



Appeal Decision

Site Visit made on 12 July 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Appeal Ref: APP/P1045/W/21/3272852

Land East Of Les Ardennes, Unnamed Section Of C3 From Main Road To Carr Farm Hall Access, Hulland Ward, Derbyshire DE6 3EE

- 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 S Binch (Green 4 Developments) against the decision of Derbyshire Dales District Council.
 - The application Ref 20/00617/FUL, dated 1 July 2020, was refused by notice dated 14 October 2020.
 - The development proposed is erection of 6 no. detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issue of this case, the substance thereof remains the same as the 2019 iteration. I have sought comments from the main parties and taken any made into consideration.

Main Issues

3. The main issues are:
 - (a) whether the proposed dwellings would be in an acceptable location as defined in the development plan; and
 - (b) the effect of the development on the character and appearance of the area.

Reasons

Acceptable Location

4. The appeal site is situated within the countryside, outside the settlement boundary of Hulland Ward. It comprises of an open field, immediately adjacent to and accessed from a recently constructed small housing development on the south side of the CIII road. The main built-up area of Hulland Ward is orientated along the A517 to the west, west of the junction of the A517 and the CIII.
5. Policy S2 of the Derbyshire Dales Local Plan 2013-2033 (the Local Plan), adopted in 2017, sets out the Council's spatial strategy and specifically its settlement hierarchy. It states that new development will be directed towards

the most sustainable locations in accordance with this hierarchy, and that this will ensure that development reduces the need to travel and promotes sustainable communities based on the services and facilities that are available in each settlement.

6. The hierarchy contains five tiers of settlements: First Tier of Market Towns (Matlock, Ashbourne and Wirksworth); Second Tier Local Service Centre (Darley Dale); Third Tier of Accessible Settlements with Some Facilities (12 settlements including Hulland Ward); Fourth Tier Accessible Settlements with Minimal Facilities; and Fifth Tier Infill and Consolidated Villages.
7. Settlement boundaries for the first three tiers of settlement are defined on the Plan's Policies Maps. Policy S2 makes clear that new development should be focused within the settlement boundaries of these settlements. Fourth and fifth tier villages do not have settlement boundaries because they respectively have a very limited range of employment, services and facilities or lack them; nonetheless there remains the scope for limited development including infilling within these settlements.
8. Policy S2 goes on to say that all Other Rural Areas are defined as 'countryside' where "*development will be strictly limited to that which has an essential need to be located in the countryside*". The appeal site falls within this definition. There is clearly no essential need for the proposed development to be located in the countryside, irrespective of the fact that a small housing estate has been recently constructed on the land immediately to the north, which itself also lies outside Hulland Ward's settlement boundary and indeed does not even adjoin it.
9. For these reasons the proposed development of 6 dwellings would directly conflict with Policy S2 and be a clear unjustified breach of the Council's spatial strategy.

Character and Appearance

10. The linear form of development of Hulland Ward to the west affords views of the surrounding open fields and rural landscape that contributes to the character and appearance of the area. The development would protrude beyond the southern edge of the east-west linear built form that characterises the area. Although I could see the settlement pattern varies in Hulland Ward, the southern edge of the recently constructed housing development adjacent to the appeal site broadly aligns with the extent of development immediately to either side.
11. Whilst the appeal site may have formed part of the same field that has now been developed, the proposal would however extend well beyond the edge of the built-up area. I was able to see that the southern edge of the appeal site is defined by an existing hedgerow which is to be retained and reinforced. Nevertheless, the protrusion of the development would have a significant urbanising effect that would substantially detract from the open character of the site.
12. I acknowledge that views of the development are obscured or reduced to glimpses from distant vantage points. Nevertheless, I do not agree that the proposal would be commensurate with the existing landscape pattern and form a logical extension to the settlement. A Public Right of Way passes to the west

of the site, and from various locations along it the proposed development would be visible, where it would appear as an overt intrusion into the open countryside.

13. Reference has been made to a previous appeal decision¹ on this site and although I have limited information of that proposal, I appreciate the current development proposes a reduced number of dwellings. I can also see the proposal comprises of a low-rise development with green roofs that seeks to minimise the impact on the landscape. The proposal would nevertheless have large areas of hardstanding and glazing, particularly on the southern elevation that would be seen from various vantage points, including from the nearby footpath to the west of the site.
14. The appearance of the area would be unacceptably urbanised by extending built development into the countryside. Both main parties have referenced the Council's Landscape Sensitivity Study which identifies the site as being within an area of high landscape sensitivity. Indeed, the appellant's own Landscape Visual Impact Assessment acknowledges that there would be some harm to landscape character and adverse visual effects from a representative range of local viewpoints. The proposal would have a detrimental impact by eroding the linear development character of the area and by virtue of its protrusion into the open rural landscape.
15. I note the various mitigation measures proposed, including retaining hedgerows and new planting, including trees and the creation of a wildflower meadow. I have also considered the "rolling hill" design and the partially subterranean form of the dwellings. Whilst this design would soften the built form and to some extent reduce visibility, the development would however still be clearly visible and be seen as a prominent spur of development beyond the existing settlement limit, to the detriment of the rural character.
16. Local Plan Policy S4 seeks to ensure that outside settlement development boundaries the Council will ensure that new development protects and where possible, enhances the intrinsic character and distinctiveness of the landscape. For the above reasons it would fail to protect the intrinsic character and distinctiveness of the local landscape. This Policy sets out a list of circumstances where development will be granted in the countryside; the proposal does not comply with any of these circumstances. For these reasons it would fail to comply with this Policy and Local Plan Policy PD5, which seeks to protect landscape character.
17. Local Plan Policy PD1 requires development to respond positively to the local environment and contribute to local distinctiveness and sense of place. Again, for the above reasons, the proposal would fail to comply with this Policy. It would also be contrary to Paragraph 130 of the Framework, which seeks, amongst other matters, development that is sympathetic to local character, the surrounding built environment and landscape setting.

Other Matters

18. The proposal would be acceptable in relation to living conditions, highway safety and in other respects including flood risk. These are however neutral considerations and not matters which weigh in favour of the development.

¹ Ref: APP/P1045/W/17/3188285

19. Reference has been made to planning obligation, but I have not been provided with a S106 agreement and I do not need to consider this matter further given my above conclusions on the main issues of the appeal.

Planning Balance and Conclusion

20. The Council acknowledge that they are unable to demonstrate the supply of housing sites as required by the Framework. Paragraph 11 thereof sets out that, in this situation, the policies most important for determining the application are out of date and planning permission should be granted unless, amongst other things, the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
21. I attach substantial weight to the benefits of increasing the supply of housing. I also acknowledge the importance of smaller sites in meeting local need and the development would be highly energy efficient and could provide ecological enhancements.
22. Local Plan Policy S4 i) accepts that new residential development on non-allocated sites on the edge of defined settlement development boundaries of first to third tier settlements in circumstances where there is no 5-year supply may be acceptable. This does include an assessment of both whether the site is on the edge of Hulland Ward as well as whether the development protects the local landscape's intrinsic character and distinctiveness. I have already concluded, for the reasons given above, that this development would fail to do the latter. The site does not abut Hulland Ward's settlement boundary. Even if I was to conclude that it did lie 'on the edge' of the settlement, it would still fail to comply with this Policy as a whole. This Policy itself is not out-of-date because it addresses the perennial issue of intrinsic character and distinctiveness.
23. Even accepting that Policy S2 is out-of-date because the Council cannot demonstrate a 5-year housing supply, the adverse impacts of granting planning permission would, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.
24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR