



Appeal Decision

Site visit made on 19 December 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/F1040/W/23/3323098

The Paddock (Cadley Park), Land South of Copperas Road, Newhall DE11 0UH

- 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 Cameron Homes Ltd. against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2022/1059
 - The development proposed is the erection of 8 dwellings, two detached garages and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 8 dwellings, two detached garages and associated works. at The Paddock (Cadley Park), Newhall DE11 0UH in accordance with the terms of the application, Ref DMPA/2022/1059, dated 20 July 2022, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - Whether the appeal site is suitable for new residential development; and,
 - The effect of the proposal on infrastructure, with particular regard to schools and health care.

Reasons

Whether Suitable for Residential Development

3. Policy H1 of the South Derbyshire Local Plan Part 1 (June 2016, the LP1) sets out the settlement hierarchy with Swadlincote being an Urban Area. Within the settlement boundaries of Urban Areas the policy supports development of all sizes. Exception and cross subsidy sites, that are for less than 25 houses, are also supported outside of these settlement boundaries where the site is adjacent to it. This policy is supported by SDT1 of the South Derbyshire Local Plan Part 2 (November 2017, the LP2) which identifies the settlement boundaries relevant to Policy H1.
4. It is clear from the submissions before me that the appeal site is outside, but adjacent to, the settlement boundary for Swadlincote. Residential development is currently being carried out on land that bounds three sides of the site and there are existing properties to the north on Copperas Road. Once the development is complete the appeal site will appear as a gap in the built up area, rather than a part of the wider countryside to the other side of Copperas

Road. Although settlement boundaries are a starting point, a judgement must be made on the situation as it stands on the ground. In this case, given its close relationship with the surrounding built-up area and the highway network, I find that the appeal site is both visually and functionally within the Urban Area of Swadlincote. Consequently, for the purposes of this appeal, I have considered the appeal site to be within a settlement boundary where residential development is supported.

5. Even if I were to find that the appeal site is outside of the settlement boundary, LP2 Policy BNE5 provides exceptions where development in rural areas can be acceptable. In this case I find that exception (iv) is relevant as it relates to the infilling of small gaps that are in keeping with the area. Although the exception normally only covers developments of no more than 2 dwellings, it is clear from the wording that exceptions to this are permissible. In this case and relative to the extent of the settlement surrounding it, I find that the scale of the gap, and the number of dwellings proposed, would be commensurate to represent infilling. Moreover, as noted above, the appeal site visually reads as being part of the wider settlement and so I find that it would be in keeping with the character of the locality.
6. Irrespective of the route taken above, the proposal would result in a development that would align with the settlement hierarchy and locational strategy for residential development as set out within the development plan. As such the proposal would comply with LP1 Policy H1 and LP2 Policies SDT1 and BNE5. As outlined above, these policies collectively, and amongst other matters, set out the settlement hierarchy for residential development and suitable exceptions to this hierarchy and the overarching strategy.
7. I note the reference to a recent decision¹ that was subsequently quashed but find that this relates to whether development complies with exception or cross subsidy sites. These matters have not been determinative in my considerations and so this example is not directly relevant.

Effect on Infrastructure

8. The proposal would provide 8 new dwellings of a size capable of accommodating families. The site's location means that future occupiers would likely make use of the services and facilities associated with the Urban Area of Swadlincote to meet, at least, most of their daily needs. Swadlincote is identified as the largest type of settlement in the Council's hierarchy and is where most development is directed.
9. I have not been provided with any detailed evidence to define the extent of any deficiencies in infrastructure provision local to the appeal site. It has also not been demonstrated what effect the proposal might have on this provision. Whilst the Council have referred to the 2014 permission² for 68 dwellings on the adjoining land, this decision is of some considerable age and for a significantly larger scheme. Therefore, the context and impact are also likely to be different to that before me.
10. Although providing 8 family homes, the proposal would be a small proposal resulting in only a slight increase in population relative to the Urban Area as a whole. Lacking any substantive evidence to the contrary, I find that the

¹ Appeal Reference: APP/F1040/W/19/3232081

² Council reference: 9/2014/0886

infrastructure required by the small increase in the population stemming from the scheme is already present.

11. The proposal would not, therefore, adversely affect the provision of infrastructure, with particular regards to schools and health care. The proposal would therefore comply with LP1 Policy INF1 which requires developments to meet any increased need for infrastructure. The proposal would also comply with the wider requirements set out under LP1 Policies S1 and H1 and LP2 Policies SDT1 and BNE5 regarding the accessibility of services and sustainability.

Other Matters

12. It is clear from the submissions before me that the vehicular access serving the proposal would not be through Woodview Road and Copperas Road. I therefore find that there would be no adverse highway safety or living conditions impacts along these roads stemming from increase vehicular movements.

Conditions

13. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
14. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
15. From the evidence before me and my observations on site, there is a risk of contamination at the appeal site. A condition is therefore necessary to ensure that this is investigated and, if necessary, remedied. It is necessary that this condition is pre-commencement as works on site may disturb any contamination or make remedial works more difficult to undertake.
16. In order to ensure highway safety, I have attached a condition requiring parking spaces, including any garages, are provided prior to the first occupation of any of the dwellings. I have also attached a condition requiring wheel washing during the construction works to minimise the spread of debris and protect highway safety.
17. In the interests of protecting and enhancing biodiversity on and around the site, I have attached conditions requiring the provision of a Landscape Biodiversity Enhancement and Management Plan, which shall, amongst other matters, include plantings, roosts and hedgehog gaps. I have also attached a condition restricting the removal of vegetation between March and August in order to ensure the protection of any nesting birds.
18. To ensure a proper and efficient waste and recycling collection I have imposed a condition requiring details of the location serving each dwelling and their permanent provision thereafter.
19. Sufficient details have been provided on drainage to demonstrate how it will be carried out and, as such, a condition is not necessary requiring the submission of further details. Given the scale of the proposal and the appeal site, I find it is

also not necessary to impose a condition requiring details of drainage during the construction period. However, a condition is required to ensure that the drainage works proposed have been carried out successfully.

20. Given the scale of the development, and that it is accessed off an existing highway network, a condition regarding a works access would not be necessary in the interests of highway safety. Likewise, given the small scale of the development, I find that it would not be necessary to require a construction management plan for the purposes of living conditions, health and safety, and highway safety.
21. The appeal site is not within an area of any especial character, or designated status and so, mindful of the submissions before me, I find that sufficient details of the dwellings' and boundary treatments' design and materials have been submitted. It is not, therefore, necessary to require further details to be submitted in these regards. However, for the purposes of character and appearance, I have attached a condition requiring mortar be used on the roof verges.
22. The requirement for electric vehicle charging points is covered by other legislation and so it is unnecessary to duplicate it here under a condition.
23. Given the site's close proximity to existing residential development and a wider built-up area, it is not necessary to require a lighting strategy to be provided in order to protect bats and other nocturnal wildlife.

Conclusion

24. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

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:
 - 2278-01-02 Location Plan
 - 2278-02-Topographical Plan
 - 2278-03-02-C-Proposed Site Plan
 - 2278-11-02-Streetscenes
 - 2278-H-2-856-BENSON-AS-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-2-856-BENSON-OP-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
 - 2278-H-3-870-BIRCH-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS

- 2278-H-3-870-BIRCH-SWADLINCOTE-OP PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
 - 2278-H-3-978-CARDEW-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-4-1421-HATTON (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-4-1421-HATTON-SWADLINCOTE-AS-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
 - 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS
 - 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-OP PROPOSED ELEVATIONS (HANDED)
 - 2278-H-4-1621-BLACKWELL-SWADLINCOTE-AS-A PROPOSED FLOOR PLANS (HANDED)
 - 2278-H-4-1621-BLACKWELL-SWADLINCOTE-OP-A PROPOSED FLOOR PLAN
 - Proposed Garage Plan
 - 19061 External Works
 - 19061 PH2 - 138 Proposed Drainage Plan
 - Detailed Soft Landscape Proposals – Planning 22-004-P-01 Rev B
 - 19061-PH2 Drainage Statement
 - Ecological Appraisal
 - 071767-CUR-00-XX-RP-GE-001-Phase II Ground Investigation Report Swadlincote Plot A
 - Tree Survey AIA
 - 6084 Planning Statement
 - Drainage Area Plan Sheet 1 and 3 Dwg 19061 Rev B
 - Ecological Technical Note – Biodiversity Net Gain Calculations Jan 2023
 - 11022 VF BNG Matrix Rev A
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
- 4) Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained for this purpose

throughout the lifetime of the development free from impediment to its designated use.

- 5) No construction above foundations level shall commence until a scheme and timetable for the creation of suitable nesting sites for swallows has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 6) Prior to the completion of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as part the agreed scheme, provide the details of any management company and state the national grid reference for any key drainage elements (such as surface water attenuation devices/areas, flow restriction devices and outfalls).
- 7) The roof verges on the dwellings hereby permitted shall be carried out with a mortar finish that shall be retained thereafter.
- 8) No vegetation clearance shall take place between 1 March and 31 August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
- 9) Prior to the completion of the development a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to and approved in writing by the Local Planning Authority. This should include:
 - a. Description and evaluation of any features to be created and managed, such as areas of wildflower grassland, flowering lawns, trees and shrubs.
 - b. Locations of bat boxes, swift bricks and swallow nests in line with British Standard BS42021:2022.
 - c. Details of hedgehog connectivity gaps, including a plan showing locations.
 - d. Aims and objectives of on-site management.
 - e. Ecological trends and constraints that might influence management.
 - f. Appropriate management methods and practices to achieve aims and objectives.
 - g. Prescriptions for management actions.
 - h. Preparation of a work schedule.
 - i. Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
 - j. Details of the body or organisation responsible for implementation of the plan.
 - k. Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against DEFRA conditions sheets reportable to the authority at 5, 10, 15 and 30 years post completion.
- 10) The land and features secured by the condition above for the use of securing the Biodiversity Net Gain shall be held for that use for the lifetime of the development.

- 11) Throughout the period of construction vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
- 12) Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.