the development would be located between the village boundary and existing properties along

Lullington Road. Having had regard to the High Court judgement[1] regarding paragraph 55 (now paragraph 79) of the National Planning Policy Framework (the Framework), this physical location would not result in new isolated homes in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework. Nevertheless, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services.

5. Policy H28 of the South Derbyshire Local Plan (SDLP), Part 2, allows residential conversions of buildings within the countryside where they meet certain criteria. Whilst Policy H1 of SDLP, Part 1 and Policy BNE5 of the SDLP, Part 2, allows limited infill development of no more than two dwellings. The proposed 'unit 1' would entail the conversion of outbuildings and stables and this would meet Policy H28 as it would be suitable for conversion without extensive alteration, rebuilding and/or extension. The proposed 'unit 2' would involve the demolition of outbuildings and stables and the construction of a new substantial residential dwelling. It would therefore not meet the criteria of Policy H28 and in relation to the location and position of the site would not constitute limited infilling or adjoining the settlement boundary.

6. There are extant permissions 'fallbacks' on the site for housing, which form a material consideration. I acknowledge that there is a high probability that they could be implemented. The net increase in dwellings on the site would be the same, but the circumstances would not be similar as different development plan policies would apply and the schemes would not be comparable to the development proposed in this appeal.

7. The previous application[2] in 2018 sought conversion of the buildings to form two residential dwellings, whilst the application[3] in 2007 involved conversion of outbuildings to form short term holiday accommodation. The appeal proposal, although conversion in part for one of the dwellings, involves the complete demolition of other outbuildings to facilitate the construction of a new residential dwelling. In my view the 'fallback' schemes would not be as substantial, in terms of the proposed construction of a new dwelling within the countryside, which is now before me. In regard to the appellants suggestion that the 'appellant or subsequent owner' would seek conversion and then apply for a replacement dwelling and reference to profitability, I give this limited weight as this would be a matter for future consideration by the Council and profitability is not a planning matter. In any event the appeal site must be considered on its own merits.

8. For the reasons above, I conclude that the proposed development would result in a new dwelling within the countryside contrary to Policies S1, H1 of the SDLP Part 1, 2016 and Policies SDT1, BNE5 and H28 of the SDLP Part 2, 2017. Which taken together ensures that the economic, social and environmental objectives are addressed; landscape and rural character are protected, conserved and enhanced and aims to direct new development to within settlement boundaries whilst restricting the type of residential accommodation allowed within the countryside.

[1] Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)
[2] 9/2018/0703
[3] 9/2007/0811

Character and appearance

9. The existing outbuildings are located to the rear of the site and are positioned behind dwellings but can be seen from the access to the site and from along Lullington Road. The current agricultural appearance of this cluster of outbuildings offer limited visual merit to their immediate setting, but their subtle appearance, materials and low height blend with the landscape character and associated rural use of the site and within the surrounding countryside. I note the appellant's comments regarding the previous approved scheme, however this was given consent on the basis that it comprised solely of the conversion of existing buildings to facilitate residential development at the site, resulted in minimal visual impact to the rural setting and met the criteria set out in Policy H28 of the SDLP. Nonetheless, in contrast, the erection of a substantial new dwelling, combined with its overall height, materials and built form in the countryside would erode the rural setting and create a suburban appearance to the detriment of the character and appearance of the countryside.

10. In terms of views, the site can be seen from the public footpath and Coton Wood. I saw on my site visit there is some screening from vegetation and tree coverage, but this would not be the case throughout the year. The site would be clearly visible particularly where the new dwelling would be located, its built form and associated domestic paraphernalia would appear as an incongruous feature within the wider rural setting and would change the prevailing rural character of the area.

11. For the reasons given above the proposed development would harm the character and appearance of the area and would be contrary to Policies BNE1 and BNE4 of the SDLP, Part 1, 2016 and Policies H28 and BNE5 of the SDLP, Part 2, 2017. Taken together expects new development to be well designed, create places with a locally inspired character that respond to their context and have regard to valued landscapes, be visually attractive, protect character and local distinctiveness and do not duly impact on landscape character and quality. Whilst it would also be at odds with the design principles, particularly in regard to local character and pride and visual attractiveness, in the South Derbyshire Design Guide, Design Supplementary Planning Document, 2017.

Other Matters

12. The appellant contends that the appeal site amounts to previously developed land (PDL). The Framework supports development that makes efficient use of land, through the definition of PDL, which includes land occupied by a permanent structure including the curtilage of developed land, however this does not go without being caveated. It also excludes land that is or was last occupied by agricultural buildings. The main parties differ on whether the site is agricultural land or forms residential curtilage, and thus whether it would amount to PDL. The evidence before me is inconclusive, but even if I were to consider the site amounts to PDL, the proposal would not make efficient use of land, given the harm I have found in respect of character and appearance, it would not maintain the area's prevailing character and so would not accord with paragraph 122 of the Framework.

13. I have also been referred to other developments and appeal decisions. I do not have full details of these schemes and so cannot be certain that the circumstances are the same, although the location, previous use and

development plan policies are not directly comparable with those which apply to this appeal, while the effects on the character and appearance of the area were not identical to this appeal proposal. Therefore, although I have had regard to those appeal decisions, they have had little bearing on my findings to outweigh the harm I have set out above. In any case I have considered the appeal proposal on its own merits.

Conclusion and Planning Balance

14. I have found that the appeal site would not form a suitable location for development and the scheme would cause harm to the character and appearance of the area identified would be significant. Against this has to be the balanced factors in favour of the proposed development.

15. The provision of two additional dwellings would make a positive contribution to the Council's housing land supply when weighed in the overall planning balance, albeit that the contribution would be limited due to the quantum of development proposed. There would be a small social benefit in providing the two housing units. Economic advantages would also arise from the construction and occupation of new houses.

16. The Council dispute the appellant's claims that it cannot currently demonstrate a 5-year supply of housing land. The Council points me to the latest Housing Position Paper that a supply of 5.5 years exists. However, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development in terms of the Framework.

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

Karen Taylor

INSPECTOR