



Appeal Decision

Site visit made on 23 August 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2022

Appeal Ref: APP/M1005/W/22/3294657

Land off Top Lane, Top Lane, Whatstandwell, Matlock DE4 5EF

- 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 J. Uphill against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/1102, dated 17 November 2020, was refused by notice dated 30 November 2021.
 - The development proposed is outline permission for two dwellings, with all matters reserved.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr J. Uphill against Amber Valley Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The planning application was submitted in outline form, with all matters reserved for future consideration. I have therefore had regard to the details that show matters pertaining to the reserved matters on an indicative basis only.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the development upon the character and appearance of the Whatstandwell Conservation Area (the CA); and
 - Whether the development would safeguard the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site (the WHS).

Reasons

Character and appearance of the Conservation Area

5. The appeal site is located in the Whatstandwell Conservation Area (the CA). For the purposes of this appeal, the significance of the CA is, in part, derived from the presence of traditionally designed buildings set into the hillside and arranged close to the highway edge. The dwellings within the CA are typically surrounded by open or landscaped areas. This enables the settlement to harmonise with the more rural, and agricultural character of the wider area.

Therefore, the appeal site, as a less developed area, contributes to the significance of the CA.

6. The planning application was submitted in outline for up to two dwellings. However, I have no reason to believe that, if permission were to be forthcoming, both dwellings would not be constructed. Although the scale of the development has yet to be established, given the existing character of the appeal site, the development would result in a significant increase in the overall level of built form.
7. In addition, the indicative details include the provision of driveways and car parking areas. These matters would be necessary as, owing to the relatively narrow width of the surrounding road network, the displacement of a notable number of parked vehicles onto the surrounding road network would not be desirable. Therefore, there is a reasonable prospect that the development would include such features.
8. Therefore, the construction of driveways and car parking areas would, in unison with the proposed dwellings, result in the appeal site having a more urban and engineered appearance arising from the increase in built form. This would occur irrespective of the style and scale of the proposed dwellings. In reaching this view, I have had regard to the presence of some more modern buildings in the surrounding area. However, these are less prominent than the appeal proposal would be.
9. Although the appeal site has been used as part of a garden of an existing dwelling, it has an open and less developed character. In consequence, this would be eroded by the proposed development.
10. Therefore, the proposed development would result in an erosion of the more open character of the appeal site and the surrounding CA. In result, the proposed development would result in an adverse effect upon the character of the CA.
11. In addition, a notable feature of the CA is the presence of open areas. Therefore, the erection of up to two dwellings and associated works, such as parking, would result in a loss of one of these spaces. In consequence, the proposed development would create a significantly more urban character than is currently the case. The proposed development would therefore conflict with the more rural surroundings of the CA in this regard.
12. It has been suggested that the proposed development would be screened by existing dwellings. Whilst such screening effects might exist, the effect would be only partial and would not exist for all views. Therefore, notwithstanding the presence of some buildings, the proposed development would be readily perceptible.
13. The appeal site currently contains an outbuilding. Whilst this is a matter of note, the height and footprint of the outbuilding is such that the proposed development is likely to represent a notable increase in the overall level of built form. In result, the effects of the proposed development would be greater than the existing building. In consequence, this does not allow me to disregard my previous concerns.
14. The evidence before me indicates that the proposed dwellings would be constructed into the hillside. However, this would not mitigate the increase in

built form arising from the proposed dwellings and other elements of the development. Therefore, this suggestion does not allow me to disregard my previous concerns.

15. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the CA. The development, in this regard, would conflict with the requirements of Policy EN27 of the Amber Vale Local Plan (2006) (the Local Plan) and Policy NP11 of the Crich Parish Neighbourhood Plan (2018). Amongst other matters, these seek to ensure that the developments preserve or enhance Conservation Areas.

The Outstanding Universal Value of the World Heritage Site

16. The appeal site is located inside the buffer of the Derwent Valley Mills World Heritage Site (the WHS). For the purposes of this appeal, the Outstanding Universal Value of the WHS is, in part, derived from the presence of industrial developments, typically from the late 18th and early 19th centuries, which can be seen as part of a predominantly agricultural landscape dating from the same period. In consequence, the buffer zone makes a substantial contribution to the Outstanding Universal Value of the WHS.
17. In considering this appeal, I have been directed towards Policy EN29 of the Local Plan. Amongst other matters, this seeks to ensure that developments in the buffer zone preserve or enhance the setting of the WHS. As this policy seeks to assess the effects of a development upon a heritage asset, it is consistent with the National Planning Policy Framework.
18. Given the relatively undeveloped nature of the appeal site, it contributes to the buffer zone of the World Heritage Site. This is due to its undeveloped appearance, which can be viewed alongside other open areas in the vicinity.
19. In consequence, the proposed development would conflict with the predominantly open and less developed character of the buffer zone owing to the creation of up to dwellings and the loss of the open parcel of land which characterises the current appearance of the appeal site.
20. This is because the proposed development would be viewed alongside other dwellings within the surrounding area. This means that the erection of the dwellings would result in the severing of the link between open spaces elsewhere in the valley.
21. The proposed development would be viewable from several different vantage points. The appeal site features roads on two sides which provide views of the appeal site. In addition, owing to the topography of the area, the village is viewable from other parts of the valley. Therefore, the removal of an open, less developed space, and its replacement with up to two dwellings would mean that the development would result in a more urbanised appearance that would conflict with the prevailing character of the buffer zone.
22. Although views of the WHS from the appeal site and its surroundings are relatively small, should the development proceed, there would be a notable change in the appearance of the site owing to the increased number of dwellings. In particular, from parts of Top Lane and Hinderstitch Lane, views of additional number of roofs are likely. Therefore, the proposed development would change the character of the site and erodes its positive contribution to the setting of the WHS.

23. The role of the buffer zone is to maintain the setting of the WHS. In particular, the appeal site, by reason of its less developed nature assists in the creation of a more rural and open character. Therefore, I am compelled to consider the effect of the proposed development upon the buffer zone of the WHS.
24. Although the planning application was submitted in outline form, the proposed development would create an urbanising and enclosing effect that would conflict with the prevailing more open character of the buffer zone. This means that the proposed development would lead to an adverse effect upon the setting of the WHS and therefore the Outstanding Universal Value of the WHS would not be safeguarded.
25. Planning permission has previously been granted on a neighbouring site. I do not have the full information regarding the planning circumstances of this before me. This means that I can only give it a limited amount of weight. Nonetheless, I note this proposal would be located close to an existing dwelling and would be readily screened by reason of the differences in land levels and the presence of trees. This means that it would not be as notable as the appeal proposal would be.
26. In result, it would not have the same level of effect that the appeal proposal would have. Therefore, the presence of this permission does not overcome my previous concerns.
27. I therefore conclude that the proposed development would not safeguard the Outstanding Universal Value of the WHS. The development, in this regard, would conflict with the requirements of Policy EN29 of the Local Plan. Amongst other matters, this seeks to ensure that the proposed developments preserve or enhance the setting of the WHS.

Other Matters

28. I understand that there is currently no up to date local Plan in place for Amber Valley to make provision to meet housing need. The Framework is clear that in such instances, planning permission should be granted unless the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development proposed.
29. In this case the proposed development would have an adverse effect upon designated heritage assets in the form of the CA and the WHS. Therefore, the proposed development would conflict with the requirements of the Framework. Therefore, notwithstanding the local plan position, there is a clear reason for refusing the proposed development.
30. The proposed development would result in an increase in the overall level of housing supply. Whilst this is a matter of note, the overall contribution would be small by reason of the scale of the development. In consequence, I give this matter a limited amount of weight.
31. The construction and occupation of the proposed development would generate some economic benefits and support of local facilities. However, these are likely to be small in scale due to the number of dwellings proposed. In addition, some of these would also be time limited in duration. Therefore, these can be attributed a limited amount of weight.

32. The proposed development would offer the opportunity to provide some additional landscaping and provide improvements to biodiversity. However, given the generally undeveloped form of the appeal site, it already makes a notable contribution to the character of the vicinity. In consequence, the benefits arising from this matter can only be given a limited amount of weight.
33. My attention has been drawn to previous decisions elsewhere. I note that they pertain to sites in different geographical locations. In result, the effects of each development upon the WHS will vary. Therefore, such decisions do not overcome my previous findings.

Planning Balance

34. The harm that would occur to the character and appearance of the Conservation Area and the Outstanding Universal Value of the WHS would not be severe and therefore it would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework). Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
35. Therefore, when giving significant importance and weight to the special attention I must pay to the desirability of preserving or enhancing the character and appearance of the Conservation Area and the Outstanding Universal Value of the WHS, I find that the harm that would arise from the proposal would not be outweighed by its limited public benefits. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification.

Conclusion

36. The proposed development would have an adverse effect upon the character and appearance of the CA and would not safeguard the Outstanding Universal Value of the WHS. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR