



Appeal Decision

Site Visit made on 16 November 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Appeal Ref: APP/F1040/W/20/3257255

Land off Breach Lane, Melbourne, Derbyshire DE73 8DF

- 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 Amar Shezad against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2019/1209, dated 17 January 2020, was refused by notice dated 27 July 2020.
 - The development proposed is the erection of a dwelling and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. With the appellant's agreement, the Council changed the description of development from what was originally stated on the application form¹. The revised description is set out above, but I have omitted the site location as this is superfluous.
3. The proposal is in outline with approval sought for the means of access. Matters such as appearance, landscaping, layout and scale are reserved for future consideration in the event that planning permission is granted. Proposed plans and drawings have been provided and show a single dwelling within the appeal site. Other than the point of access, I have treated these details as indicative and only in so far as considering whether it would be possible, in principle, to develop the site as proposed.

Main Issue

4. The main issue is whether the proposal is consistent with policies relating to the location and supply of housing in rural areas, with particular regard to the effect of the proposal on the character and appearance of the surrounding area and accessibility to local services and facilities.

Reasons

5. The appeal relates to a largely triangular parcel of undeveloped land at the junction of Breach Lane with the B587 public highway. The appeal site comprises overgrown vegetation and low-level scrub bound by hedgerows and some trees. Its undeveloped and open character, adjacent to a cluster of dwellings, adds positively to the character and appearance of the surrounding area, reinforcing its intrinsic rural surroundings.

¹ Residential development of a single dwelling

6. The Council's sustainable growth strategy is set out in Policy S1 of the South Derbyshire Local Plan Part 1 (LP1). 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 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.
7. It is common ground between the parties that the appeal site is outside of any defined settlement boundary and is therefore within the 'rural area', where Policy H1 of the LP1 together with Policies SDT1 and BNE5 iv) and v) of the South Derbyshire Local Plan Part 2 (LP2) restrict development to 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 and that does not unduly impact on landscape character and quality.
8. The appeal site is adjacent to an existing property, known as Windyridge, which is part of a small cluster of dwellings along Breach Lane. On the other side is a deep highway verge and then the B587 public highway which forms a busy route into nearby Melbourne. Beyond this is a grouping of buildings which make up the former Sir Frances Burdett Inn. To the north and south (beyond Breach Lane) is open countryside. The Council estimate that the undeveloped frontage between Windyridge and over the highway to the former Sir Frances Burdett Inn is approximately 100 metres. This is a significant degree of separation that is accentuated by the public highway. Therefore, in my view, this is not a small gap.
9. Moreover, in this case, the width and horizontal alignment of the adjacent highway in relation to the appeal site results in a substantial barrier between the built form along Breach Lane and that of the smaller cluster of buildings at the former Sir Francis Burdett Inn. Therefore, rather than a continuous built up frontage with small gaps, they are read as two separate clusters of buildings in the rural area, distinct from each other and surrounded by open countryside. Consequently, while only one dwelling is proposed, I cannot agree that the proposal would amount to the infilling of a small gap that would be in keeping with the character of the locality.
10. Turning to character and appearance, the site is not located within a designated landscape. However, its undeveloped and open character forms part of a visual break between clusters of built form in the countryside, typical of the sporadic pattern of development in the surrounding area. The resultant gap in built form, observed principally when travelling along the B587 highway, makes an important contribution to the character of the surrounding countryside.
11. The proposal would result in an extension of built form and associated domestic paraphernalia that would inevitably change the character of the site, diminishing its undeveloped and open characteristics. As such, the proposal would lead to a prominent intrusion of development into the countryside that would result in significant harm to the rural character and quality of the surrounding area.

12. With regard to accessibility, Policy S6 of the LP1 seeks to minimise the need to travel, encouraging a modal shift away from the private car to more sustainable modes of transport such as walking, cycling and public transport by seeking patterns of development that enable travelling distances to be minimised and that make best use of existing transport infrastructure and services. The site's position in relation to adjacent properties and the proximity of the nearby settlement of Melbourne means that it would not be isolated in the context of the Braintree Judgement². However, the nearest services and facilities are located in the centre of Melbourne, about 1.3km from the appeal site. This is beyond what could reasonably be considered as a short or convenient walk along the B587 public highway.
13. Whilst there is a pedestrian footpath along the B587 from the junction with Branch Lane into Melbourne, I could see during my site visit that this is a busy highway. There were frequent traffic movements in both directions with vehicles traveling at speed. Although the pedestrian route benefits from streetlighting, it is particularly narrow in parts and, there are significant bends in the road where visibility between pedestrians, cyclists and approaching traffic would be reduced. To my mind, those highway conditions would not provide an inviting or convenient route for the future occupiers of the proposal to regularly travel on foot or by cycle to meet their day-to-day needs, particularly during periods of inclement weather.
14. There are nearby bus stops on the B587 with the appellant's submission suggesting that an hourly bus service is provided to Swadlinecote and Woodville via Melbourne. However, I have not been provided with any details of this service and therefore cannot be satisfied that it would provide a suitable or convenient alternative to the private car. Consequently, there would inevitably be some dependence on the use of a private car to access a full range of services and facilities in order to meet day-to-day needs and employment opportunities.
15. The proposal, of itself, is unlikely to generate a large number of traffic movements. Furthermore, a greater dependency on car use is perhaps inevitable in rural locations where it is accepted that opportunities to maximise sustainable transport solutions will vary from that of urban areas. However, the cumulative effect of allowing developments in locations such as the appeal proposal would result in an unsustainable pattern of development that would be likely to increase reliance on the private car contrary to the aims of LP1 Policy S6 and the Council's overarching spatial strategy.
16. In reaching the above findings, I have had regard to the appeal decisions drawn to my attention relating to planning permissions granted for a single dwelling at 115 Hill Top Road, Acton Bridge³ and a dwelling between Long Barn and 69 Hill Top Road, Acton Bridge⁴. I have also had regard to the content of the Committee Report in relation to an outline application⁵ for residential development at Foston, Derby. However, as these other cases reflect different locational circumstances to the proposal before me, I have necessarily

² *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

³ Appeal Ref: APP/A0665/W/14/3000557

⁴ Appeal Ref: APP/A0665/A/13/2195160

⁵ LPA Ref: 9/2019/0396/FO

determined this appeal on its own merits, having regard to its unique spatial characteristics.

17. Bringing all of these points together, I conclude that the proposed development would not be consistent with the objectives of policies relating to the location and supply of housing in rural areas, with particular regard to the effect of the proposal on the character and appearance of the surrounding area and accessibility to local services and facilities. The proposed development is, therefore, contrary to Policies S1, S2, S6, H1, BNE1 and BNE4 of the LP1, Policies SDT1 and BNE5 of the LP2 and the associated provisions of the Framework which taken together seek to achieve sustainable patterns of development that do not unduly impact on the rural character of the District's landscape and seek to promote sustainable modes of transport, amongst other things.

Other Matters

18. I acknowledge the appellants assertions that a safe means of access can be provided and that there would be no adverse impacts in relation to highway safety, ecology, the historic environment, flood risk or residential amenity. However, these are neutral factors in my determination and therefore they do not amount to benefits in favour of the scheme.
19. The development would make use of a vacant parcel of land and would make a small contribution towards the supply of housing, accruing economic benefits through the construction of the dwelling and social benefits from the provision of a family home. The appellant suggests that these benefits carry additional weight in the context of the current Covid-19 pandemic. Nonetheless, I am mindful that the pandemic is a temporary situation but the harm I have identified would be enduring.

Conclusion

20. I have found the proposal to be in conflict with development plan policies in relation to the location and supply of housing in rural areas with associated harm to the character and appearance of the surrounding area, and inadequate accessibility to local services and facilities resulting in some reliance on private car use.
21. The conflict with the development plan, the Framework and the associated harm are significant and overriding factors. The other matters advanced in favour of the appeal, including the limited contribution to housing supply and the associated benefits, are not of sufficient weight to justify a determination other than in accordance with the development plan, with which the proposal would clearly conflict.
22. Accordingly, for the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Jeff Tweddle

INSPECTOR