



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: 28 March 2022

Appeal Ref: APP/P1045/W/21/3284017

36 Windmill Lane, Ashbourne, DE6 1EY

- 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 Andrew Brown against the decision of Derbyshire Dales District Council.
 - The application Ref 21/00455/OUT, dated 29 March 2021, was refused by notice dated 21 June 2021.
 - The development proposed is the creation of new property and erection of new dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all matters reserved for future consideration. I have therefore dealt with the appeal on this basis, treating the submitted plans as indicative.
3. Policy DES1 of the Ashbourne Neighbourhood Plan (2021) (NP) is noted on the decision notice and quoted in the appellant's statement. The wording in that quote differs from the version of the NP provided, which appears to be a draft version. That said, the aims and objectives of the policy remain unchanged. Furthermore, neither party has indicated that the NP not been made or that the quoted aims and objectives of DES1 are incorrect. I have therefore afforded the NP full weight as part of the development plan and, for the above reasons, I am satisfied that no parties' case would be prejudiced.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of existing occupiers with specific regard to noise, disturbance and outlook, and whether there would be acceptable living conditions for future occupiers with specific regard to privacy.

Reasons

Character and Appearance

5. The appeal site forms part of the rear garden of 36 Windmill Lane. The plot is extensive and thus reflective of the prevailing character of the area. Dwellings do vary in their size, design and configuration but the urban grain is one of frontage development with substantial, open and undeveloped rear gardens. This consistency lends a pleasant homogeneity which contributes positively to the character of the area.
6. Whilst the appeal site would be capable of accommodating a dwelling with access, parking and sufficient garden space, the appeal scheme would be a back land plot which would add an additional tier of development to the locality. This would be against the established grain and somewhat alien in the largely uniform context I have identified.
7. The proposal would be largely screened from the street scene by the existing dwelling. This would accordingly limit its effect on the appearance of the area. However, the access would allude to its presence and in any case its lack of obviousness in the public realm would not make up for the harmful effect it would have on the character of the area for the reasons I have set out.
8. The proposed development would therefore conflict with Policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) (LP), and Policy DE11 of the Ashbourne Neighbourhood Plan (2021). These policies, amongst other things, seek to ensure that developments are of a scale, density and layout that is compatible with the character and appearance of the area.

Living Conditions

9. Vehicular access for the proposed dwelling would be via an existing connection with the road, then between Nos 36 and 34. There are habitable rooms windows in the side elevations of these properties. Whilst an existing access, its association with a new and separate dwelling would introduce an additional number and higher frequency of use than the existing situation. Movements associated with the use of the access would run close to habitable rooms in No 36 and 34, and the length of their respective rear gardens. This would accordingly lead to an unacceptable increase in noise and disturbance from vehicles which would harm the living conditions of existing occupiers.
10. With regard to the effect of the proposed development on outlook from No 38, a significant number of trees, shrubs and other planting exist along the boundary between Nos 36 and 38 which would largely screen the proposed development from any views. Consequently, when also considering the distance that the proposal would be from the property, the proposal would not have an undue impact upon outlook from the rear facing windows of No 38.
11. The proposed dwelling would be located on a much lower ground level than No 36 and at the end of its rear garden. There are balconies and significant glazing in the rear elevation of No 36 which would look, unimpeded, towards the new dwelling. That said, the separation distance between the rear elevation and the proposed plot would be such that there would not be an unacceptable loss of privacy for future occupiers.

12. For the above reasons, the proposed development would not lead to harm to the living conditions of the occupiers of No 38 or indeed those of the future dwelling. However, this would be a lack of harm and thus a neutral matter. It would not reduce the harm that would be caused to the occupiers of Nos 36 and 34 Windmill Lane with specific regard to noise and disturbance. Accordingly, and in regard to this main issue, the appeal scheme would conflict with Policy PD1 of the LP which, amongst other things, seeks to ensure that developments do not cause unacceptable effects by reason of overlooking, noise or other adverse impacts on local character and amenity.

Planning Balance

13. The Council accepts that it is unable to demonstrate a five year supply of housing land. Therefore, the most important policies for the determination of the application are out of date and I am taken to paragraph 11(d) (ii) of the National Planning Policy Framework (the Framework), which sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. I have found that the proposed development would cause harm to the character of the area, and to the living conditions of occupiers of neighbouring dwellings. These harms would be long lasting, and as such I ascribe them substantial weight.
15. The proposal would provide economic and social benefits through the construction phase and the additional contributions of the occupiers to the local community. The one new dwelling would also make a contribution to the supply of housing and the Council's shortfall. Given the scale of the proposed development contributions would be modest and in some cases time limited. As such, I ascribe these benefits limited weight. The appeal scheme would conflict with the Framework in regard to its requirements for high quality and contextually appropriate design and the living conditions of occupiers, specifically set out by section 12.
16. With that in mind, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent sustainable development for which the presumption in favour applies.
17. I accept that the appeal site is within an existing settlement and thus future occupiers would have good access to services. This would however need to be the case for the principle of the proposed development to be acceptable. It would, in any event, be a lack of harm rather than a benefit to the scheme.

Conclusion

18. The proposal would conflict with the development plan and there are no material considerations, including the approach of the Framework, which would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

David Jones

INSPECTOR