



Appeal Decision

Site visit made on 21 February 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/F1040/W/22/3308490

230 Station Road, Melbourne, Derby, Derbyshire DE73 8BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Sahota against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2022/0673, dated 20 May 2022, was refused by notice dated 29 August 2022.
 - The development proposed is the erection of 2no. dwellings with associated new access and landscaping on land to the rear of 230 Station Road, Melbourne, Derby DE73 8BQ (Resubmission)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has been subject to a recently dismissed appeal¹ for two properties (the previous appeal). It considered whether the site was in an appropriate location for housing, having regards to the settlement strategy and the effect on the countryside. The appeal is a material consideration in the determination of this appeal.
3. Since the previous appeal was determined, the Melbourne Neighbourhood Development Plan 2016 to 2028 (NP) was made on 7 July 2022. The NP now forms part of the Development Plan for the area and, accordingly, I have attached full weight to the NP within my decision.

Main Issue

4. The main issue is whether the site is an appropriate location for housing, having regards to the settlement strategy and the effect on the countryside.

Reasons

5. The site is located to the rear of a group of dwellings which front Station Road. Carr Brook lies to the rear of the site, with open countryside beyond. A new development of three properties, accessed from Station Road, extends to the side and partially to the rear of the group of dwellings fronting Station Road. This development was largely complete at the time of my visit. The two proposed properties would adjoin and extend development across the rear of the group of properties fronting Station Road.

¹ APP/F1040/W/21/3283155

6. The appellant states that the site is peri-urban in nature rather than purely rural, having regard to its proximity to the settlement boundary. During my site visit, I observed the proximity of the site to the settlement boundary and noted that it is within an area that provides a transition between the built-up area of Melbourne and the open countryside. The site therefore has a semi-rural character.
7. The site and adjacent group of properties are located outside of a settlement boundary. Whilst the site has a semi-rural character, for the purposes of development plan policy, it is within the countryside. The line of the defined settlement boundary is separated from the site by a grassed field. This field extends from Station Road to Carr Brook.
8. The primary difference between this appeal and the previous appeal is that the NP is now made. My attention has particularly been drawn to Policy DP1 of the NP that seeks, amongst other things, to promote a sustainable pattern of development. The appellant argues that this policy does not preclude all development outside existing settlement boundaries, only that which is unsustainable. The appellant highlighted, as part of the examination into the Draft NP, the removal of the word 'infill' from Policy DP1, due to concerns raised that it would be potentially contrary to the national policy objective to promote sustainable development.
9. Policy DP1 of the NP does not preclude development outside of settlement boundaries. However, the wording of the policy is clear and states that new development beyond the settlement boundaries of Melbourne and Kings Newton will only be supported where they comply in full with the relevant policies of the NP and the Adopted South Derbyshire Local Plan.
10. The supporting text to Policy DP1 of the NP sets out background to the policy and indicates an expectation that no new homes should be built in the fields outside the existing settlement boundary of Melbourne.
11. The relevant Adopted South Derbyshire Local Plan policies are Policies H1 and S1 of the South Derbyshire Local Plan Part 1 2016 (LP1) and BNE5 of the South Derbyshire Local Plan Part 2 2017 (LP2). There have been no material changes to these policies, or the status of the Adopted South Derbyshire Local Plan, since the previous appeal and the NP was made.
12. Policy S1 outlines the Sustainable Growth Strategy for the District. Policy H1 seeks to direct and distribute housing towards the more sustainable settlements. Policy BNE5 seeks to ensure that development which must take place in rural areas, outside of defined settlement boundaries, does not lead to unacceptable environmental effects on the countryside. The Inspector considering the previous appeal found that the location of the development was contrary to these relevant LP policies and subsequently dismissed the appeal.
13. Policy H1 identifies Melbourne as a Key Service Village, where the development of sites adjacent to settlement boundaries may be considered appropriate as exception sites. In the previous appeal, the Inspector concluded that the site did not adjoin the settlement boundary and therefore the development did not comply with Policy H1. The Inspectors reasoning drew attention to the grassed field, between the settlement boundary and site.

14. I observed the field which lies between the site and the settlement boundary during my site visit. The field has defined boundaries and no built development within it. It provides a significant open break between the edge of the settlement, denoted by the defined settlement boundary, and the site. I therefore conclude that the site does not adjoin the settlement boundary, as required by Policy H1.
15. Policy BNE5 lists a number of exceptions to development proposals within rural areas, outside of settlement boundaries. A key consideration in this appeal is whether the development can be regarded as the infilling of a small gap. Policy BNE5 refers to a small gap as for not normally more than two dwellings. The Inspector in the previous appeal concluded that the site could not be regarded as infill.
16. There is no definition of infill development within the Framework, and it is therefore a matter of planning judgement. Taking the reference in Policy BNE5, I consider infilling to comprise a small gap in an otherwise built-up frontage. During my site visit, I observed that the rear boundary of the site borders open countryside, with its side boundary adjoining the adjacent field that lies between the site and the settlement boundary.
17. Having regard to the surrounding area, the site does not form a small gap in an otherwise built-up frontage, as it is open to fields on two of its boundaries. These adjoining fields provide significant open breaks, which cannot be considered as a small gap. I conclude that the site cannot be considered infill, with regards to the wording of Policy BNE5.
18. Having regards to the other exceptions in Policy BNE5, there is no evidence before me which justifies that the development is essential to a rural based activity or unavoidable outside a settlement boundary.
19. For the reasons given, I conclude that the development would not be an appropriate location for housing having regard to the settlement strategy and the effect on the countryside. The development would be contrary to Policies S1 and H1 of the LP1, Policy BNE5 of the LP2, Policy DP1 of the NP. These policies seek to direct development towards more sustainable settlements and ensure any development that does take place outside of settlements would not lead to unacceptable environmental effects on the countryside.

Other Matters

20. The appellant has highlighted that a number of other concerns were raised during the consultation of the planning application in relation to the over-development of the site, the size of the dwellings, the impact on the amenity of neighbouring occupiers, traffic and highway safety and flooding issues. The appellant states that these are matters of common ground between the Council and appellant. I note that both the Council and Inspector in the previous appeal did not oppose the proposal on grounds other than those set out in the main issue. Based on the information before me, I see no reason to disagree.
21. The development would provide two dwellings towards the Council's housing stock and contribute toward meeting the Government's aims to boost the supply of housing, with particular regard to windfall sites. However, this would be a limited benefit given the small scale of the development and the Council's statement that they can demonstrate a 5 year deliverable supply of housing.

There would be some economic and social benefits as a result of the development, including during construction and the activities of future residents in the local area. Having regards to the size of the development, these benefits would be limited.

22. The appellant refers to paragraph 68, now paragraph 69, and paragraph 118, now paragraph 120(d), of the Framework in support of the development. The Council can demonstrate a deliverable supply of housing land and therefore land supply is not constrained within the District. Furthermore, there is little evidence before me which demonstrates the land is under-utilised.
23. The appellant contends that it is common ground the appeal scheme would be sympathetically integrated within the local context in terms of appearance, layout and materials. The Council have not raised any concerns in this regard, and I have no reasons to disagree.
24. I note that the appellant has referred to the site as previously developed. The National Planning Policy Framework (the Framework) describes previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land. I observed on my site visit that the site was overgrown but I have limited evidence before me which demonstrates the land is previously developed. Even if I had such evidence before me, it would have no effect on my decision.

Conclusion

25. For the above reasons, having considered all the policies drawn to my attention, the conflict with Policies H1 and S1 of the LP1, Policy BNE5 of the LP2 and Policy DP1 of the NP lead me to conclude that there is conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with the development plan.
26. The Framework refers to a presumption in favour of sustainable development that means approving development proposals that accord with an up-to-date development plan without delay. However, I have concluded that the proposal would not accord with the development plan. As such, the appeal should be dismissed.

S Pearce

INSPECTOR