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# Appeal Decision

Site visit made on 8 November 2022

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 November 2022**

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**Appeal Ref: APP/F1040/W/22/3296129**

**Broadfield, Thorn Tree Lane, Newhall, Swadlincote DE11 0LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr S Wain (DP Improvements) against South Derbyshire District Council.
  - The application Ref DMPA/2021/0090, is dated 15 January 2021.
  - The development proposed is demolition of existing dwelling and outbuildings and the erection of two dwellings.
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## Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling and outbuildings and the erection of two dwellings is refused.

## Application for costs

2. An application for costs has been made by Mr S Wain (DP Improvements) against South Derbyshire District Council. This application is the subject of a separate Decision.

## Main Issues

3. The Council has not made a determination on the application leading to this appeal. However, in light of the submissions, the main issues are (i) the effects of the development on the character and appearance of the site and surrounding area, and (ii) whether it would be in a suitable location having regard to development plan policies and the National Planning Policy Framework (the Framework).

## Reasons

### *Character and appearance*

4. The appeal property is a fenced-off parcel of land that slopes up from its access at the junction of Rose Tree Lane and Thorn Tree Lane towards a 2 storey house at the top of the site. Except from the dwelling and nearby garage and air shelter, the property is largely open land, although on parts I saw vehicles, containers and other items. Nearby residential and employment areas on the edge of Swadlincote to a degree influence the character of the area. However, the site also adjoins fields to the north and west and so it has a semi-rural feel. The site's character is appreciated in views from the highway through the access as well as from public footpaths that run along the side and rear boundaries of the plot.

5. The proposed dwellings would be positioned towards the top of the slope. The unit on plot 2 as shown on the appeal drawings would be roughly in the same position as the existing house, whereas the house on plot 1 would be to the side on land that is largely open apart from the small air raid shelter. Given their prominent position, it is likely the proposed houses would be visible from the access point and from the adjoining footpaths.
6. The replacement of the existing house with the dwelling on plot 2 would in itself have little effect on the overall character and appearance of the site. However, the introduction of an additional 2 storey dwelling would lead to a noticeable loss of openness compared to the current situation. Consequently, the scheme would erode the rural aspects and nature of the site.
7. The proposal would include the removal of outbuildings as well as the existing house. However, apart from the dwelling, the other buildings on the appeal site are low key. As such, their removal would not offset the visual impact of the extra house. Also, I am unconvinced from the limited information provided that new planting would adequately mitigate for the additional visual intrusion that would be caused by the proposal.
8. The design and scale of the proposed dwellings would be in keeping with the houses in the nearby residential areas of Swadlincote. However, acceptability in these respects would not address nor override the erosion of the semi-rural feel of the site and its surroundings.
9. For these reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with policies S1 and BNE4 of the South Derbyshire Local Plan Part 1 2016 (LP1). Amongst other things, these seek to protect the rural character and landscape of the District.

#### *Suitability of location*

10. Policy SDT1 of the South Derbyshire Local Plan Part 2 2017 (LP2) states that settlement boundaries as shown on the policies map define the built limits of a settlement. The appeal site lies close to but outside the defined settlement boundary for Swadlincote. As such, it is classed as falling within a rural area under the terms of LP2 policy SDT1 and LP1 policy H1.
11. The proposal would represent the redevelopment of the site rather than a conversion of a building or infilling. As such, it is not permissible under the terms of LP1 policy H1.
12. With reference to other policies, LP2 policy BNE5 lists additional types of development that are allowed in rural areas. This includes replacement dwellings that accord with LP2 policy H24. The explanation to this policy indicates that only development where there is no further dwellings is permissible. This casts doubt over whether the appeal scheme complies with the policy as it is proposed to replace a single dwelling with 2 houses.
13. The current dwelling is quite intrusive in the landscape as it is on top of the slope and easily seen from adjoining roads and footways. However, for the reasons as set out in respect of the first main issue, the introduction of an additional dwelling would have a harmful effect on the semi-rural character of the site. The development as a whole would be more intrusive in the landscape than the current situation and so it would not accord with criterion (iii) of LP2 policy H24.

14. The appellant claims the appeal site falls within the curtilage of the existing dwelling and that significant extensions and outbuildings could be erected under permitted development rights (PDRs). However, there is limited information to show it is likely that development allowed under PDRs would be carried out in the event of this appeal being dismissed. In any event, the evidence fails to demonstrate how buildings allowed under PDRs would have a greater visual impact compared to the proposed 2 storey high houses. As such, I am unconvinced the fallback position provided by PDRs would be as harmful to the landscape compared to the proposal.
15. No case is made that the scheme would fall within any of the other permitted categories of development as set out in LP2 policy BNE5. As such, the proposal would be contrary to the development plan policies on the location of housing and that seek to protect rural areas.
16. The Framework generally advises against isolated new homes in the countryside. However, the proposed development would be quite close to the built up extent of Swadlincote and so it would not be isolated. Moreover, it is likely that occupiers of the dwellings would be able to walk to a range of local facilities and bus stops with public transport links to a wider area. As such, the development would be located so as to support the vitality of the local community and to promote sustainable modes of travel. In these respects, it would accord with the aims of the Framework in terms of its location.
17. For the above reasons, I conclude the development would not be in a suitable location having regard to development plan policies. It would not accord with LP2 policy H24 and so it would conflict with LP2 policies BNE5 and SDT1. Also, it would not accord with LP1 policies H1 and S4. The harm caused in these respects is tempered by the scheme's accordance with the provisions of the Framework on the location of rural housing and sustainable modes of travel.

### **Other Matters and Planning Balance**

18. The Council's submissions refer to the impact of the development on the Green Belt. However, the appeal site is adjacent to, rather than in, designated Green Belt and so Green Belt policies do not apply. This factor does not affect my views on the proposal's impact on the rural landscape.
19. It is unlikely the development would generate significant additional traffic movements to and from the site and so it would not prejudice highway safety. The scheme would include adequate parking space and would provide a satisfactory living environment for occupiers. Also, it would not be at flood risk. The issue of safety in light of coal mining records could be reasonably addressed through the imposition of a planning condition. Acceptability in all of these regards is a neutral factor rather than a benefit to which I attach positive weight.
20. The appellant indicates that the site is being promoted for residential development as part of the review of the current LP1 and LP2. However, there is no information before me that indicates the status of this review or whether there are unresolved objections to the proposed allocation. As such, this factor attracts limited weight in my assessment.
21. The proposal would lead to an extra dwellinghouse in a location where occupants would support local businesses and services. These benefits add

support for the scheme. However, they attract modest weight given that only a single additional house would be created and as the Council can demonstrate in excess of a 5 years' supply of housing land as required under the Framework.

22. I find the proposal would be contrary to the development plan policies when read as a whole for the reasons set out in respect of the main issues. The harm caused by reason of conflict with policies on the location of development is tempered by the proposal's accordance with the Framework in these regards. Even so, factors in support of the scheme are of insufficient weight to justify granting planning permission contrary to the development plan.

### **Conclusion**

23. For the reasons given above, I conclude that the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR