



Appeal Decision

Site Visit made on 3 August 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2021

Appeal Ref: APP/M1005/W/21/3275036

Highcroft Cottage, Park Head, Matlock DE4 5GY

- 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 Paul Ashburner against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/0784, dated 17 August 2020, was refused by notice dated 18 November 2020.
 - The development proposed is described as 'outline application for the erection of two dwellings on land adjacent to the existing entrance'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning permission is in outline form with all matters reserved. Therefore, the size and layout of the proposed dwellings and the means of access are indicative only for the purposes of my assessment.
3. The Council has confirmed that as of 1 April 2021 it can demonstrate a 7.31-year housing land supply. The appellant contends that the current housing land supply calculations have not yet been the subject of independent scrutiny but has not provided any objective evidence in terms of an alternative account of the housing land supply position. Therefore, based on the evidence before me, there is no reason for me to conclude that the Council's approach to calculating housing land supply for the area is incorrect. The Government also published its Housing Delivery Test (HDT) results on 19 January 2021 which confirmed that the Council has exceeded its housing targets over the last 3 years with a HDT measurement of 155% when the number of homes required is compared with the number delivered over that period.
4. Since the appeal has been lodged the revised National Planning Policy Framework (the Framework) has been issued on 20 July 2021. However, there have been no fundamental changes relative to the considerations relative to the main issues in this instance as acknowledged in the appellant's final comments. Therefore, it has not been necessary to go back to the parties for further comments on the Framework in this particular instance. Nonetheless, I have taken it into account as a material planning consideration for the purposes of determining this appeal.

Main Issues

5. The main issues are:

- (i) whether the development would be sustainably located;
- (ii) the effect of the proposal on the character and appearance of the area including landscape character; and
- (iii) whether the proposal would give rise to highway safety issues.

Reasons

Policy context

6. There is no dispute between the parties that Policies EN1 and H5 of the Amber Valley Local Plan (2006) (LP) are out of date. These policies are more restrictive than the Framework as they limit development, including housing development, outside the built framework of settlements to specific exceptions. The Council also confirms that these policies did not envisage housing growth beyond 2011. On this basis, these particular policies can only be given very limited weight in my assessment.
7. Policy NP1 (Spatial Strategy) of the Crich Parish Neighbourhood Plan (2018) (NP) sets out that all development should be located so that it can make a positive contribution towards the achievement of sustainable development by amongst other things meeting development needs within the settlement development boundaries (SDBs) defined in Policy NP2 of the NP. The Framework confirms amongst other things that the purpose of the planning system is to contribute to the achievement of sustainable development and there is nothing in the Framework to indicate that the definition of settlement boundaries is no longer a suitable policy response. The location of the site outside an SDB means the proposal clearly conflicts with this policy.
8. Notwithstanding the above, the Council has confirmed that as at 1 April 2021, 4,176 additional dwellings had been provided in the Borough since 1 April 2011, against a target of 9,770 dwellings for the period 2011-2028. As at 1 April 2021 3,557 dwellings are anticipated to come forward up to 2028 on sites with planning permission or small brownfield sites. Therefore, taking these figures into account, there remains unmet development need. From the evidence before me, I cannot be certain that all that need can be met in SDBs.
9. As outlined above, the main parties agree that Policies EN1 and H5 of the LP are out of date. Whilst settlement boundaries are not ruled out in the Framework, given the unmet development need in the Borough, the conflict with policies NP1 and NP2 of the NP has to be weighed against the Framework which does not preclude all development outside settlements and seeks to significantly boost the supply of housing based on up-to-date evidence. Given the proximity of existing built form adjacent to the site, I am also satisfied that the proposal would not lead to the erection of 'isolated' homes with reference to paragraph 80 of the Framework.
10. Overall, whilst there are a number of important development plan policies which are consistent with the Framework, I consider that when the basket of most important policies are considered as a whole, they are out of date. In this regard, paragraph 11d of the Framework is engaged.

Locational sustainability

11. The evidence before me indicates that the nearest village at Crich has a good range of local services and facilities including a primary school, medical centre, churches, public houses, post office, local shops, café, takeaway, recreation facilities and various small businesses. However, the appeal site is set well away from the more built-up part of Crich. The national speed limit applies on the B5035 at the location of the appeal site and there is no connecting lit public footpath to Crich or the nearest bus stops. The third-party evidence before me also indicates that bus services to larger settlements with a greater range of employment opportunities, services and facilities are infrequent and only run until the early evening.
12. While I recognise opportunities to maximise sustainable transport solutions will vary between urban and rural areas, given the particular constraints of the appeal site there would not be a genuine choice of more sustainable transport modes for future occupants. It is likely that residents of the dwellings would be highly reliant on the private motor vehicle in order to meet their day-to-day needs.
13. I conclude that the proposal would not be sustainably located. The proposal would not therefore accord with the sustainability requirements, in particular minimising the need to travel as well as maintaining and where possible enhancing accessibility to a good range of services and facilities in Policies LS1 of the LP, NP1 of the NP and paragraph 105 of the Framework. This is an adverse matter to which I afford very significant weight in the overall planning balance.

Character and appearance including landscape character

14. The appeal site adjoins the rear boundaries of two of the residential properties which form part of a small row of dwellings orientated to front Mooredge Road. There are other occasional small groups of dwellings and farmsteads along the B5035. I noted on my site visit that the site is being used to store building materials. The Council has also confirmed that the site does not sit within an area designated as being of high landscape sensitivity. Even so, the site does not contain any buildings, is well vegetated and is bound by a low drystone wall. It is positioned significantly forward of the existing buildings at Highcroft Cottage and is appreciated as forming part of a prevailing open landscape to this section of the B5035. In those regards, the site positively reflects the prevailing open and soft landscaped characteristics of the surrounding countryside.
15. Saved Policies EN7 and LS1 of the LP require amongst other things that the design of development is appropriate to the landscape character type within which it is proposed and seek to protect and enhance the quality of the built and natural environment. Policy NP 2 of the NP confirms amongst other things that land in the countryside will be protected for the sake of its intrinsic character and beauty. Policy NP3 of the NP requires that development should not represent a significant visual intrusion into the landscape setting. These requirements are generally consistent with the aims to protect landscape setting and the intrinsic character and beauty of the countryside at Paragraphs 130 c) and 174 a) and b) of the Framework.

16. I acknowledge that the existing dwellings on Mooredge Road would form part of the backdrop when approaching from the south east along the B5035 rather than open fields. Even so, the proposal would extend built form close to the road frontage altering it from a single row of dwellings extending away from the B5035 to a more concentrated cluster of domestic buildings, gardens and associated paraphernalia. Any soft landscaping would take time to establish and would be unlikely to fully assimilate the development within the landscape given its prominent roadside position. Consequently, the proposal would erode the prevailing rural qualities of the countryside's landscape.
17. The appellant suggests that because the land has become overgrown and is used for storing building materials, it does not contribute positively to the appearance of the area. However, for passers-by, the overriding experience is that the site retains an undeveloped appearance. Furthermore, there is nothing before me to suggest that tidying up the site need only take place in association with the grant of planning permission for new development on the land.
18. For the reasons outlined above, I find that the development would result in some moderate harm to the character and appearance of the area. This includes landscape harm which would be moderately adverse. In reaching this conclusion, I fully accept that the submitted details are illustrative and matters of layout, scale and design are matters reserved for subsequent approval. Even so, I am not satisfied that in principle the site could be developed for two dwellings without harming the character and appearance of the area.
19. I therefore conclude that the development would conflict with the requirements to protect landscape setting and the intrinsic character and beauty of the countryside in saved Policies EN7 and LS1 of the LP and Policies NP2 and NP3 of the NP and paragraphs 130 and 174 of the Framework.

Highway Safety

20. Means of access is reserved for subsequent approval. However, the indicative details suggest that the site could utilise the existing driveway access from the B5035 serving Highcroft Cottage. There is a sharp bend in the road to the north west and in close proximity to the existing access point.
21. The appellant has provided a Highways Appeal Rebuttal (Inspire Design and Development - July 2021) (HAR) which confirms that a speed survey has been undertaken by the Local Highway Authority's (LHA) highways data team. This indicates that vehicle speeds are reduced on the approach to the bend on the B5035 and that 85th percentile speeds of 34.75mph towards Park Head and 44.03mph towards Crich were recorded. As a result, an amended access drawing has been provided (drawing number PA-1542-01-HW-001 Rev P1) indicating that visibility splays from the existing access point of 2.4m x 66.5m looking west and 2.4m x 95.1m could be achieved. The LHA has subsequently confirmed that the visibility sightlines shown are appropriate based on the speed survey work carried out.
22. Given the above, and whilst access remains a reserved matter, I consider it likely that a suitable and safe access could be provided. In that regard the proposal would not give rise to highway safety issues and would comply with the requirements of saved Policy TP1 of the LP. Even so, the acceptability of this matter is of neutral consequence in the planning balance and does not

alter or override my concerns relating to locational sustainability or character and appearance.

Other Considerations

23. Even if there are no flood risk issues and the development could be designed to ensure there would be no material harm to neighbouring living conditions, these matters are of neutral consequence in the balance. There is no compelling evidence before me to indicate that improvements for biodiversity or measures to ensure the dwelling would be energy efficient would be of a significant magnitude warranting more than limited positive weight.
24. I have seen the appellant's letter to the Council which confirms amongst other things that the proposal comes out of the need to finance the construction of a previously approved replacement dwelling at Highcroft Cottage. However, the appellant's financial incentives are not a material planning consideration.
25. The Framework encourages the use of previously developed land, and sites that are physically well-related to existing settlements where suitable opportunities exist. However, it also confirms that whilst previously developed land includes the curtilage of the developed land, it should not be assumed that the whole of the curtilage should be developed. The site is set well away from the location of buildings at Highcroft Cottage and consequently does not clearly read as being in residential use or as being previously developed. Furthermore, the site is not well-related to the nearest recognisable settlement at Crich. These matters somewhat diminish any positive weight that I afford to this matter.

Planning Balance and Conclusion

26. I have found that the most important policies relating to the provision of housing in the Borough are out-of-date and the tilted balance under Paragraph 11d of the Framework is engaged.
27. The provision of two dwellings would make a positive contribution towards boosting the supply of housing in the area. However, this is in the context of only two dwellings being provided and that the local planning authority can demonstrate a deliverable five-year supply of housing sites and has exceeded its housing delivery targets in the last 3 years. In other words, there does not appear to be a pressing need to release this countryside site for housing, particularly when I have found harm and conflict with development plan policies and the Framework.
28. There would also be some modest economic benefits through the construction of the site and subsequent contributions to the local economy by future occupants.
29. I have found that that the proposal would not be sustainably located and that there would be great reliance placed on the private motor vehicle for a high proportion of journeys. This is a matter to which I afford very significant weight in the planning balance. In addition, moderate harm would be caused to the character and appearance of the area and this also weighs against allowing the appeal.
30. On balance, the aforementioned adverse impacts of the development would significantly and demonstrably outweigh the identified benefits of the proposal

when assessed against the policies in the Framework taken as a whole. In addition, I have found some conflict with an inconsistent and most important development plan policy, although I afford the conflict with this policy only limited weight in the planning balance. Taken as whole, I find that the proposal would not deliver a sustainable form of development. I therefore conclude that the appeal should be dismissed.

M Russell

INSPECTOR