



Appeal Decision

Site visit made on 14 August 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/F1040/W/20/3253021

**Land adjacent to pub car park, Coalpit Lane, Coton in the Elms,
Swadlincote DE12 8EX**

- 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 N Braithwaite against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2020/0055, dated 13 January 2020, was refused by notice dated 12 May 2020.
 - The development proposed is 3 self-build or custom-build single storey houses with garages and access from Coalpit Lane together with associated works, design codes and provisions to ensure occupational compliance with the self-build and custom-build Act.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is in outline form with all matters reserved except for means of access. I have therefore considered the size and position of the house plots and garages shown on the submitted plans and the parameters in the design codes provided as being indicative only for the purposes of my assessment.

Main Issues

3. The main issue is whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy and the effect of the proposal on the character and appearance of the area.

Reasons

4. Policy S1 (Sustainable Growth Strategy) of the South Derbyshire Local Plan Part 1 (2016) (LP1) promotes sustainable growth to meet its objectively assessed housing needs. It seeks to ensure that economic, social and environmental objectives are fully addressed including amongst other things that the District's landscape and rural character are protected, conserved and enhanced. This approach is consistent with the sustainability aims of the National Planning Policy Framework (the Framework) which states amongst other things that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

5. The appeal site is located close to, but outside, the settlement boundary for Coton in the Elms and is therefore in the countryside for the purposes of decision making. Policy SDT1 (Settlement Boundaries and Development) of the South Derbyshire Local Plan Part 2 (2017) (LP2) confirms amongst other things that outside settlement boundaries, development will be limited to that considered acceptable by Policy BNE5 (Development in Rural Areas) of the LP2.
6. Part i) of Policy BNE5 states planning permission will be granted where development is allowed for by a specific list of Policies, one of which is Policy H1 of the LP1. Policy H1 sets out a 'Settlement Hierarchy' and identifies Coton in the Elms as a Local Service Village where sites adjacent to the settlement boundary may be considered appropriate as exceptions or cross subsidy sites. The Council has provided a recent High Court decision which confirms such sites should be interpreted as relating to the provision of affordable housing. Affordable housing is specifically defined in the glossary to the Framework. There is nothing before me to indicate that the dwellings would comply with the terms of this definition.
7. The development is not essential to a rural based activity. The Council says it can demonstrate a 5-year housing land supply and without evidence to the contrary, housing development is not unavoidable outside settlement boundaries. Therefore, the development would not meet Parts ii) and iii) of Policy BNE5.
8. Rural areas outside of the defined settlements sits at the bottom of the hierarchy in Policy H1 and the policy only allows for limited infill and conversions in such locations. On the basis that the proposal is for three dwellings and does not infill a small gap within a small group of housing the development would conflict with the definition of infill under Policy BNE5 iv).
9. Even if the site did constitute an infill site, Policy BNE5 v) requires that such sites do not unduly impact on landscape character and quality. Other than a public house with its associated car park, the side of the road on which the appeal site is situated is predominantly characterised by fields. The appeal site is an undeveloped and vegetated parcel of land with a substantial mature hedgerow to the boundary of the site with Coalpit Lane. The hedgerow is an important landscape feature consistent with the natural character of the surrounding countryside. The dwellings on the opposite side of the road form a sporadic pattern of development which gradually assimilates into the generally open fields beyond. Owing to these factors, Coalpit Lane has a prevailing open and rural character and appearance.
10. Given the parameters of the site, the buildings would be positioned in relatively close proximity to each other and would be in an elevated position relative to the highway on Coalpit Lane. The individual access points and sight lines required would necessitate removal of a significant section of the hedgerow to the Coalpit Lane frontage. Any new planting to the front boundary would take time to establish and would need to sit outside sight lines. It is also likely that the development would be appreciable from the public house car park and the public right of way through the neighbouring field given the close proximity of the development and associated domestic activity to these public vantage points. Consequently, even accounting for the indicated single storey height of the buildings, the residential use of the site and the cumulative bulk, form and density of the buildings would be a prominent incursion into the countryside,

which would be significantly detrimental the rural character and quality of the area.

11. The site's position close to the settlement boundary means it is not isolated in terms of the definition within the Framework. However, there is nothing before me to suggest that Coton in the Elms has more than a very limited range of services and facilities. The submissions indicate that the bus service to the nearest larger settlements at Swadlincote and Burton upon Trent is limited, running every 2 hours and does not operate in the evenings or on Sundays. Furthermore, these larger settlements are not conveniently located so as to encourage walking or cycling. Consequently, it is likely that there would be some reliance on the private motor vehicle to meet day to day needs. Overall, these factors do not persuade me that development in this location would meet the sustainable development needs of the area.
12. Taking all the above factors into account, I conclude that the site is not a suitable location for the development and would result in significant harm to the character and appearance of the area. It would conflict with the sustainable development principles and those provisions which seek to protect the intrinsic character and beauty of the countryside set out in Policies S1 (Sustainable Growth Strategy), H1 (Settlement Hierarchy), BNE1 (Design Excellence) and BNE4 (Landscape Character and Local Distinctiveness) of the LP1 and Policies SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows) of the LP2 and the Framework.

Other considerations

13. The Framework recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. The Council has not provided specific details of its housing permissions or details as to whether any of them include appropriate mechanisms to ensure that there are a sufficient number of suitable planning permissions to meet the demand on the self-build register. Given the uncertain position, for the purposes of this appeal I have assumed that there are currently no available self-build or custom-build house plots in the district. The provision of 3 self-build or custom-build dwellings would make a limited but important contribution towards the housing mix and the need for such plots in the area.
14. My attention has been drawn to a housing development at Rosliston. I am not aware of the full circumstances relating to that site. It is unlikely that the material planning considerations for that site were identical to the case before me which must be considered on its own merits.

Planning Balance and Conclusion

15. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
16. The Council has a 5-year housing land supply and the most important policies for determining the application are those which seek to promote sustainable growth and protect the countryside. These policies are consistent with the

Framework. I therefore attach full weight to these policies and the 'tilted balance' under Paragraph 11 of the Framework is not engaged.

17. Three dwellings would make a limited but important contribution towards the Council's housing requirements, specifically in terms of self and custom-build housing. The appellant has indicated that they would be prepared to enter into an appropriate planning obligation to secure the dwellings for this specific purpose. This would be the appropriate mechanism to ensure specific arrangements for the marketing and development of the plots is secured with precision and enforceability. However, such an undertaking is not before me. This greatly diminishes the already limited weight I attach to the potential provision of self-build or custom-build housing.
18. In principle new dwellings in this location would conflict with the sustainable development aims of the development plan and the Framework and would have a significantly harmful effect on the character and appearance of the countryside. These are matters which attract significant weight and tip the balance firmly against the proposal.
19. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the up-to-date development plan. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR