



Appeal Decision

Site visit made on 24 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/F1040/W/20/3250303

White Lodge, Staker Lane, Mickleover, Derby DE3 0DJ

- 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 A Nazir against the decision of South Derbyshire District Council.
 - The application Ref 9/2019/0725, dated 3 July 2019, was refused by notice dated 13 March 2020.
 - The development proposed is 2x replacement dwellings, replacement entrance gates and boundary treatments and change of use of paddock to garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would represent an appropriate location for housing, having regard to relevant local and national policy relating to rural housing and the effect of the proposal on the character and appearance of the surrounding countryside.

Reasons

3. The appeal site is located outside of any defined settlement and therefore within the countryside for planning purposes. The development plan for South Derbyshire comprises the Local Plan Part 1 (13 June 2016) (LP1) and the Local Plan Part 2 (2 November 2017) (LP2). Policy H1 of LP1 sets out the settlement hierarchy for the district. Part 5 states that in rural areas, only development of limited infill and conversions of existing buildings will be acceptable.
4. Policy BNE5 of LP2 permits development outside of settlement boundaries subject to certain criteria, including where allowed for by other policies. This includes Policy H24, which permits replacement dwellings in rural areas subject to criteria relating to the form, bulk and siting of the proposed dwelling and its effect on the landscape. However, the proposal would not find support in principle under Policy H24 as it would increase the number of dwellings on site, rather than simply replace one.
5. The proposals would conflict with the relevant criteria of Policy H1 and criterion iv) of Policy BNE5, as the existing buildings would be replaced in their entirety, and the proposal could not be regarded as infill development given the nearest dwellings are some distance away along Staker Lane. The proposal would not be essential to a rural based activity or unavoidable outside of settlement boundaries, and so would conflict with criteria ii) and iii) of Policy BNE5.

6. The National Planning Policy Framework (the Framework) at Paragraph 78 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. I have had regard to the planning permission¹ granted in 2018 for the change of use of the annexe to a separate dwelling, but which has not been implemented. Given the distance of the site from the nearest settlement, future occupants would be heavily reliant on the private car to access services and facilities, and I consider the dwellings would amount to 'isolated homes', which Paragraph 79 indicates should be avoided, unless certain exceptions apply. This includes the subdivision of an existing residential dwelling, which applies to the permitted scheme, but not the appeal scheme. The permitted scheme is supported under the Framework as its isolated location would be justified by the existing buildings being re-used. In contrast, the appeal scheme would create entirely new dwellings in the open countryside, some distance from the nearest settlement. Moreover, in comparison to the existing buildings, the proposed dwellings would be considerably larger and suited to larger family occupation, with consequent potential for greater numbers of car journeys than the permitted scheme. Given their different nature and scale, I do not regard the permitted scheme as justification in and of itself for a development of isolated homes which would be in conflict with the Framework.
7. The existing buildings comprise a two storey dwelling in white painted render, connected to another similar two storey building by a single storey link, with a single storey outbuilding attached to the rear and agricultural buildings beyond. The dwelling and annexe are traditional in appearance and together with the agricultural buildings and surrounding trees and fields the site has an demonstrably rural character which fits with the surroundings. The existing front-to-back layout means that the agricultural buildings are set well back into the site and are not prominent in views from the roadside.
8. In contrast, the proposed dwellings and their detached garages would stand side by side across the site, a layout which would present the entirety of development to the road in a more prominent and expansive layout. The footprint of the proposed dwellings is given as 551m², a significant increase of some 44% on the footprint of the existing dwelling and annexe (382m²). In addition, the height of the dwellings would be substantial, rising 1.6 metres higher than the existing buildings, but with considerably greater and more visible massing at high level compared to the existing structures. The spread of this massing across the width of the site would result in a substantial increase in the scale of development compared to the existing structures, even accounting for the potential removal of the agricultural buildings at the rear.
9. The appellant argues that if permitted development (PD) rights were exercised, extensions could be added to the existing buildings which would amount to a potential cumulative footprint exceeding that proposed. I have had regard to the case law² referred to by the appellant and recognise that the use of PD rights as a fallback position is a potential material consideration. However, in this case I do not have a lawful development certificate or other information before me to establish whether any potential extensions would in fact be PD, nor any plans showing the extensions and their potential visual impact or whether they would actually provide a functional layout or achieve a similar

¹ Council Ref 9/2018/0956

² R (Zurich Assurance) v North Lincolnshire Council [2012] EWHC 3708 (Admin)

standard of accommodation to that sought through this appeal. This aside, it is indicated that single storey extensions would be constructed which, even if PD, are unlikely to have the same visual impact as the two storey dwellings proposed. Therefore, I am not persuaded that the evidence before me demonstrates that the fallback position is either a realistic possibility or would be demonstrably more harmful than the appeal scheme, and I afford it only limited weight.

10. In terms of wider impact on the landscape, the site is well screened to the northern side by tree cover, but is more open to the southern side where it adjoins an open field and lower and more intermittent roadside hedgerows permit views into the site. The scale of the dwellings would be exacerbated by the steeper roof pitches, tall gables and double height feature windows to the front elevations. Moreover, the garages would appear as two storey structures due to the inclusion of large dormers with full height windows on the front elevations which would add to the development's prominence on the site. Even allowing for screening from landscaping, the height and massing of the dwellings and their extensive coverage of the site means they would be visible on approach from the southern side of Staker Lane where the site boundary is open to the adjacent field and the roadside hedgerow is lower. The proposed design, together with the creation of a new access and large driveway areas, would result in the dwellings having a rather suburban character which would contrast harmfully with the overwhelmingly rural surroundings.
11. For these reasons, the proposal would not provide a suitable location for housing and would cause significant harm to the rural character and appearance of the area. There would be conflict with Policies BNE5 and H24, and also with Policies BNE1 and BNE4, which expect new developments to respond to their context and have regard to valued landscape characteristics. Consequently, the proposal would conflict with the overall settlement strategy set out under Policy H1 of LP1, and would further conflict with the aims the Framework to promote sustainable rural development and to avoid isolated homes in the countryside.

Other Matters

12. The proposal was not refused in respect of its effect on highway safety, ecology or the living conditions of neighbouring occupants. However, the absence of harm in these respects is a neutral factor in the planning balance.

Planning Balance and Conclusion

13. I recognise that the proposal would add to the housing supply, and would generate some economic benefits through construction of the dwellings and subsequent spending in the local economy by future occupants. However, given the size of the proposal, these benefits would attract only limited weight.
14. The benefits of the proposal, taken together, would not amount to material considerations which would outweigh the significant harms identified and consequent conflict with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole. Therefore, the appeal is dismissed.

K. Savage INSPECTOR