



## Appeal Decision

Site visit made on 19 September 2023

**by N Kempton BA(Hons) PGDip MA IHBC MRTPI**

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

**Decision date: 21<sup>st</sup> February 2024**

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**Appeal Ref: APP/H1033/W/23/3317879**

**Oldcourt, 141 Manchester Road, Chapel-en-le-Frith, Derbyshire SK23 9TN**

- 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 Doyle and Ms Herrera against the decision of High Peak Borough Council.
  - The application Ref HPK/2022/0133, dated 31 March 2022, was refused by notice dated 15 December 2022.
  - The development proposed is the erection of a single storey residential dwelling, works of hard and soft landscaping, new access and other works incidental to the proposals.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey residential dwelling, works of hard and soft landscaping, new access and other works incidental to the proposals at Oldcourt, 141 Manchester Road, Chapel- en- le Frith, Derbyshire, SK23 9TN in accordance with the terms of the application, Ref HPK/2022/0133, dated 31 March 2022, (and the plans submitted with it), subject to the conditions at the end of this decision.

### Preliminary Matters

2. Both parties were given the opportunity to comment on the amended National Planning Policy Framework, published in December 2023. I have taken into account representations received and these are addressed under Other Matters below.

### Main Issues

3. The main issues of the appeal are:
  - Whether the proposal would be in a suitable location for housing, having regard to the local development strategy for the area;
  - The effect of the proposed development on the character and appearance of the area.

### Reasons

4. The appeal property is located on the south side of Manchester Road, which is flanked by linear residential development and extends westwards from the town centre. At this point, houses are characteristically substantial detached properties, set back from the road in extensive grounds. Situated in the garden associated with a detached two storey property known as Oldcourt (number 141), the appeal site is an area of rough grass and vegetation to the west side of the house. The site is bound by a high stone wall and gate to the north, mature trees and established hedgerow form shared boundaries. To the east of

the site is a two-storey brick built dwelling, Windyhaugh (number 143). Beyond the site, the land falls quite steeply southwards towards the golf course, which forms part of the gently undulating Combs Valley extending to higher land on the other side and marking the boundary of the Peak District National Park.

#### *Location*

5. The site lies outside the 'Built- Up Area Boundary' for Chapel- en- le- Frith as defined on the High Peak Local Plan (LP)(2016) Proposals Map and is therefore in the countryside for planning policy purposes, where new development is not normally permitted under the provisions of the Local Plan.
6. However, the site lies just a stone's throw to the west of the settlement boundary, and alongside Manchester Road, which the settlement boundary line follows here. Moreover, on the opposite side of the street from the appeal site, development is characterised by a suburban arrangement of a long row of detached houses fronting the street. This extends a substantial distance west of the appeal site. The appeal site is also part of a stretch of developed land characterised by houses set in large, leafy plots, the grain of which does not constitute sporadic or fragmented development. Indeed, my assessment of the site on the ground confirmed that the appeal site, far from being an isolated site in open countryside, is presently very much part of the garden of Oldcourt and shares more of the character of development inside the settlement rather than development outside it.
7. Policy S2 of the LP requires development to be directed towards the most sustainable locations in accordance with its hierarchy which identifies Chapel-en-le-Frith as a small town, the vitality and viability of which the Council seeks to maintain and enhance. Given the proximity of the site to this small town centre, the development could not be described as being in an unsustainable or inaccessible location, and its development would help to enhance the vitality and viability of the centre, in accordance with paragraph 90 (f) of the National Planning Policy Framework (the Framework).
8. The Council recognises in LP policy S3 that small sites make an important contribution to the housing supply in High Peak including in Chapel- en -le- Frith.
9. Furthermore, LP policy H1 promotes the effective reuse of land by encouraging housing development including infill on all sites suitable for that purpose, as is the case here. It also states that the Council will consider approving sustainable sites outside the built-up area boundaries, provided they meet four criteria. Each of the criterion will now be addressed in turn:
10. "The development would adjoin the built-up area boundary and be well-related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement". Though the site may not adjoin the drawn boundary, as discussed above it is well within its sight and its character reflects the pattern of development on the other side of the drawn line. The siting, scale, form and alignment of the proposed dwelling would be well-related to existing residential development in the vicinity of the site, nestled between two dwellings and shrouded in mature landscaping. Due to the high boundary walls to property frontages, abundant trees and other mature vegetation and large buildings either side, the proposed development would not be readily visible from the road and as such, would not be visually intrusive.

11. "The development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside". Development of this site would not result in the coalescence of settlements or constitute a major incursion into open countryside. The appeal site occupies garden space rather than open countryside and is well integrated with the built development, being flanked on both sides by detached dwellings. Development of this site for a residential dwelling would be a logical and incidental infilling of a plot that would be served by an existing access drive off Manchester Road.
12. "It would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities". The development would have reasonable access to local services and facilities in the small town centre a few metres away. Within walking distance to the town centre, pavements from directly outside the access gate to the appeal site, lead into the town. The appeal site is also on a main bus route. There is no evidence that "local and strategic infrastructure cannot meet the additional requirements arising from the development".
13. While the Council has referred to LP policy EQ3 and Neighbourhood Plan policy H2 in its reason for refusal on this issue, I discuss these below. As such, I conclude that the proposed development of the appeal site is in accordance with LP policies S2, S3 and H1, being a sustainable and accessible site outside defined built-up area boundaries. The development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside.
14. I acknowledge that paragraph 84 of the Framework indicates that the development of isolated dwellings in the countryside should be avoided save in five circumstances, none of which apply here. However, the appeal site is not isolated. Rather the site is considered to be a logical infill and the new dwelling would form part of and be integrated with the existing linear residential development on the south side of Manchester Road- thereby in compliance with paragraph 84 of the Framework.

#### *Character and appearance*

15. Principally, it is the mature landscaping that positively contributes to the rural, leafy character of the area, and to the important transitional semi-rural buffer between the settlement core, the adjoining countryside and surrounding landscape. The linear pattern of development along Manchester Road is a strong and distinctive element in the composition and character of this part of the settlement and markedly distinguishes it from adjacent open countryside beyond. Whilst the low density and generous gardens afford gaps between buildings, it is considered that limited, small scale infill would not result in an urbanising effect to the detriment of the spatial quality of the area.
16. The proposed development would result in the reduction of garden space associated with Oldcourt. However, the mature landscaping (including established trees along the length of the frontage), which is the greater contributor to the area's character, would be retained- such that the proposed dwelling would not be readily visible in the street scene. Furthermore, development of the plot as proposed, would retain some views through the site to open countryside beyond- by virtue of being single storey and through retention of the access to open land south of the site.

17. The proposed dwelling would benefit from a setting commensurate with its stature. It would be well integrated and harmonise with the existing settlement pattern, nestled between two dwellings and would not therefore be visually intrusive or detract from the intrinsic character of the wider landscape.
18. The Council has not raised objection in respect of the design of the proposed dwelling. Based on the evidence before me and having carried out a site visit, I see no reason to take a contrary view on this matter. A single dwelling of a modest scale, single storey in height, of gabled form with eaves orientated to the road and constructed using an appropriate palette of high-quality materials, would positively contribute to local distinctiveness.
19. For these reasons, the proposed development would be consistent with the following policies of the High Peak Local Plan (2016): EQ3, in respect of rural development, limited infilling of a small gap capable of accommodating no more than 2 dwellings of a similar size and scale to the surrounding dwellings in an otherwise continuously built-up frontage, where the intrinsic character and distinctiveness of the landscape is protected; EQ6 in respect of design and placemaking; and policies H2 and H3 of the Neighbourhood Plan (2015) relating to high quality design criteria, reflective of locally distinct characteristics.

### **Other Matters**

20. Parties agree that the Council can demonstrate a 5-year housing land supply. However, this is not to be considered as an upper limit. The proposal would align with the national aim, as set out in the Framework (para. 60), to boost significantly the supply of homes. Paragraph 70 of the Framework recognises that small (and medium sized) sites can make an important contribution to meeting the housing requirement of an area and indicates that local planning authorities should support the development of windfall sites through their policies and decisions. The Council anticipates windfall sites and accordingly, has made allowance for small scale unidentified sites in its housing land allocation for the current plan period.
21. Additionally, paragraph 70(b) of the Framework states that planning authorities should seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing. Specific reference to self-build and custom-build housing affords greater emphasis to such development and is of relevance to this appeal.
22. The Council's statement of case references a previous planning decision (ref: HPK2009/613) where planning permission was refused for the construction of a 5 bedroom dwelling in December 2009. The Council states that the previously refused scheme is 'identical in its principle of development' to the current appeal scheme.
23. I have not been provided with the details of that case, nor the conclusions and policies which led to its refusal. The current appeal is determined against the current development plan, specifically the High Peak Local Plan which was adopted in 2016 and the Chapel-en-le-Frith Neighbourhood Plan which was made in 2015. There are few parallels I can draw between the cases. This limits the weight I can attribute that previous planning decision. Moreover, I

have determined this proposal in the specific circumstances of today, and against the merits of the cases presented today.

### **Conclusion**

24. I have found that the proposed development would respect the loose grain character at the edge of the settlement. It would not be visually prominent or intrusive and would not detract from the intrinsic character of the landscape. Rather it would be sensitive to the defining characteristics of the local area. The proposed development would not harm the character and appearance of the countryside. There would be no conflict with the development plan when read as a whole.
25. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Indeed, the Framework indicates that development proposals that accord with an up-to-date development plan should be approved without delay. For the reasons given above, I conclude that the appeal should be allowed.

### **Conditions**

26. I have adjusted some of the suggested conditions in the interests of precision and clarity and to reduce the burden of unnecessary submissions and processing of further applications where sufficient information has already been provided. Conditions are set out in the Schedule of Conditions at the end of this decision.
27. In addition to the statutory time condition (1) a condition listing the approved plans (2) is needed to ensure clarity of what has been permitted. A condition (3) regarding details of materials to be used in the external finishes of the development is warranted to secure an appropriate palette, though I see no need for the trigger for their submission to be any earlier than the completion of slab level. For reasons of highway safety, it is necessary for vehicles to be able turn in the site, enter and leave in a forward gear, as required by conditions (4 & 5). Condition (6) is required to safeguard residential amenity.
28. Some suggested conditions have been omitted as follows: a condition relating to the storage of plant and materials and the parking of vehicles during the construction period is not necessary given the size of the site and the scale of the development; the removal of permitted development rights to convert the garage is not considered to be justified or necessary given the ample space for parking of vehicles within the site; a prescriptive condition relating to the gates is considered to be unduly restrictive given that the existing and proposed accesses are sufficiently recessed to avoid any obstruction or conflict. Furthermore, such a condition would preclude alternative opening arrangements, such as a sliding gate; in the absence of any evidence suggesting that the new dwelling would be beyond the scope of the Council's waste collection arrangements, a condition relating to waste collection is unnecessary; there is no substantive evidence that there is a risk to public health from land contamination, rather the Environmental Health Officer considered that the development of a new dwelling within existing residential curtilage presented a very low risk from a public health and nuisance perspective. As such, conditions relating to contaminated land and amplified music or radios are unnecessary; there is no substantive evidence of the necessity for a condition relating to dust emissions, rather the dust emissions

risk is considered to be low given that no substantial demolition is proposed and the existing mature landscaping within and bordering the site will serve to diminish dust emissions beyond the site boundary; no substantial demolition is proposed as such a condition relating to the disposal of demolition materials is considered to be unnecessary in granting planning permission; there is separate statutory legislation regarding the control of pollution, as such a condition is unnecessary; there is no substantive evidence, especially given the size of the development, to suggest that a condition to control noise from piling is necessary; there is no substantive evidence for the necessity of an asbestos survey.

*N Kempton*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan 358\_PL001
  - Site Block Plan 358\_PL002
  - Existing Landscape Plan 358\_PL003 Rev A
  - Proposed Roof and Landscape Plan 358\_PL004 Rev A
  - Proposed Ground Floor Plan 358\_PL005
  - Proposed Roof Plan 358\_PL006
  - Proposed Elevations 358\_PL007
  - Proposed Elevations 358\_PL008
  - Existing Site Sections 358\_PL009 Rev A
  - Proposed Site Sections 358\_PL0010 Rev A
  - Proposed Access and Highways Plan 358\_PL0011
  - Proposed Access and Highways Elevations 358\_PL0012
  - Tree Constraints Plan 358\_PL0013 Rev A.
- 3) Prior to the commencement of construction works above ground floor slab level, details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted must be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The new dwelling shall not be occupied until the new vehicular access to Manchester Road has been formed, in accordance with the approved plan: Proposed Access and Highways Plan 358-PL0011; Proposed Access and Highways Elevations 358-PL0012.
- 5) The new dwelling shall not be occupied until space has been laid out within the site in accordance with approved plans: for cars to be parked; for the loading and unloading of vehicles; and, for vehicles to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.

- 6) Demolition or construction works shall take place only between 07:30- 18:00 hours (Monday to Friday); 08:30-14:00 hours (Saturday); and no works shall take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE OF CONDITIONS Appeal Ref: APP/ H1033/W/23/3317879