



Appeal Decision

Site visit made on 8 February 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2022

Appeal Ref: APP/P1045/W/21/3284219

Land and Buildings West of Fernley, Unnamed Section of C3 From Main Road to Carr Farm Hall Access, Hulland Ward, 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 Ian Redfern against the decision of Derbyshire Dales District Council.
 - The application Ref 21/00229/FUL, dated 16 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is the erection of a dwelling and partial demolition of existing outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and partial demolition of existing outbuildings at Land and Buildings West of Fernley, Unnamed Section of C3 From Main Road to Carr Farm Hall Access, Hulland Ward, DE6 3EE in accordance with application, Ref 21/00229/FUL, dated 16 February 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the principle of the proposed development with specific regard to its location; and
 - whether the proposal would result in an unacceptable impact on highway safety.

Reasons

Character and Appearance

3. The appeal site is a small parcel of agricultural land situated in between two existing residential properties, Fernley and 3 Magfields Cottages. Agricultural buildings are located on the site with older blockwork buildings located towards the front of the site, and a larger more modern steel portal framed building to the rear. The site is accessed directly from the highway via an existing gated entrance.

4. Following the recent approval and erection of 22 dwellings to the west of the appeal site, the site forms a partial break in what is otherwise a continuous line of development along the southern side of the road as you head away from the village of Hulland Ward. This line of development extends from the village as far as two dwellings which sit immediately to the east of the appeal site, before the character of the area noticeably changes to open fields with only very sporadic development.
5. The appeal site itself is of modest width which, along with its topography and location tucked between the two existing dwellings, results in the site not being overly prominent within the wider vista particularly when approaching from the east or west. The presence of the existing buildings on the site further reduces its contribution to the openness and rural character of the area. Consequently, I do not consider that the site represents an important physical break between the existing built developments, nor does the site make a significant positive contribution to the openness and rural character of the area.
6. The proposed dwelling would sit comfortably between the existing dwellings and would not appear unduly prominent, protecting the intrinsic character and distinctiveness of the local landscape. As a result, I find that the proposed dwelling would respect the character, identity and context of this part of the rural area, and would not result in undue harm being caused to the openness and rural character of the area.
7. For the reasons given above, I conclude that the development would not cause harm to the character and appearance of the area. It would therefore comply with Policies PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) (LP) which, amongst other things, seek to ensure that developments respect the character, identity, and context of the landscape.

Suitable Location

8. In order to ensure sufficient access to facilities and to reduce the need to travel, Policy S2 of the LP seeks to ensure that new developments are directed towards the most sustainable settlements in accordance with the defined settlement hierarchy. Hulland Ward is designated as a 'Third Tier' settlement which are described as being '*accessible settlements with some facilities*'. For third tier settlements developments should be focused within the settlement boundaries as defined on the policies map. The appeal site is located just outside of the defined settlement boundary and therefore within the countryside, in conflict with Policy S2.
9. Policy S4 of the LP seeks to ensure that new development in the countryside protects and where possible enhances the landscape's intrinsic character and distinctiveness. Several criteria are listed outlining the circumstances in which planning permission will be granted for developments outside of the defined settlement boundaries. This includes criterion i) which states that permission will be granted for new residential development on non-allocated sites on the edge of defined settlement development boundaries of first, second and third tier settlements where there is no 5 year supply, subject to consideration against other policies in the Local Plan and the provisions of the NPPF.
10. The appeal site is located on the edge of the defined settlement boundary of Hulland Ward, and the Council is unable to currently demonstrate a deliverable housing land supply of five years. Additionally, I have already concluded above

that the development would protect the local landscape's intrinsic character and distinctiveness. I have also considered the proposal against other relevant LP policies, including its effect on the character and appearance of the area, and I have found no conflict.

11. I therefore conclude that the proposed development would be situated in a suitable location on the edge of the defined settlement boundary, having regard to the policies that seek to manage the location of new development. The proposal would represent an acceptable form of new development in the countryside which would protect the landscape's intrinsic character and distinctiveness. The development would therefore accord with Policy S4, the aims of which are set out above.

Highway Safety

12. The appeal site benefits from an existing vehicular access onto a long straight stretch of highway which is subject of a 40mph speed limit. To the east of the access is a hedge which runs along the front boundary of the appellant's land, and to the west is a low stone wall which runs along the neighbouring property's boundary. The Local Highway Authority (LHA) consider the existing vehicular access to be substandard in regard to the visibility when exiting the site, with their primary concern being whether the proposal would result in a significant increase in vehicular activity.
13. I observed during my site visit that whilst there was little evidence of the buildings themselves being in regular use, it was clear that the vehicular access was utilised. Tracks from farm machinery or vehicles had formed and were visible running from the highway through the site to the agricultural field located to the rear. I also observed that nearby residential properties had similar access arrangements to the appeal site, with low walls or hedges along their front boundary.
14. Information submitted by the appellant's highways consultant suggests that a single dwelling house in this location would only be expected to generate up to 8 daily vehicle movements. These figures have not been disputed by the Council or the LHA. From the information available it is apparent that 8 daily vehicle movements would exceed the current use of the access, however I do not consider that such a number would represent a significant increase.
15. I have carefully considered the comments raised by the LHA in respect of the visibility being sub-standard. However, from my own observations on site and given the prevailing road conditions, I am of the view that visibility when exiting the site is sufficient, taking into account my findings on the scale of the intensification of the use of the access for the appeal scheme.
16. The proposed development would not therefore adversely affect highway safety. As a result, it would comply with Policy HC19 of the LP which, amongst other things, seeks to ensure that development can be safely accessed in a suitable manner.

Conditions

17. I have had regard to the conditions suggested by the Council and have assessed them against the tests set out in paragraph 56 of the Framework. In addition to the standard time limit condition, I have also imposed a condition concerning the approved plans for the purposes of clarity.

18. To ensure the appropriate appearance of the new dwelling, a condition has been imposed requiring samples or details of all facing and roof materials to be submitted to and approved in writing prior to any works commencing on the facing walls or roof of the buildings. Finally, in order to secure biodiversity enhancements and to meet the requirements of Policy PD3 of the LP, it is also necessary to require a detailed enhancement strategy including the provision of integral bird and bat boxes to be submitted.
19. A further condition was suggested by the Council's Trees and Landscape Officer requiring the submission of a tree survey, arborocultural impact assessment and method statement. However, as the only tree located on the appeal site is shown on the approved plans to be removed, it has not been identified as one of significant value and there are no other protected trees affected by the proposal. I do not therefore consider this condition would meet the tests as set out in the Framework.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

David Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1477 101 Rev D
- 3) Prior to any development taking place above ground level, samples or details of all facing and roof materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to any development taking place above ground level, a detailed biodiversity enhancement strategy (to include the provision of integral bird and bat boxes) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved strategy.