



Appeal Decision

Site visit made on 13 February 2024

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/M1005/W/23/3327064

176 Two Levels Ashbourne Road, Turnditch, Belper, Derbyshire DE56 2LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Maskrey against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2022/0736, dated 11 August 2022, was refused by notice dated 16 June 2023.
 - The development proposed is a new bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In September and December 2023, the Government published revised versions of the National Planning Policy Framework (the 'Framework'). The Council refused the application on 16 June 2023 and referred to an earlier version of the Framework in their reasons for refusal. Paragraph 8 of the latest version of the Framework remains unchanged from the version considered by the Council when they made their decision. Part 12 has been retitled to read 'Achieving well-designed and beautiful places'. New paragraphs¹ have also been added to introduce the concept of local design codes and reference to the use of planning conditions to ensure clarity about the design of the development, and the approved use of materials. Neither of these changes have a fundamental effect on the consideration of the appeal proposal before me. Whilst the paragraph numbers in Part 15 have changed the content remains unchanged. Consequently, I have not invited further comments.
3. The application was submitted in outline with approval being sought for access, landscape, layout and scale. Details of the appearance of the proposed bungalow are reserved for future approval. I have considered the proposal accordingly.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the special landscape area and countryside; and

¹ Paragraphs 138 and 140

- the living conditions of occupiers of 174 Ashbourne Road, with particular regard to noise and disturbance.

Reasons

5. The appeal site is located within an established settlement with the majority of the properties facing onto Ashbourne Road. The dwellings in the immediate vicinity of the appeal site comprise of a mix of detached houses and bungalows, set a modest distance back from the road, within large plots. The properties have evolved over a period of time resulting in a varied pattern of buildings in terms of scale and design. They utilise a varied palette of materials.
6. Ashbourne Road provides the spine to the settlement of Turnditch and rises steeply from a point adjacent to the River Ecclesbourne in the east towards the western boundary of the village. The village overlooks the nearby valley which comprises open countryside, which is predominantly used for agricultural purposes.

Character and appearance

7. Saved Policy LS1 of the Amber Valley Borough Local Plan (adopted 2006) (LP), amongst other matters, supports developments that are well-related to existing patterns of development and protect and enhance the quality of the built and natural environment. It is consistent with paragraph 8 of the Framework.
8. The proposal would occupy a location to the rear of the host property and while there has been some historic backland development in the area, the surrounding area is predominantly characterised by dwellings fronting directly onto roads. As a result, the bungalow would fail to engage with the streetscene to the same degree as other properties within the locality and would be uncharacteristic of the prevailing pattern of development in the area.
9. The terraced form of the rear garden and its open nature makes a positive contribution towards the character and appearance of the area. The introduction of a comparatively large building into this space, which is currently devoid of buildings, would erode the spacious character of the site. As a result, the proposal would introduce a feature that would appear incongruous and out of keeping with its immediate surroundings.
10. The addition of a bungalow into the rear garden would result in the subdivision of the existing curtilage and the creation of a plot that would be considerably smaller than others within its immediate vicinity. Furthermore, there would be limited space around the bungalow, and between it and its host. Consequently, it would appear cramped on the plot and out of keeping with the more spacious qualities found in other properties in the area. There would also be a corresponding impact on the grain of development found locally.
11. I accept that the building would sit at a lower level than the host property and be dug into the hillside, and as a result any views from public realm would be limited and localised. That said, it would be clearly visible from neighbouring properties and the surrounding countryside.
12. Various examples of development have been cited by the appellant, such as those at Hill Close, the former Cross Keys and at 179A Ashbourne Road. Hill Close is a cul-de-sac with dwellings that front the road. Whilst acknowledging

that the other examples do have some backland characteristics, they are not directly comparable with the appeal proposal in terms of their location, and I am not aware of the circumstances in which they were permitted. Therefore, I can only attach very limited weight to these examples in my consideration of this appeal. Each planning application and appeal is determined on its merits.

13. In light of the above, I conclude, on this main issue, that the proposal would result in significant harm to the character and appearance of the area. Consequently, it would be contrary to saved policy LS1 of the LP and paragraph 8 of the Framework, as set out above.

Special landscape area and countryside.

14. The land to the north of the comprises open countryside and is designated as a Special Landscape Area (SLA). The SLA covers a significant part of Derbyshire but excludes the Peak District National Park. Although of some age, the reports produced in evidence by the Council, provide an insight into the characteristics that make a positive contribution towards the landscape of parts of Derbyshire and have resulted in them being designated as an SLA. In particular I note that the landscape quality of the south central part of Derbyshire is derived from its topography, enhanced by woodland and parkland in places. It is essentially free from obstructive elements. From what I have seen and read I agree that this provides an accurate summation of the landscape that exists to the north of Turnditch.
15. Paragraph 180 of the Framework identifies that the planning system should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services.
16. The proposed bungalow would be located within the existing village envelope and would be seen against the backdrop of existing buildings, which would help assimilate the proposed development into its surroundings when viewed from within the SLA. Natural features including trees and hedgerows would also mitigate the impact of the proposal when viewed from the public realm to the north. These factors combined with the scale of the proposed development means that the proposal would not cause significant harm to the SLA when considered as a whole. Moreover, the proposed development would not encroach into open countryside. Consequently, I give only limited weight to any harm that that would be caused to the character and appearance of the Special Landscape Area or the open countryside.
17. Accordingly, I find no conflict with saved policies LS3 and H12 of the LP or paragraphs 135 and 180 of the Framework. These policies, amongst other matters, aim to conserve or enhance the quality and local distinctiveness of the natural environment, having regard to distinctive landscape features particularly where the development is visually prominent or situated on the established urban fringe.
18. Whilst I am mindful that saved policy EN7 is referred to in the second reason for refusal this specifically relates to developments within the SLA, and therefore I do not consider it pertinent to the appeal proposal.

Living conditions

19. The vehicular access and parking for the proposed bungalow would lie alongside the common boundary with 174 Ashbourne Road. On my site visit I saw that an evergreen hedge, varying in height from approximately 1 to 2 metres, was located on the common boundary. Beyond the boundary there was a paved drive which gave access to an attached single garage and a detached double garage. The main dwelling at No 174 lay beyond the attached garage.
20. Whilst I acknowledge that an additional dwelling would increase traffic movements, I am not persuaded that the level of activity would be of magnitude that would give rise to significant noise and disturbance to the neighbouring residents, particularly given that the habitable part of No 174 lies some distance from the common boundary. Moreover, I have not been presented with any substantive evidence to demonstrate that this would be the case. Consequently, I give this matter only limited weight.
21. I have also considered the likely impact of any future lighting that might be introduced to assist drivers in their navigation of the proposed drive. In this regard I find that adequate illumination could be provided without the need for tall lighting columns, which might otherwise give rise to light pollution. This matter could be adequately dealt with by a planning condition in the event that the appeal was allowed. Consequently, it is not a determinative matter for this appeal.
22. Accordingly, I conclude, on this main issue, that the proposal would not result harm to the living conditions of occupiers of No 174 by reason of noise and disturbance. Consequently, I find no conflict with saved policy LS3 of the Amber Valley Borough Local Plan (adopted 2006) or paragraph 135 f) of the Framework. These policies aim, amongst other matters, to create places with a high standard of amenity for existing and future users.

Other Matters

23. The appellants asserts that the appeal site is in a sustainable location with reasonable access to services and facilities. This is not contested by the Council. From what I have seen and read I do not disagree with the conclusions that have been reached by both parties
24. I note the appellant's desire to downsize, live in a bungalow and stay in the village of Turnditch. Whilst no supporting evidence has been submitted with the appeal to confirm availability of bungalows in the area, from what I saw on my site visit, I accept that the number is likely to be limited. That said, I have no evidence before me to ensure that occupancy would be restricted to the appellant. In any event, the development would remain long after the personal circumstances have ceased to exist. Therefore, I give this matter only limited weight.
25. I have had regard to the appellants reference to the potential to erect outbuildings under 'permitted development' rights and their assertion that these could have a greater impact on the character of the area and the adjacent countryside than the appeal proposal. The courts have held that the prospect of the fall-back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Although the possibility of the fall-back position happening may be

very slight, this is sufficient to make the position a material consideration. Given this scenario I accept that there is a possibility that outbuildings, associated with the host property, could be erected on the appeal site. However, in the absence of substantive evidence I am unable to ascertain, with any certainty, what the impact of that development would be when compared with the appeal proposal. Accordingly, I give this matter only limited weight.

Balancing of considerations and conclusion

26. I have found that the proposal would not result in harm to the SLA and the countryside, or the living conditions of neighbouring occupiers, however it would be uncharacteristic of the prevailing pattern of development in the locality. Therefore, it would be harmful to the character and appearance of the area in conflict with development plan when taken as a whole. There are no material considerations to outweigh that finding. Therefore, for the reasons set out above, this appeal is dismissed.

J Gunn

INSPECTOR