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# Appeal Decision

Site visit made on 6 December 2022

**by J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

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

**Decision date: 24 March 2023**

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**Appeal Ref: APP/P1045/W/22/3304058**

**Ashbourne Lodge Care Home, 80 Derby Road, Ashbourne DE6 1BH**

- 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 G Hudson of James Hudson (Builders) Ltd against the decision of Derbyshire Dales District Council.
  - The application Ref 21/01000/FUL, dated 31 July 2021, was refused by notice dated 28 February 2022.
  - The development proposed is erection of 9 bungalows.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is described on the decision notice and on the appeal form as the erection of 9 elderly persons bungalows in connection with the adjacent care home. However, the application form refers to the development as the erection of 9 bungalows and indicates that they would be market housing. I have considered this appeal on the basis of the scheme applied for on the application form and clarified by the appellant in the appeal documents.

## Main Issue

3. The main issue is whether the number of dwellings proposed makes efficient use of the site having regard to the development plan, in particular Local Plan<sup>1</sup> Policy HC2.

## Reasons

4. The appeal site comprises land linked to Ashbourne Lodge Care Home and mainly used as a car park. The care home is a large two-storey building with its main car parking area in front of the building. Access to the appeal site and the care home is from the same access off Derby Road. The surrounding area is mainly residential in character comprising detached and semi-detached houses set back from the road although there is an industrial estate to the south of the care home.
5. Local Plan Policy HC1 states that the Council will ensure provision is made for housing and, amongst other things, will support the development of specific sites through new site allocations in the Local Plan. Policy HC2 identifies sites allocated for housing or mixed use developments. The appeal site is identified as the Former Mirage Hotel, Reference HC2(b). The appeal site differs slightly

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<sup>1</sup> Derbyshire Dales District Council Adopted Derbyshire Dales Local Plan, 7 December 2017.

in its shape and size to that identified in the policy<sup>2</sup> but the difference is relatively minor. The allocation states an indicative housing capacity of 20 dwellings on the site.

6. The appellant questions the Council's numerical prediction for the number of dwellings on the site and states that the Council's figure of 20 dwellings is over optimistic. He also assesses that the density suggested by the Council for this site is much higher than that for other allocated sites. From the annotated copy of Policy HC2 submitted by the appellant, the anticipated density for the appeal site would be high in comparison to the other site's listed. However, the 9 dwellings proposed would be lower than some of the other densities listed.
7. Having said this, I do not consider that a direct comparison is possible between sites as each will have site specific constraints. For example, I appreciate that the achievable density for the appeal site would be affected by matters such as the requirement for the existing access to be shared with the care home and a future development on this site may be affected by respecting the building line or setting any development back from Derby Road.
8. Notwithstanding these potential constraints, and taking into account that there may be other constraints, the evidence submitted with this appeal is not sufficiently robust to convince me that a higher density development, more in line with the site allocation could not be brought forward.
9. I note the reference to paragraphs in the Planning Practice Guidance regarding the effective use of land<sup>3</sup>. The Guidance quoted refers to evidence that can be used to help determine whether land should be reallocated for a more deliverable use and how local planning authorities can encourage best use of under-utilised land in the short term. However, I do not consider that either of these paragraphs support the proposal for less dwellings on an allocated site and so they have not had any bearing on my decision.
10. I consider that, in the absence of robust evidence demonstrating that the allocated number of dwellings cannot be achieved at the appeal site, accepting a development with significantly fewer dwellings would prejudice the delivery of housing in the district. Whilst I accept that failing to develop the site at all would mean that no houses came forward to contribute to housing in the area and the appellant's stated position on this, be that as it may, I do not consider that this demonstrates that there is no reasonable prospect of the site allocation being achieved. Under such circumstances, it would be premature to permit a significantly reduced number of houses on the site at this stage.
11. Moreover, due to the scale of the proposed development, it would not result in the provision of affordable housing or developer contributions as would be the case for a larger development, more reflective of the site allocation. This represents a missed opportunity to enable the requirement in the development plan and the Framework to make efficient use of land where the development would be sustainable especially given the potential number of dwellings identified in Policy HC2(b).

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<sup>2</sup> Former Mirage Hotel, Derby Road, Ashbourne – Site area = 0.41 hectares. Application form states site area = 0.36 hectares but the appellant states that this omits the shared access with the care home and is approximately 0.44 hectares. NB There is a typographical error in the appellants figures i.e. 4.4 and 3.6 hectares referred to.

<sup>3</sup> Planning Practice Guidance – Published 22 July 2019. Paragraphs 66-001-20190722 & 66-003-20190722.

12. Consequently, I attach significant weight to the proposals failure to satisfy the sustainable principles set out in Local Plan Policy S1 or support the suitable development of an allocated site as required by Local Plan policies HC1 and HC2.

### **Other Matters**

13. The Council does not have a five year supply of housing land as required by the National Planning Policy Framework<sup>4</sup> and so paragraph 11(d) of the Framework applies. Therefore, there is a presumption in favour of sustainable development. However, given the shortfall it is especially important that efficient use is made of those sites that have been specifically allocated in the development plan. Local Plan Policy S1 requires all development to seek to make a positive contribution towards the achievement of sustainable development. This will be achieved by making efficient and effective use of land, particularly land which has been previously developed.
14. The proposal would result in the development of 9 bungalows that would be designed as being suitable for elderly persons in terms of them providing functional accommodation on one level with a link to the care home. However, no substantive evidence has been submitted that there is a particular need for this type of accommodation and there is no mechanism in place that would secure their occupancy to elderly persons or to link them with the care home. These benefits therefore carry limited weight. Weighed against these limited benefits is the significant harm that arises from conflict with Local Plan policies S1, HC1 and HC2.
15. Taking the above matters into consideration, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including policies to boost the supply of housing. The proposal does not therefore benefit from the presumption in favour of sustainable development.

### **Conclusion**

16. As stated, the proposal is contrary to a number of development plan policies and although the Council's five year supply land position means that some of the policies are considered out of date, the proposal is nevertheless contrary to the development plan when taken as a whole. There are no material considerations that indicate that the proposal should be determined otherwise in accordance with the development plan.
17. For the reasons given above, the appeal should be dismissed.

*J D Clark*

INSPECTOR

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<sup>4</sup> Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).