

# Appeal Decision

Site visit made on 20 August 2024

**by K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 September 2024**

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**Appeal Ref: APP/W3005/W/24/3341159**

**Land Between 124-183 Wild Hill, Teversal, Nottinghamshire NG17 3JE**

- 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 Mr Darren Coxon against the decision of Ashfield District Council.
  - The application reference is V/2023/0716.
  - The development proposed is 3 no. dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. On 30 July 2024, the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation", alongside a Written Ministerial Statement (WMS) entitled "Building the homes we need". I have had regard to these as material considerations, albeit noting the Framework text is in draft and subject to change, which limits the weight to be afforded to it at this stage.
3. The Council advises that it has recently undertaken Regulation 19 stage consultation on its draft local plan. However, I have no indication that the plan has been submitted for examination, and thus it remains at a stage where policies may yet change. Regardless, neither main party has relied on policies of the draft local plan and I have assessed the appeal against the adopted Ashfield Local Plan Review (November 2002) (the ALPR).

## Main Issues

4. The main issues are:
  - whether the proposal would be a suitable location for housing, having regard to the effect on character, appearance and openness;
  - whether or not the site is in an accessible location relative to services and facilities, and;
  - the effect of the proposal on highway safety.

## Reasons

### *Location*

5. The appeal relates to an undeveloped field on the southern side of Wild Hill, a road running between the settlements of Fackley and Tibshelf. Short

groups of linear housing exist to either side of the appeal site, but development along the length of the road is otherwise sporadic, with long stretches of hedgerows and open fields visible. The site itself is open, framed to the rear by a copse of trees with glimpses of the countryside beyond.

6. The appeal site is located within the countryside for planning purposes. Under Policy ST4 of the ALPR, permission will only be given in the countryside for sites allocated for development, or development appropriate to the countryside location as set out in other policies.
7. Policy EV2 is relevant in this respect. It requires development to be located and designed so as not to adversely affect the character of the countryside, and in particular its openness. Appropriate development in the countryside includes infill development which does not have an adverse effect on the scale and character of the area. Policy ST1 sets similar requirements not to adversely affect the character, quality, amenity or safety of the environment.
8. The appellant advances that the proposal amounts to infill development. Infill development is defined in the ALPR as 'normally comprising one or two dwellings in a small gap in existing development. It adds: 'Not all small gaps are appropriate for infilling where, for example, they contribute towards the openness of the countryside. Regard should also be made to the scale and character of the area when assessing a development.'
9. The proposed three dwellings would largely replicate three dwellings recently constructed immediately to the east of the site. The proposal represents a reduction from nine dwellings previously sought on the appellant's wider landholding, which extends as far as the row of dwellings to the west, a distance of some 175 metres. This scheme, which I understand spanned the full width of the wider site, was dismissed at appeal in December 2022.<sup>1</sup>
10. I recognise that the use of the word 'normally' above in reference to infill provides some leeway in assessing an appropriate number of dwellings, and three would represent a relatively limited number overall. However, the definition refers to a 'small gap' in existing development. I do not regard a gap of some 175 metres as small. I recognise that the proposal has reduced the quantum of development proposed compared to the previous scheme, but the effect of this is that the proposal would not fully develop the gap, which is what the term 'infilling' implies. As such, the proposal would not gain support under Policy EV2(g) as infill housing.
11. The site is not located within a designated or valued landscape and linear housing is a feature along Wild Hill. However, it is limited to small ribbons of development with large tracts of undeveloped fields in between and surrounding the housing. The continuous presence of roadside hedgerows and glimpses of the fields beyond adds to the sense of being within the countryside. The appeal site embodies this rural character.
12. The proposed three dwellings would occupy a limited extent of the overall gap in the built form, but would represent an incremental extension of the linear pattern of development into an undeveloped field. This would cause a small but noticeable increase in the urbanisation of the road and a

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<sup>1</sup> Appeal Ref: APP/W3005/W/22/3298079, dismissed 20 December 2022

corresponding reduction in openness, naturalness and countryside views, notably on approach along Shepherd's Lane towards the junction with Wild Hill, where an undeveloped field terminating the view would be replaced with a line of housing.

13. I am aware that the site was previously screened by a substantial tree/hedge line to the roadside perimeter that was removed in late 2021, creating a more open appearance. New hedging has since been planted and is beginning to provide screening. However, this will still take time to reach maturity. Consequently, the appeal site and the appellant's wider land remain open to views from Wild Hill, and the development would be readily observable travelling in either direction. Although the dwellings themselves could match those built to the east, the addition of new built form, hard surfaces, car parking and other signs of domestic use would erode the open, undeveloped nature of the site and harm the prevailing rural character.
14. I have taken into account the development of three dwellings adjacent to the site, but note different circumstances, notably an historic permission for residential development of the land, which do not apply to the appeal site. An appeal decision referenced at Beck Lane<sup>2</sup> also differs in context, relating to a smaller parcel of land sandwiched between a line of linear housing and a substantial new housing development of some 322 dwellings. The Council also cites a recent appeal decision at Tibshelf Road<sup>3</sup>, but whilst I note some similar conclusions on the question of infill and character, I do not have full details of the scheme to understand if the circumstances are analogous. As such, I do not consider these developments directly comparable to the appeal scheme, which I have considered on its own merits.
15. For the reasons set out, I conclude that the proposal would not constitute infill development, would harm the prevailing openness of the site and would fail to preserve the character and appearance of the area. Therefore, it would conflict with the aforementioned requirements of Policies ST1, ST4 and EV2 of the ALPR concerning development in the countryside and so would not represent a suitable location for development. There would also be conflict with Policies NP1, NP2 and NP4 of the Teversal, Stanton Hill and Skegby Neighbourhood Plan (2017) (the NP) which require development to respect existing landscape character.

### *Accessibility*

16. The site is located beyond a defined settlement within the countryside, with the Council raising concern that future occupants would be heavily reliant on the private car for travel. The nearest settlement, Fackley, is some 1.3km away and has a very limited range of facilities. Whilst there is a footpath and street lighting along the route, it is a busy road with traffic moving at speed. It also involves a long incline coming from Fackley which would extend walking times. Such conditions and distances are not conducive to regular trips on foot, particularly for those less physically able or families with small children. Similarly, the incline and traffic levels would discourage cycling as a regular mode of transport.

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<sup>2</sup> Appeal Ref: APP/W3005/W/23/3327714, dismissed 23 February 2024

<sup>3</sup> Appeal Ref: APP/W2005/W/23/3331066, dismissed 23 April 2024

17. Beyond Fackley, residents would have to travel over 2km to the centres of Tibshelf or Huthwaite to access a wider range of services, distances even less feasible for those on foot or bicycle. A bus service does link these two settlements, but I note the comments of the Inspector in the 2022 appeal that the nearest bus stops to the appeal site along Wild Hill were not in use, and residents would have to walk to Wharf Lane bus stop, beyond the Chesterfield Road junction, to avail of a service. I agree that the distance, footpath conditions and traffic speeds would significantly reduce the attractiveness of bus travel as an alternative to trips by private car.
18. I acknowledge that the appeal site is not 'isolated' in terms of the Framework, and further that the Framework recognises that opportunities for sustainable modes of transport will vary between rural and urban areas and development in one village may support services in a village nearby. In reality, it is to be expected that those living in rural areas would more than likely own a vehicle. However, the Framework also has key objectives to reduce reliance on the private car and locate housing where it will enhance or maintain the vitality of rural communities and provide opportunities for villages to grow and thrive. In my view, the location of the proposal does not fulfil these objectives, but rather would exacerbate private car use due to its location well beyond a built-up area where facilities and services are concentrated and could more readily be supported by future residents.
19. For these reasons, I conclude that the proposal would not be suitably located to access local services and facilities, and would fail to promote sustainable modes of transport, contrary to Policies ST1 and EV2 of the ALPR and Policy NP1 of the NP, in terms of their collective aim to achieve sustainable patterns of development. There would also be conflict with the related aims of the Framework to direct development to the most sustainable locations, promote walking, cycling and public transport and reduce reliance on the private car.

#### *Highway Safety*

20. The Council's concern relates to the proposed access to the development. This would be formed where an existing field entrance exists, directly across the T-junction from Shepherd's Road. The road is subject to a 40mph speed limit past the site, and I saw traffic to be frequent in both directions.
21. Nottinghamshire County Council (NCC), as local highway authority, has identified that the 'crossroad' created by the new access would have a slight stagger and create the potential for 'hooking' manoeuvres between vehicles turning right into the site and those turning right onto Shepherd's Lane. Given the absence of right turning lanes on the road, waiting vehicles would force traffic to stop, posing a risk to the safe operation of the highway.
22. Although visibility in both directions is considered adequate for those leaving the site, the small size of the access means it would not have the same visual presence as Shepherd's Lane for drivers approaching along Wild Hill, which would increase the risk of conflict with vehicles emerging from the site. In this respect, I note anecdotal comments from nearby residents attesting to the difficulty in leaving their dwellings due to traffic speeds.

23. NCC also raises concern regarding waste collection at the site access potentially interfering with the operation of the junction. In this respect, the proposal would differ from dwellings further along the road which do not address a T-junction. I have no details to confirm that a refuse vehicle would be able to enter and leave the site in a forward gear. If otherwise served from the road, this would add to the risk of conflict for drivers and refuse collection operatives.
24. I accept that the volume of traffic generated by three dwellings would be low in absolute terms, and that it would not be at such a level as to have a harmful, cumulative impact on the capacity of the road network. However, for the reasons set out, I find that the location of the access would increase the risk of conflict between vehicles and prejudice the safe operation of the highway. My findings take into account that the access exists, but given the land is not indicated to be in any productive agricultural or other use, any access at present would be very occasional and not comparable to the regular vehicular movements that would be generated by three dwellings.
25. Therefore, I conclude that the proposal would pose an unacceptable risk to highway safety, in conflict with Policies ST1 and HG5 of the ALPR, which seek to ensure that proposals do not harm highway safety and that means of access for all are safe and convenient. There would also be conflict with the guidance of the Framework around promoting sustainable transport by ensuring, among other things, no unacceptable impacts on highway safety.

### **Other Matters**

26. The Council did not refuse permission in respect of other matters, including ecology, trees, effect on designated heritage assets, neighbours' living conditions or flood risk. On the evidence before me, I have no compelling reasons to conclude otherwise.
27. I have also had regard to matters raised in public comments beyond those encapsulated by the main issues, but have not identified any other material benefits or harms to be weighed in the overall planning balance.

### **Planning Balance and Conclusion**

28. The Council accepts that it presently can demonstrate just 2.93 years' worth of deliverable housing sites. Based on the emerging local plan having reached Regulation 19 stage, and in accordance with Paragraph 226 of the Framework, the Council indicates that it is required to demonstrate a four year supply. However, in the circumstances, the test at Paragraph 11(d)(ii) of the Framework is engaged whether a four or five year supply is required.
29. I note and concur with the analysis of the Inspector in the appeal at Tibshelf Road that the most important policies in this case – ST1, ST4, EV2, NP1, NP2 and NP4 – seek to protect the character of the countryside and remain broadly in accordance with the Framework's requirement that development contributes to and enhances the natural and local environment and recognises the intrinsic character and beauty of the countryside.
30. Policy EV2 is not wholly restrictive of development in the countryside but reflects the Framework in that it forms part of a spatial strategy which seeks

to ensure sustainable development in rural areas by locating housing where it would enhance or maintain the vitality of rural communities. I also agree that the NP, despite his age, remains broadly consistent with the Framework's aims of delivering sustainable development and high quality design. Consequently, I afford significant weight to these policies.

31. The proposal would provide three dwellings at a time of a substantial shortfall in housing supply. This would align with the key aim of the Framework of boosting the supply of housing nationally, an aim given further importance and impetus in the recent WMS. Whilst the scale of the development means the contribution would be small, it is a benefit weighing considerably in favour of the proposal in these circumstances.
32. There would also be economic benefits from trade and employment during construction of the development and subsequently from engagement by future residents in the local economy. However, in view of the scale of the proposal, these are benefits of limited weight.
33. The proposal indicates the potential for additional landscaping and ecological enhancements, though few details of these matters have been provided and the small site area limits the prospect of meaningful gains in these respects. As such, they attract modest weight in the scheme's favour.
34. Set against these benefits, I have found that the proposal would conflict with the development plan due to the locating of market housing within the open countryside and where residents would be reliant on the private car for most travel, in conflict with the spatial strategy of the development plan and the approach of the Framework to the location of development. The proposal would also cause harm to the character and appearance of the area and openness of the countryside, in conflict with the Framework's recognition of the intrinsic character and beauty of the countryside. The proposal further fails to demonstrate that safe access could be achieved, posing an unacceptable risk to highway safety, contrary to the aims of the Framework.
35. Overall, I find that the identified harms arising from the conflict with the spatial strategy, poor accessibility, adverse effects on character and appearance and highway safety represent adverse effects that, even in the context of the Council's housing supply shortfall, would significantly and demonstrably outweigh the identified benefits of the proposal when assessed against the policies in the Framework, taken as a whole. As a result the presumption in favour of sustainable development, as set out at Paragraph 11, does not apply.
36. In the overall planning balance, I conclude that material considerations, taken cumulatively, are not sufficient to outweigh the identified conflicts with the development plan. Therefore, the appeal should be dismissed.

*K. Savage*

INSPECTOR