



Appeal Decision

Site visit made on 6 February 2023

by Ann Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2023

Appeal Ref: APP/M1005/W/22/3308827

Caulton House, Ridgeway Lane, Ridgeway, Belper DE56 2JT

- 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 and Mrs R Livesey against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/0804, dated 27 August 2020, was refused by notice dated 26 April 2022.
 - The development proposed is demolition of outbuilding and development of residential dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Policy Context

3. The policies quoted within the reason for refusal, Policies LS1, LS3 and H12 of the Amber Valley Local Plan (AVLP) require that proposals protect the character of the environment. These principles are entirely consistent with Paragraph 130 and 174 of the Framework¹ and these policies are therefore not out of date. Accordingly, I give them due weight.
4. In determining the application, the Council also considered policies EN1 and H5 of the AVLP. There is no dispute between the parties that these policies are out of date. This is consistent with previous appeal decisions² referred to by the Council.
5. In view of this, both parties consider that the policies which are the most important for determining the application are out of date, a view I share. Consequently, Paragraph 11(d) of the Framework is engaged, and 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.

¹ National Planning Policy Framework 2021

² APP/M1005/W/21/3275036 and APP/M1005/W/17/3198996

Character and Appearance

6. The appeal site is located adjacent to Downmeadow Brook, within undulating countryside. It is separated from the adjacent dwelling by a discrete sewage pumping station and a mature strip of vegetation. The site currently contains a single storey metal clad building on a brick plinth with a three-sided timber clad addition. An existing access leads to the building from Ridgeway Lane and the open-sided elevation of the building faces towards a triangular field owned by the appellant.
7. I saw at my site visit, a number of domestic items and a vehicle stored in the building, and it was possible to walk from the site into the garden of the adjacent dwelling. Nevertheless, the building clearly sits within a separate parcel of land evidenced as being used for grazing sheep and the building retains an agricultural appearance which is compatible with the rural character of the area.
8. The site is not subject to any formal landscape designation. However, it lies within the Gritstone Heaths and Commons Landscape Character Type (LCT), as defined by the Derbyshire Landscape Character Assessment 2013. The key landscape characteristics include, amongst other things, hill summits and steep slopes, predominant pastoral farming, some plantation woodland and amenity trees around farmsteads, regular field patterns bounded by dry-stone walls and hedgerows, scattered sandstone farmsteads and localised clusters of roadside cottages.
9. It has been drawn to my attention that past mining works in the area have shaped the surrounding landscape. Nonetheless, I observed at my site visit that the appearance of the area exhibits a number of the key landscape characteristics of the LCT. On the evidence before me, the Council has not shown the location of the appeal site to be a 'valued landscape' for the purposes of Paragraph 174 of the Framework. Nevertheless, the appeal site's modest agricultural appearance in the corner of pastureland and adjacent to a tree-lined watercourse in the valley bottom is an important characteristic of the locality and has an intrinsic countryside value which contributes positively to the wider rural appearance of the area. I do not find the condition of the site such as to detract from the key landscape characteristics.
10. The site is visible from numerous public viewpoints, including Ridgeway Lane and Public Rights of Way to the east and south of the site. The appellant's Landscape Character and Visual Appraisal (LCVA) focusses upon the visual effect from key receptors in the surrounding area and concludes that views of the site are contained and limited to locations within close proximity with wider views generally restricted by vegetation and existing development. Moreover, the appellant's 'Response to Landscape Comments' identifies the site as being located within a landscape of medium-high landscape value.
11. The proposed dwelling would sit on the footprint of the existing building and while contemporary design is not objectionable in and of itself, it must respect the context within which it sits. The proposed height, massing and appearance of the building would form a significant and sharp contrast to the existing rural landscape. The dwelling would sit on stilts and be almost double the height of the existing building. It would incorporate a ground floor platform and first-floor balcony to its north elevation along with large and dominating glazed features to both gable elevations, in contrast to the buildings in the

surrounding area which are generally of traditional stone construction with smaller window openings.

12. Furthermore, the proposed dwelling would partly extend over Downmeadow Brook, which would necessitate the removal of a number of trees along the bank and open up views towards the site from the sloping hillside and PROW to the east. The removal of the tall leylandii hedgerow along the boundary with Caulton House and replacement with native planting, whilst potentially enhancing biodiversity, would exacerbate the prominence of the building in the short-term.
13. Although both parties agree the visual envelope of the existing site is contained, given the height and design of the proposal, I find the building would be visible in both near and longer distance views, particularly in the winter months when trees would not be in full leaf and during hours of darkness when lighting from the extensive amount of glazing would be apparent. In addition, although there would be no formal external private amenity area and the adjacent field would remain in agricultural use, space for parking and bin storage would be required and such domestic paraphernalia would inevitably bring about a change to the character of the site.
14. Consequently, the proposal would erode the prevailing rural qualities of the countryside's landscape. It would undoubtedly and fundamentally alter the appearance of the site from what is currently a typical form of agricultural building that assimilates into the wider landscape. I note the specific mitigation in the LCVA to provide comprehensive off-site landscaping, however this would not sufficiently mitigate the identified harm to the surrounding landscape. I therefore find that the development would result in harm to the character and appearance of the area. This includes landscape harm which would be significantly adverse.
15. For the reasons given above, I conclude that the development would conflict with Policies LS1(c), Policy LS3 and Policy H12 of the AVLP and Policy EE1 of the Ripley Neighbourhood Plan (RNP) which together, amongst other things, seek to protect landscape setting and the intrinsic character and beauty of the countryside. These policies are not out of date because, although I have concluded the appeal location is not a 'valued landscape', it nonetheless has the strong positive characteristics of the LCT and in so doing, its protection is consistent with the aims of Paragraphs 130 and 174 of the Framework which seek to ensure development recognises the intrinsic character and beauty of the countryside and is sympathetic to local character.

Other Matters

16. A Grade II listed building, Ridgeway House, is located to the east of the appeal site. The significance of the building is derived from its local architecture, materials and age. Although the building is visible from the appeal site, the site is physically and visually separate from this designated heritage asset and its setting due to the substantial gap created by the intervening field. Accordingly, the proposal would have no effect on the setting of the listed building and there would be no conflict with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I am satisfied that the proposal complies with the heritage protection policies of the Framework.

17. I have taken into account the personal circumstances of the appellant and am mindful of the needs that the dwelling would seek to address. The provision of accessible space due to age or disability is appropriate and consistent with paragraph 130 of the Framework, which seeks to create places that are safe, inclusive and accessible and which promote health and well-being. In considering these matters I have had due regard to the relevant aims of the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010. However, it does not follow from the PSED that the appeal should succeed. There is no compelling evidence to suggest why, in the face of harm to the character and appearance of the area, the required accommodation could not be provided elsewhere or by other means. Accordingly, I attach only limited weight to the matters in respect of the appellant's personal circumstances and the need for the development.

Planning Balance and Conclusion

18. I have found that the policies which are the most important for determining the application are out of date and therefore Paragraph 11(d)(ii) is engaged. I have set out above, that the proposal conflicts with Policies LS1, LS3 and HA2 of the AVLP and Policy EE1 of the RNP. These policies are wholly consistent with the Framework regarding the need to protect landscape setting. I attach significant weight to the conflict with the development plan. Having considered all the policies drawn to my attention, I conclude that there is conflict with the development plan as a whole.
19. The site lies within an accessible location. I recognise the benefits of the proposal, including housing supply and economic benefits. However, this is in the context of only one dwelling being provided and that the local planning authority can demonstrate a deliverable five-year supply of housing sites and there does not appear to be a pressing need to release this countryside site for housing. Nevertheless, the provision of a new dwelling is a benefit that weighs in favour of the development.
20. I acknowledge the appellant's aim to provide an innovative and high-quality dwelling which would constitute a modest benefit of the scheme. I have also noted the appellant's comments highlighting the absence of harm to protected species, trees, flood risk and ground conditions. While the Council has not raised any concerns in respect of these matters, this is a neutral factor which would not outweigh the harm identified.
21. There is some local support for the proposed development, but this does not outweigh the harm which I have identified. The delay in the Council's handling of the planning application has not affected my findings on the planning merits of the scheme.
22. To conclude, the benefits of the scheme carry modest weight. However, I find the adverse effects of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not provide a reason to grant planning permission in this instance.
23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Ann Veevers

INSPECTOR