



Appeal Decision

Site visit made on 13 March 2024 by D Ellis MPlan MRTPI

Decision by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/F1040/W/23/3332007

Land Adjacent to 42 Main Street, Repton, Derby DE65 6EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Khan against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2023/0071.
 - The development proposed is outline application (matters of access to be considered now, with matters of appearance, scale, landscaping and layout reserved) for the erection of one detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the outline application (matters of access to be considered now, with matters of appearance, scale, landscaping and layout reserved) for the erection of one detached dwelling at Land Adjacent to 42 Main Street, Repton, Derby DE65 6EZ in accordance with the terms of the application, Ref DMPA/2023/0071, and the plans submitted with it insofar as they relate to access, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The application was submitted in outline with all matters except for access reserved for subsequent approval. Subsequently I have assessed the appeal proposal on that basis and have considered the submitted plans as indicative except where they relate to access.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons for the Recommendation

5. The appeal site lies between the residential property at 42 Main Street (No 42) and the access road to the Gibson Technology site. Although the construction of a detached dwelling at the appeal site would fill the gap between the dwelling and outbuildings at No 42 and the entrance gates to Gibson Technology, a large gap would remain between the entrance gates and the

- next group of houses to the southeast and the proposal would not cause the merging of adjacent settlements.
6. Even though the scale, layout and appearance of the proposed dwelling are reserved matters, given the land levels of the site it is likely that the proposed dwelling would be constructed at a higher level than the road. Nevertheless, the adjacent properties to the northwest, along the same side of Main Street as the appeal site, are also situated at a level higher than the road. It has not been demonstrated that the proposed dwelling would be harmfully more prominent than the adjacent properties, nor that any such issues could not be mitigated during a reserved matters application.
 7. The site is not within a conservation area and I have no evidence before me that any of the trees on the site are subject to a Tree Protection Order. The proposed access to the dwelling would result in the loss of some of the trees and hedging adjacent to the street. However, given the generous width of the front of the plot, only a relatively small part of the hedge would be removed, with a considerable proportion remaining. In addition, several other trees around the site would also remain. Consequently the loss of the trees and hedging would not unduly detract from the street scene. Furthermore, landscaping and layout matters, such as the position of the proposed dwelling and driveway within the site with regards to the existing trees and hedging, are reserved for a future application.
 8. For these reasons, the proposed dwelling would not cause harm to the character and appearance of the area. The proposal therefore complies with Policies BNE1 and BNE4 of the South Derbyshire Local Plan Part 1 (2016) (LP1), Policy BNE5 of the South Derbyshire Local Plan Part 2 (2017) (LP2), and Policies H4 and OS2 of the Repton Neighbourhood Development Plan (2019) (RNDP), insofar as they require development to respond to their context and character and not have an unacceptable impact on landscape character. The proposal would also accord with the design aims of the South Derbyshire Design Supplementary Planning Document and the National Planning Policy Framework (the Framework).
 9. The Council also cites a conflict with RNDP Policy H2, which has regard to development within settlement confines. However, as the appeal site is outside of the settlement boundary, this policy does not apply in this case.

Other Matters

10. The appeal site falls outside the settlement boundary and the main parties agree that the proposal would not comply with LP1 Policy H1, LP2 Policy BNE5 and RNDP Policy H1 with specific regard to development in rural areas and the countryside, and I have no reason to disagree. However, during a previous appeal for a detached dwelling at the site¹, the Inspector concluded that although the proposal did not comply with these policies, the site was in a sustainable location and met the broad aims and objectives of these policies and would not threaten or undermine the sustainable growth strategy of the plan, as outlined in LP1 Policy S1. No substantive evidence has been provided of any change in circumstances since that appeal decision that would lead me to conclude differently. Given that the site is within a reasonable distance of services and transport links, together with the lack of harm as identified above,

¹ Appeal ref. APP/F1040/W/21/3276565

I agree that the appeal site would be a suitable location for a dwelling, having regard to relevant local and national planning policies. I also note that the Council has not objected to the principle of the development.

11. I have considered the arguments that any grant of planning permission would set a precedent for similar developments in the surrounding area. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature does not amount to a reason to withhold planning permission.
12. I note that the submitted speed survey only provides data from a one-hour period on one specific day, however I also note that neither the Highway Authority nor the Council have raised any concerns regarding highway safety or the gradient of the access. This appeal scheme is for access to the site only; matters including parking and manoeuvring arrangements within the site would be considered in a future reserved matters application. Acceptable visibility splays would be secured by conditions. The creation of the proposed access could result in construction vehicles parked on the street at or near the site, however any disruption to local residents would be temporary and would not be of a level that would unacceptably impact on the road network. The future occupation of one new dwelling is unlikely to cause a significant increase in vehicle movements. For these reasons, and based on the evidence before me, I have no justifiable cause to disagree with the conclusions of the Highway Authority and the Council, and I am satisfied that the proposed access would not cause any harm to highway safety.
13. The proposed access would be approximately in the middle of the front of the plot and a sufficient distance from No 42 to prevent any significant impact on the living conditions of the occupiers of No 42. A future reserved matters application would consider the effect of vehicle manoeuvring arrangements within the site and the layout and scale of the proposed dwelling on the living conditions of the occupiers of neighbouring properties. Any use of the track to the side and rear of No 42 is not a matter for consideration in this appeal and does not alter the planning merits of the scheme before me. If any damage is caused to an adjoining property by the construction works at the appeal property, then this is a private matter to be resolved between the relevant parties.
14. No details have been provided regarding the position of power cables to and from the sub-station next to the site, so it is unclear whether the proposal would affect any power cables. Furthermore, I note that the Council has not raised any concerns in this regard, and based on the evidence before me I have no reason to conclude otherwise.
15. While the proposal would see the removal of a section of the front hedge and trees, the appeal proposal is unlikely to have a significant harmful impact on wildlife given the modest, in context, scale of the site and the amount of hedgerow that would remain. Moreover, landscaping is a reserved matter for a future application.

Conditions

16. The Council has suggested a series of conditions, which I have considered against the Framework and Planning Practice Guidance. In some cases I have amended them for clarity and enforceability.

17. I recommend the standard conditions relating to the submission and timing of the reserved matters application(s) and the commencement of development. Conditions in respect of visibility splays and entrance gates are necessary in respect of highway safety. In the interests of protecting the living conditions of the occupiers of adjoining properties, a condition is necessary with regards to working hours. A condition that relates to water usage at the proposed dwelling is necessary to manage future water resource needs, waste water treatment and drainage infrastructure.
18. The Council has also suggested a condition requiring details of boundary treatments to be submitted to and approved by the Council, in order to protect the character and appearance of the area. However, boundary treatments would be considered during the landscaping reserved matters application and any such condition would be more relevant at that stage.

Conclusion and Recommendation

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and outline planning permission granted subject to the conditions in the attached schedule.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and my representative's report and on that basis I allow the appeal and grant outline planning permission subject to the conditions in the attached schedule.

Mr R Walker

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Main Street has been constructed. The junction shall be laid out in accordance with the approved plan F22043/02 with visibility sightlines of 2.4 x 48m in both directions measured to a point 1m in from the nearside edge of the

carriageway. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height, or 0.6m in the case of vegetation, above the nearside carriageway channel level and shall be retained as such thereafter.

- 5) No development, including preparatory works, shall commence until a pedestrian inter-visibility splay of 2m by 2m, as shown on plan no. F22043/02, has been provided on each side of the access, the depth measured from the back of the footway (or verge) and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays and shall be retained as such thereafter.
- 6) Any entrance gates shall be set back a minimum of 5m from the highway boundary and shall be retained as such thereafter.
- 7) Demolition, site clearance, construction, site works or fitting out works shall take place only between the hours of 08:00 and 18:00 on Mondays to Fridays, and between the hours of 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.