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## Appeal Decision

Site visit made on 20 January 2020

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> January 2020**

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**Appeal Ref: APP/P1045/W/19/3239175**

**The Chalet Bungalow, Butts Drive, Matlock DE4 3DJ**

- 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 Mr J Green against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00442/OUT, dated 12 April 2019, was refused by notice dated 11 June 2019.
  - The development proposed is the removal of an existing static home and replacement with a dwelling house.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the removal of an existing static home and replacement with a dwelling house at The Chalet Bungalow, Butts Drive, Matlock DE4 3DJ in accordance with the terms of the application, Ref 19/00442/OUT, dated 12 April 2019, subject to the conditions set out in Annex A.

### Procedural matter

2. The application was submitted in outline with access only to be determined at this stage. I have determined the appeal on this basis.

### Main Issue

3. The main issue in the appeal is whether or not the proposal would be a suitable form of development having regard to the site's location outside the settlement boundary.

### Reasons

4. The appeal site is located on land to the rear of The Chalet Bungalow at the end of Butts Drive, a private road that serves a number of other dwellings. It is proposed to replace the existing structure on the site with a dwelling. The site lies outside, albeit adjacent to, the settlement boundary for Matlock as defined by the *Derbyshire Dales Local Plan (adopted December 2017)* (DDLPP) and so is defined as being in the countryside.
5. The DDLPP seeks to focus the majority of new development within the upper tiers of the settlement hierarchy. In this context, DDLPP Policy S4 (i) sets out when new residential development may be acceptable in the countryside. This includes a single replacement dwelling in accordance with policy HC7. The

- criteria for replacement dwellings in Policy HC7 includes that the existing use is lawful and that the existing dwelling is not a caravan or mobile home.
6. The Council have indicated that the current structure on the site does not have planning permission and no certificate of lawfulness has been sought for it. However, the Council have stated in their evidence that "the enforcement investigation in 2011 concluded that, as the structure had been present on site for more than four years, no enforcement action could be taken." As such, the Council's evidence indicates that the structure is lawful even though there is no formal permission for it and no certificate of lawfulness has been issued.
  7. If, when determining that the structure on the site was lawful, the Council considered it to be a mobile home then in order to be lawful it would have had to have been sited on the land for 10 years. However, if they considered it was permanently fixed to the ground and therefore operational development, then it would have had to be present on the site for 4 years.
  8. Whilst I have not been provided with the detail of the Council's enforcement investigation, as their evidence indicates that they considered it was immune from action after 4 years, they must have concluded that the structure was permanently fixed to the ground. In doing this they have, by definition, determined that the structure on the site is not a caravan or a mobile home.
  9. In the light of this, irrespective of what the structure may look like, it is a residential structure not a caravan or a mobile home. As a result, it accords with criterion (f) in Policy HC7, as it is not reasonable or logical to conclude that it is not a caravan when determining its lawfulness but it is a caravan for the purposes of Policy HC7.
  10. Policy HC7 also requires that the existing dwelling has to be demolished if it is to be replaced within the policy. The siting/layout of the proposed replacement dwelling is not to be determined at this stage. Whilst no planning obligation has been submitted to ensure this would be the case, the location of the existing structure is such that I am satisfied that the site would not be able to accommodate a dwelling as well as the existing structure. In any case a condition could be used to ensure it was removed before any replacement dwelling was occupied.
  11. Policy HC7 requires that the scale, form, design and massing of the replacement dwelling should not detract from the character and appearance of its setting or surroundings. However, as this is an outline application with only access to be determined at this stage, this would need to be considered at reserved matters stage. Nothing that I have seen or read leads me to conclude that any replacement dwelling would not be able to satisfactorily achieve this.
  12. All in all, as the proposal is for a replacement dwelling, despite being outside the settlement boundary for Matlock, I consider that the proposal would be a suitable form of development that accords with Policies S4 and HC7 of the DDLP outlined above.

### **Other Matters**

13. Both the Town Council and local residents have raised a number of concerns regarding the access to the site and the additional movements the development would generate. However, I note that the Highways Engineer does not have any objections to the proposal. In the light of this, and my own

observations, I see no reason to come to a different conclusion in this regard. Issues relating to the use of the private drive and any structural issues this may cause to the road or properties is a private matter between the landowner(s) and all other interested parties and the grant of planning permission would not alter this. In addition, there are no persuasive reasons to believe that the proposed development would have any detrimental impact on flooding or drainage in the area.

14. Issues relating to the operation of a Bed and Breakfast business in The Chalet Bungalow, or other alterations the owner of this property has carried out to the site or buildings are not matters that are before me in this appeal and do not represent a reason for withholding permission for the appeal scheme.
15. Given the separation distance between the site and other surrounding properties, whilst details of design and layout are not to be determined at this stage, I am satisfied that a dwelling could be accommodated on the site without having an adverse impact on the living conditions of existing occupiers. In addition, whilst landscaping is reserved for future consideration, I consider that a suitable landscaping scheme would be able to ensure that the proposal would not have a negative impact on wildlife.
16. It is not disputed that the Council can demonstrate a 5 year housing land supply. However, this is a minimum requirement not a maximum and in any case as a replacement dwelling the proposal would not impact on the housing land supply.

### **Conclusion and Conditions**

17. For the reasons set out above, I conclude the appeal should be allowed.
18. In addition to the standard implementation and reserved matters conditions, to provide certainty it is necessary to define the plans with which the scheme should accord. In the interests of highway safety a condition is necessary to ensure the provision of parking and turning facilities on the site. A condition is also necessary to ensure the removal of the existing residential structure which the dwelling is to replace. As landscaping, layout and appearance are all reserved matters I do not consider the suggested conditions regarding the implementation of landscaping and the removal of some permitted development rights are necessary at this stage.

*Alison Partington*

INSPECTOR

## **Annex A**

### **Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Scale 1/2500; and Block Plan – Proposed Scale 1/500.
- 5) The dwelling hereby permitted shall not be occupied until space has been laid out within the site for the parking and manoeuvring of vehicles, in accordance with a scheme that has been previously submitted to, and approved in writing by, the local planning authority. That space shall thereafter be kept available at all times for those purposes.
- 6) The dwelling hereby permitted shall not be occupied until the existing residential structure on the site has been removed from the site.