
Appeal Decision

Site visit made on 14 September 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th October 2020

Appeal Ref: APP/P1045/W/20/3253351

Land south of Lumsdale Terrace, Upper Lumsdale, Matlock DE4 5LB

- 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 Mrs C Clarke against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00891/OUT, dated 1 August 2019, was refused by notice dated 24 December 2019.
 - The development proposed is two dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with access and layout to be determined at this stage and it is on this basis that I have determined the appeal.

Main Issues

3. The main issues in the appeal are:
 - Whether or not the site represents a suitable site for housing having regard to its location outside the settlement boundary; and
 - Whether or not the proposal would preserve or enhance the character or appearance of Lumsdale Conservation Area.

Reasons

Whether or not the site represents a suitable site for housing

4. The appeal site is an overgrown plot of land that drops down from the road and then rises up the valley side. To one side lies a similar field and to the other is a row of semi-detached houses, behind which lies a secondary school. The site lies outside, albeit adjacent to, the settlement boundary for Matlock as defined by the *Derbyshire Dales Local Plan (adopted December 2017)* (DDLDP) and so is defined as being in the countryside.
5. The DDLDP seeks to focus the majority of new development within the upper tiers of the settlement hierarchy. In this context, DDLP Policy S4 (i) sets out when new residential development may be acceptable in the countryside. It is not disputed that the Council currently have a 5 year housing land supply, and

given this, the proposal would not comprise any of the forms of residential development set out in this criterion. As such, the proposal would be contrary to this policy.

6. The appellant has stated that the proposal would be self-build plots. The Self-build and Custom Housebuilding Act 2015 (as amended), and the associated regulations, requires local planning authorities to establish local registers of custom-builders who wish to acquire suitable land to build their own home, and to have regard to this register when exercising their planning functions. The Housing and Planning Act 2016 provides that authorities must give suitable development planning permission in order to provide enough serviced plots of land to meet the demand for such housing in their area in each base period.
7. The Council have indicated that their register only has one entry, and whilst no planning permissions have been granted for plots to meet this need, this shows the demand for such plots is low. The appellant has raised concerns with how the Council maintain the register and suggests that this is keeping the number of entries low compared to neighbouring authorities where the number of entries on the register is much higher.
8. Be that as it may, how the Council maintain this register is not a matter before me in this appeal. In any case, Policy S4(i) does not indicate that the provision of self-build plots is one of the forms of residential developments that are acceptable in the open countryside and Policy HC3 of the DDLP indicates that such plots should be provided as part of sites allocated for housing in the local plan.
9. Even if the appeal scheme was acceptable in principle, I have no mechanism before me to secure that the housing was self-build. Although the appellant has suggested that a condition could be used to limit the first occupancy of the properties to people on the self-build register, wording for such a condition has not been suggested by either party. In my experience, ensuring that a proposal meets the definition of self-build and custom housebuilding, is normally dealt with by way of a Section 106 agreement or a Unilateral Undertaking. A condition would not only have to limit the first occupancy of the dwelling but would have to restrict the act of an individual in the methods used to build the house. I cannot see how such a control would be sufficiently land use based to accord with the Framework's tests for conditions. Thus, I give this matter little weight.
10. All in all, I consider that the appeal site would not be a suitable site for new housing having regard to its location outside the settlement boundary and it conflicts with Policy S4 of the DDLP outlined above.

Character and Appearance

11. The appeal site lies in Lumsdale Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be had to the desirability of preserving or enhancing the character and appearance of a conservation area.
12. The *Lumsdale Conservation Area Appraisal (adopted November 2010)* (CAA) indicates that the area is primarily of historic interest for its industrial archaeology. Clusters of former industrial buildings are located along streams with evidence of extensive hydraulic management. Some of the key

characteristics of the Upper Lumsdale area in which the site is located are that: it is a heavily wooded valley, contrasting with open fields on the higher slopes; the use of gritstone as a building material; steep hillsides and ravines with a hidden dark character and dramatic waterfalls; and the dense network of public footpaths.

13. Although close to the edge of Matlock, with housing and a high school nearby, the narrowing of the road to a single width bound by stone walls, and the areas of woodland and fields gives the area a distinctly rural character that is a sudden and dramatic change from the more built up areas.
14. Although appearing unused and neglected the open nature of the appeal site and the adjacent land contrasts with the wooded areas on the opposite side of the road and to the south of Asker Lane. The site therefore makes an important contribution to one of the key characteristic features of this part of the conservation area, even if this can only be appreciated in the immediate vicinity. The contrast between the dark wooded areas and the open and light character of the fields is particularly noticeable in views in both directions along the adjacent road.
15. Moreover, I agree with the CAA that this area of open land plays an important role in reinforcing that this area was once distinct and separate from Matlock, even if the growth of the adjacent town means the physical distance between them is now more limited. The narrowness of the gap at this point increases the sensitivity of the site to development.
16. Whilst the proposed development of two houses on the appeal site would still leave the larger adjacent field undeveloped, it would result in encroachment of the built form into this important open space, further eroding the separation between Lumsdale and Matlock and diminishing the contribution the site plays in the character and appearance of the conservation area. This would be to the visual detriment of the conservation area and the character of the landscape.
17. Whilst the scale of the buildings is not to be determined at this stage, the layout shows 2 detached houses whose footprint would be significantly greater than the modest semi-detached houses of Lumsdale Terrace and which would, as a result, dominate views from the south. Whilst it is suggested that the plot sizes would be large enough to enable substantial additional planting to take place, it is the open nature of the site that contrasts with the enclosed woodland area, that is a key characteristic. The domestication and landscaping of the site would unacceptably harm this.
18. Consequently, I consider the proposal would fail to preserve, and would unacceptably harm, the character and appearance of Lumsdale Conservation Area. Therefore, it would conflict with Policies PD1 and PD2 of the DDLP which require that developments should have a high quality of design, which conserves heritage assets in a manner appropriate to their significance and respects the character and context of the area.
19. Having regard to paragraph 196 of the *National Planning Policy Framework*, the harm caused to the conservation area would be less than substantial, and therefore needs to be weighed against the public benefits of the proposal. In the scheme's favour it would create 2 residential units. Although suggested these would be self-build plots, for the reasons set out above, I give this little weight. Construction would provide some temporary work for local contractors

and spending by future occupiers would benefit the local economy but given the limited scale of the proposal, these benefits would be minimal.

20. The adjacent site, which is in the same ownership is a Local Wildlife Site and the appellant has stated that the proposal would enable the better management and maintenance of the site in conjunction with Derbyshire Wildlife Trust. This could be secured by a condition and would be a benefit of the appeal scheme.
21. The desirability of preserving or enhancing the character or appearance of a conservation area is a matter of considerable importance and weight. In this case, even if I did consider that a condition was sufficient to ensure the properties met the definition of self-build housing, I consider that this and the other public benefits of the scheme would be insufficient to outweigh the less than substantial harm.

Other Matters

22. My attention was drawn to an appeal in a different district where the fact that the proposal was for self-build plots was considered a significant material consideration. However, unlike this appeal, it was concluded that the proposal would not harm the character and appearance of the area. In addition, the numbers on the self-build register were significantly higher. Furthermore, a S106 agreement had been provided to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. In this case I do not have such an agreement before me. As such, the circumstances of this other appeal are not a direct parallel to the appeal scheme before me.

Conclusion

23. For the reasons set out above I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR