



Appeal Decision

Site visit made on 12 March 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/R1038/W/23/3330637

Grand View, Main Road, Stretton, Derbyshire DE55 6EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Paul Wilson against the decision of North East Derbyshire District Council.
 - The application Ref is 23/00346/FL.
 - The development proposed is demolition of existing dwelling and new build of a two storey replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. Those parts of the Framework most relevant to this appeal have not been amended, although the paragraph numbers have been altered. I have used the new paragraph numbers in the decision below. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - whether or not it has been demonstrated that the appeal site is suitable for the proposed development having regard to past coal mining activity;
 - the effect of the proposed development on protected species, with particular regard to bats; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Coal mining activity

4. The application site falls within the defined Development High Risk Area. The Coal Authority records indicate that the site lies in an area of recorded shallow coal workings and probable coal workings. It is also in an area where coal has been removed by surface mining methods. These features may pose a potential

risk to surface stability and public safety, even on sites such as this one that have already been developed with a building.

5. The application is not accompanied by any technical evidence in respect of land stability. The appellant argues that site checks can be secured by a pre-commencement condition and draws attention to two nearby schemes. However, these cases are not directly comparable to the appeal site as the proposal within the Development High Risk Area was supported by a Coal Mining Risk Assessment and the other was outside of the defined area.
6. Without a Coal Mining Risk Assessment which clearly demonstrates that any land potentially affected by land instability will be addressed by appropriate mitigation measures, I cannot be satisfied that the proposal would comply with Policy SDC14 of the North East Derbyshire Local Plan (2021) (Local Plan) or paragraph 189 of the Framework, insofar as they seek to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Unless mitigation measures relating to previous mining activity are identified and proven to be achievable, it is not appropriate to leave this matter to be dealt with under a planning condition.

Protected species

7. The existing building has the potential to support bats, their roosts or places of shelter. There is no evidence before me as to whether or not this is the case as no Preliminary Bat Roost Assessment was submitted. I am not therefore able to be certain that, as a protected species, bats would not be harmed by the development.
8. From the information before me I cannot be certain of the effect of the proposed development on protected species, with particular regard to bats. It would therefore conflict with Policy SCD4 of the Local Plan which seeks to ensure that development protects the natural environment and quality of biodiversity. It would also conflict with paragraph 186 of the Framework which seeks to protect biodiversity.

Character and appearance

9. The proposed dwelling would be slightly wider than the existing dwelling, and the offset roof design would increase the massing of the new building when compared to the existing building. In addition, the large area of glass to the front elevation would be incongruous in the street scene. Whilst there is a variety of design in the local area the prevailing character is one of traditional design and modest scale which would not be reflected in the proposed dwelling.
10. I conclude that the proposed dwelling would harm the character and appearance of the area. It would conflict with Policies SS7 and SDC12 of the Local Plan which together, amongst other matters, seek to ensure that development is appropriate in scale and design and responds positively to the local character.

Conclusion

11. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in

accordance with it. For the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR