
Appeal Decision

Site visit made on 3 August 2020

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2020

Appeal Ref: APP/F1040/W/20/3253347

Land adjacent to Mill Green House, Brook Lane, Scropton, Derbyshire DE65 5PN

- 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 Wayne Roper against the decision of South Derbyshire District Council.
 - The application Ref 9/2019/0491, dated 8 March 2019, was refused by notice dated 4 February 2020.
 - The development proposed is 6 detached dwellings to replace the proposals for two dwellings approved under APP/F1040/A/13/2204792.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal site together with land to the west has planning permission for the erection of six houses which was granted on appeal¹. At my site visit I saw that three had been constructed and one was under construction. The final two houses with planning permission under this consent had not been started. The appellant submitted the planning application the subject of this appeal for the erection of six houses, instead of the two under the extant permission leading to an overall increase of four houses on the wider development site.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether or not the appeal site is an appropriate location for housing with particular regard to local and national policy

Reasons

Character and appearance

4. The appeal site lies between the railway line and the river Dove, south of the small village of Scropton. The main built up area of Scropton lies to the north

¹ APP/F1040/A/13/2204792 (the previous appeal decision)

of the railway line mostly formed from linear development of a mixed character along the main road through the village.

5. The area to the south of the railway line where the appeal site is located is less populated with a scattering of dwellings. These are mostly set in large spacious plots, and surrounded by mature trees and shrubs, creating a particularly verdant rural character to the area.
6. The proposal to erect six dwellings where previously there were two would result in a number of much smaller plots in comparison to those both previously proposed and existing in the surrounding area. The layout would, particularly plots 5-8, create a uniform line of dwellings which is not typical of the existing development pattern of scattered houses with no particular regimented form. This would be exacerbated by the form of the access road serving those houses. This would also necessitate the removal of part of the mature hedge, which is an inherent part of the local character. As a result, the essential rural character of the area would be considerably eroded to give the form of a more suburban housing layout that would not respond effectively to its context and, consequently, fail to integrate appropriately with the housing immediately to the west. The small nature of the plots would also considerably limit the potential for significant planting in mitigation.
7. I appreciate that the site is fairly well screened, from the south by existing hedges and planting. However, the houses would be visible from a footpath which extends along Mill Lane past the western edge of the development and by the existing residents adjacent to the site. I am also mindful that the Inspector on the previous appeal considered that the siting of the houses in plots of generous proportions and the ability to provide opportunities for extensive tree and hedgerow planting around plot boundaries meant that harm to the form and setting of the village would not be of a high order. The provision of six dwellings instead of two would considerably erode the ability to provide such mitigation. As a result, the proposal would cause harm to the character and appearance of the area and therefore would be contrary to policy BNE5 of the South Derbyshire Local Plan part 2 adopted 2017 (LP part 2), and policies H20, BNE1 and BNE4 of the South Derbyshire Local Plan part 1 (LP part 1) adopted in 2016 in this respect. Together these require, amongst other things, that development is appropriate for its surrounding local built and natural environment that responds to its context and protects and enhances local character and distinctiveness.

Location

8. Policy H1 of the LP part 1 sets out the settlement hierarchy for the district that is based on the range of services and facilities offered by each settlement. Scropton is identified as rural village where development of a limited nature will be allowed mainly within the settlement boundary or adjacent to it as an exception.
9. The appeal site is neither within or adjacent to the settlement boundary and therefore would be contrary to policy H1. Instead, for the purposes of the Local Plan the appeal site is located within the Rural Area where due to the lack of services and facilities and defined settlement boundaries, only development of limited infill and conversions of existing buildings will be acceptable. This is further expanded in Policy BNE5 of the LP part 2 which states that development in rural areas will be supported where it is considered to be infill that is in

- keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing
10. The appellant refers to an appeal decision where the issue of infilling as applied within the development plan at that time, prior to the adoption of the LP part 2 was considered by the Inspector². She said that in a planning context, in her view 'infilling' means to fill or close a gap in between buildings or fill a gap in the continuity of development and consequently there must be development on at least two sides of that gap.
 11. While the appeal site is adjacent to a small group of houses to the west and north, to the south and east there is open countryside. Furthermore, there is a considerable distance to built development to the north, formed by open land which is intersected by the railway line. In addition, the appeal site could not be considered to be a small gap as it is capable of accommodating six dwellings. Moreover, while the wording of the policy does not preclude the provision of more than two dwellings, in this instance the proposal is for six (albeit a net increase of four), which as I have found would not be in keeping with the locality. Therefore, even if I were to accept the Inspector's definition of infilling, in my view the appeal site could not be genuinely be considered as filling a gap between buildings or the continuity of development and therefore constitute infilling for the purposes of Policies BNE5 or H1.
 12. It seems to me that the combination of policies regarding the settlement hierarchy and settlement boundaries seek to provide development in the most accessible locations, that does not harm the open character of the countryside.
 13. In coming to a view on this issue, I have had regard to the findings of the Inspector dealing with the previous appeal on this site, who found that the appeal site is within walking distance of a bus stop which is on a bus route to the nearby village of Hatton where a school and shops are located. Hatton also has a railway station allowing commuting into Derby for jobs and services.
 14. Yet this was six years ago. Local residents assert that there are no bus services, and I have seen no conclusive evidence to suggest that there remains a convenient local bus service in operation at this time. Scropton is a small settlement with very few local amenities and no shop. The appellant states that Hatton is within a recognised walking distance. However, I saw that even though the most direct route, along Scropton Road has a footway, it is narrow, and along an unlit road. This would not be particularly convenient for pedestrians in the winter or during inclement weather. Furthermore, there is no designated cycleway. Therefore, it is my view that the proposed occupiers would be reliant on the car to access local services and facilities which would be contrary to Policy S6 of the Local Plan part 1 and the National Planning Policy Framework (the Framework) which seek to minimise the need to travel and encourage modal shift away from the private car towards walking, cycling and public transport.
 15. Additionally, the proposal before me would cause harm to the character and appearance of the area and there would be harm in this respect contrary to the development plan. Furthermore, while I accept that the appeal site has consent for two houses, the appeal proposal would result in a further four houses. As such the development would materially undermine the spatial strategy

² APP/F1040/W/17/3176356

underpinning the development plan due to the location of the development within the Rural Area, bringing the development into conflict with Policies BNE5 and SDT1 of the Local Plan Part 2, and to policies H1, S6 and S1 of the Local Plan Part 1 and the Framework.

16. There is no dispute between the parties that the Council is able to demonstrate a five year housing land supply at the present time, in contrast to the position facing my colleague, where the parties were in agreement that there was no demonstration of the required supply. At the present time therefore, the Policies are up to date and I give conflict with them full weight. To develop the appeal site as proposed would be at odds with, and would undermine public confidence in, the plan led system. I am mindful in this regard, that the Framework recognises that the planning system should be genuinely plan led. In my view therefore, this would not be an appropriate site for development having regard to local planning policies that seek to manage the location of new development.

Conclusion

17. I have found conflict with a number of Local Plan policies, including the development strategy envisaged for the District, which brings the proposal into conflict with the development plan as a whole. The policies cited above are the most important for determining the application and I find them to be effective and not out of date.
18. The provision of four new houses would be a benefit. Furthermore, the proposal would offer economic benefits through construction jobs and the contribution of future residents to the local economy. The number of dwellings may be an efficient use of previously developed land as required by paragraphs 117 and 122 of the Framework. However, in doing so the Framework also requires that consideration is made of the desirability of maintaining the area's prevailing character and safeguarding the environment. In this case, it would be in a manner that would be harmful to the character and appearance of the area.
19. Therefore, the benefits, even when taken together, would not be sufficient in my view to outweigh the conflict with the development plan and the harm that I have identified. There are no persuasive material considerations in this case to indicate that the proposal should be determined other than in accordance with the development plan.
20. I note that in determining the previous appeal the Inspector gave considerable weight to the provision of housing given the Council's lack of five year housing land supply, the proposals contribution to meeting an unmet demand from a particular sector of the housing market and the improvement to the appearance of the site which he considered outweighed the harm caused the proposal.
21. In this instance there is no dispute that the Council can demonstrate a five year housing land supply. I have been presented with no evidence regarding any unmet demand for the housing proposed, which would be considerably smaller than that previously proposed to meet the unmet demand for executive housing. Finally, the site already has planning permission to be developed in a more satisfactory manner that would improve the appearance area.

22. For the reasons set out above, and having regard to all other matters raised, I conclude on balance that the appeal should be dismissed.

Zoe Raygen

INSPECTOR