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# Appeal Decision

Site visit made on 30 January 2023

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 24 April 2023**

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**Appeal Ref: APP/R1038/W/21/3287994**

**Fleur De Lys Hotel, Main Road, Unstone, Derbyshire S18 4AB**

- 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 Platinum Development Holdings Ltd against the decision of North East Derbyshire District Council.
  - The application Ref 20/01124/FL, dated 13 November 2020, was refused by notice dated 6 July 2021.
  - The development proposed is two 3 bed semi-detached affordable houses on the redundant car park.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council's decision relates to the revised scheme, which sought permission for a pair of semi-detached affordable houses, rather than the two detached houses originally proposed. As the original description of development, shown on the application form, no longer applies, I have used the description which appears on the decision notice and appeal form instead.
3. Since the Council made its decision, it has adopted the North East Derbyshire Local Plan 2021. The decision notice refers to Policies GS2 and H9 of the previous version of the Local Plan, but these have now been replaced so I have not taken them into account. The Council's decision also took account of policies in the new Local Plan, and both parties have had the opportunity to comment on the change in policy context in their statements. As such, I am satisfied that the change in circumstances has not disadvantaged either party in this appeal.

## Main Issue

4. The site is within the Green Belt, so the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework), including the effect on openness, and
  - if the proposal is inappropriate development, whether the resulting harm, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## Reasons

### *Whether inappropriate development in the Green Belt*

5. The appeal site is located at the end of a row of properties fronting onto Main Road, at the edge of the dispersed village of Unstone. The site forms part of the car park of the former Fleur de Lys pub, which has recently been converted into 8 flats. Part of the former pub car park is used for parking for the flats, and the proposed pair of semi-detached houses would occupy the remaining area.
6. The Local Plan policies map shows that the Settlement Development Limit (SDL) for Unstone is drawn tightly, and includes the former pub, but not the car park. As the appeal site is outside of the SDL, it is treated as being within the Green Belt, and subject to Local Plan Policy SS10.
7. The Local Plan has recently been adopted, and although the wording differs slightly, Policy SS10 is consistent with national planning policy on Green Belts, contained in section 13 of the Framework. Within the Green Belt, Policy SS10 makes clear that construction of new buildings will be regarded as inappropriate development, which will not be approved except in very special circumstances. A number of exceptions to this are set out in the Policy, which reflect those listed in Framework paragraph 149.
8. Of relevance to this appeal is criterion e) of Policy SS10. This allows for limited affordable housing for local community needs, where it accords with Local Plan Policy LC3. To meet the requirements of Policy LC3, proposals for affordable housing in the Green Belt should be supported by evidence of housing need in an up-to-date survey. In addition, it should be demonstrated that there are a lack of suitable alternative locations for the housing within the SDL.
9. The proposed houses are intended to be sold as discounted market housing. The Council's Strategic Housing Market Assessment (2017) identifies a need for affordable housing in Dronfield and the surrounding villages. This document is now a few years old, but the Council's Housing Strategy team are supportive of the proposal to provide two discounted market houses in this location. However, even if there is a clear affordable housing need in Unstone, which the proposed houses would contribute towards, it has not been demonstrated that there are no other suitable sites for the proposed development within the SDL. As such, the proposal does not fully meet the requirements of Policy LC3.
10. Furthermore, to ensure that the proposed houses would be affordable, both initially and in the longer term, it would be necessary to secure an appropriate discount and eligibility criteria through a planning obligation (section 106 agreement). I acknowledge the efforts made by the appellant to provide a signed obligation, but as I have not been provided with such a document, no mechanism exists to ensure that the dwellings would be affordable, in terms of the Framework definition.
11. Given the above considerations, I am unable to conclude that the proposal complies with Policy LC3. Consequently, it does not comply with the exception set out in criterion e) of Policy SS10 either.
12. The appeal site does not form a gap between existing buildings, so the proposed development does not constitute limited infilling. However, as it would be sited on a former pub car park, the proposal would involve the partial

- redevelopment of previously developed land. As such, criterion f) of Policy SS10 is relevant.
13. To be considered acceptable in terms of Policy SS10 f), the proposed redevelopment would need to have no greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing development.
  14. When I visited, timber fences had been erected around the site boundaries, and there were several structures that appeared to be shipping containers. As far as I am aware, these buildings and structures have no formal planning consent. I have therefore considered the site, which was formerly a car park, as having no existing built development.
  15. The concept of Green Belt openness has a spatial and visual component. In purely spatial terms, the proposed new building would result in permanent built form where that does not currently exist. That said, the proposed pair of houses would not have a particularly large footprint, and in spatial terms, the impact on openness would be small.
  16. The appeal site is adjacent to the former pub, which is a prominent three storey building. The site is bounded to the rear by a steep wooded bank, with woodland curving around the side. The former pub, embankment and surrounding trees means that the appeal site appears visually well contained, and not 'open' in the common meaning of the term. Nonetheless, the site, bounded by woodland, provides a clear break in built development along this side of the road, and a natural, green aspect to the village edge. The lack of built development on the site enables views to the wooded area beyond. As a result of these factors, the existing site contributes to the openness of the Green Belt in this location.
  17. The curvature of the road, together with screening provided by the adjacent trees and former pub building, would limit medium and long range views of the proposed development. However, the new houses would be positioned at the front of the site, and would be clearly visible from Main Road. The proposed use of white render would match the neighbouring former pub, but the light colour finish would make the new building stand out against the backdrop of trees. This would exacerbate the visual impact of the proposal in the streetscene.
  18. The new houses would extend the built form along this part of Main Road, and the presence of a two storey building, with solid boundary fences, would restrict views across the site and to the trees beyond. As a result, there would be a modest loss of openness in visual terms.
  19. The site was previously used for parking in association with the former pub, and the presence of vehicles would have detracted from visual openness, to some extent. However, cars are usually only parked for a temporary period, and the visual impact of the former use would have been less than that of the building now proposed. In any case, following the redevelopment of the pub, use of the appeal site for parking has now ceased.
  20. Overall, I find that construction of the proposed houses would result in a loss of Green Belt openness, in both spatial and visual terms. Given the surrounding context, the extent of the harm would be modest. The development would be

small in scale, and would not conflict with the purposes of including land within the Green Belt. Nonetheless, as it would have a greater impact on openness than the existing use of the site, the proposal would not comply with Policy SS10 f).

21. Framework paragraph 149g) is similar to criterion f) of Policy SS10, but with slightly different wording. The proposal would have a greater impact on the openness of the Green Belt than the existing development, so the proposal would not comply with the first part of paragraph 149g). The lack of a clear mechanism to ensure that the housing would be affordable means that the second part of paragraph 149g) would not apply either.
22. As it would not comply with any of the exceptions set out in Policy SS10 and Framework paragraph 149, I conclude that the proposal would constitute inappropriate development in the Green Belt.

#### *Other considerations*

23. In the absence of a signed legal agreement, no mechanism exists to ensure that the dwellings would be affordable. Nonetheless the development would provide two additional houses, which would make a small, but positive, contribution to the overall housing requirement for the area. There would also be minor economic benefits associated with construction of the dwellings, and by future residents making use of local services.
24. The proposal would make efficient use of land, on a small site which could be developed quickly, benefits which are recognised in Framework paragraphs 69 and 69 and 119. However, these are minor benefits, and the Framework also gives strong protection to the Green Belt.
25. The proposed development would make full use of the former pub site, including an area which, following the redevelopment of the pub, has no clear use. The current appearance of the site is not particularly attractive, but the storage containers could be removed, and the site cleared. If the site were to be appropriately managed and maintained, there is no reason why it should deteriorate or provide opportunities for anti-social behaviour. The condition of the site is not a reason to permit development which would cause harm to the openness of the Green Belt.
26. The new houses would be within walking distance of local facilities in Unstone. These are limited in extent but do include a primary school and various small businesses. Slightly further away, in Dronfield, a much wider range of services, including a railway station, are available. Facilities in Dronfield are within reasonable walking distance from the site, and buses running along Main Road provide an alternative public transport option.
27. The site is not remote from local services and facilities, which can be reached without the necessity for a car. However, the Local Plan identifies Unstone as a level 3 settlement with limited sustainability, which does not form a focus for new development. The Local Plan does not support housing development in this location, which in any case is just outside of the tightly drawn SDL. The accessibility credentials of the site do not provide a reason to allow the proposal.
28. The proposed dwellings would be of a simple design, which would not appear out of place in this location. The scale of development would be appropriate to

the size of the site, and would not visually compete with the former pub building. The siting of the houses, with only a small set back from the back of the pavement, would continue the front building line of the former pub, and would reflect the form of development along this part of Main Road.

29. Whilst the effect of the proposed houses on the character and appearance of the area would be generally acceptable, the proposed materials would increase their prominence in the streetscene, albeit by a modest amount. In addition, the high, solid timber boundary fences, which have already been erected, are not particularly attractive, and do not reflect the front boundary treatments in the surrounding area, which are predominately formed of low brick or stone walls. This also weighs against the scheme.
30. I note that planning permission has previously been granted for redevelopment of the whole of the former pub site, most recently in 2016<sup>1</sup>. That scheme was never implemented, and the Council has advised that the permission has now lapsed. The 2016 permission was for a different scheme from that now proposed, assessed under policies in the previous Local Plan. According to the Council's statement, the 2016 scheme involved the provision of affordable housing, which has not been secured in the case before me. Given the differences between the proposals, the former permission does not provide a reason to allow the appeal before me.

### **Green Belt balance and Conclusion**

31. The proposed development would constitute inappropriate development which would, by definition, cause harm to the Green Belt. The harm would be modest, but paragraph 148 of the Framework establishes that substantial weight should be given to any Green Belt harm.
32. The proposed houses would provide social and economic benefits, but the small scale of the development, and the lack of provision for affordable housing, means that these would be minor. Taken together, the other considerations do not clearly outweigh the harm to the Green Belt. As such, the very special circumstances necessary to justify the scheme do not exist.
33. A number of other matters were raised by interested parties, including highway and parking issues, and concerns about surface water flooding. As I have found that the proposal is unacceptable on other grounds, I have not considered these matters any further.
34. The proposed development would conflict with the development plan and the Framework. The appeal is therefore dismissed.

*R Morgan*

INSPECTOR

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<sup>1</sup> Application ref NED/15/01085/FL