



Appeal Decision

Site visit made on 20 November 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/R1038/W/24/3349826

Land to the North of 4 West Street, Stonebroom, Derbyshire DE55 6LP

- 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 Painter against the decision of North East Derbyshire District Council.
 - The application Ref 24/00093/FL, dated 1 February 2024, was refused by notice dated 16 May 2024.
 - The development proposed is change of use from allotment to residential and the construction of a single storey 3 bed bungalow.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development also included the Use Class designation, which is not relevant in this case as it, in itself, is not a form of development. I am satisfied neither party is prejudiced by this form of action.

Main Issue

3. The main issue in this appeal is whether the proposal is consistent with Local Plan policies.

Reasons

4. The appeal site is a parcel of land adjacent to No4 West Street, and is designated as part of a wider site in the North East Derbyshire Local Plan (2021) (the LP) as Allotments.
5. The appeal proposal seeks to change the use of that parcel of land and erect a three-bedroomed single storey property.
6. The Council have indicated they have no issue with the design of the development, and other matters could be dealt with by condition. The main issue for the Council is that the proposal is contrary to the Development Plan, namely LP policies SS7 and ID10.
7. The key thrust of LP policy SS7 states that development proposals within Settlement Development Limits that are not allocated sites will be permitted, subject to meeting criteria. The site is allocated as Allotments in the LP, so policy SS7 cannot be used to support the proposal as part of the appellants submission.

8. In this instance, I cannot agree with the interpretation of the appellant with regard to the designation in terms of the symbol on the Proposals Map not specifically covering the site area. This is a symbol that denotes a wider area and is commonplace across the whole Proposals Map. It does not exist for the purposes of perfect site coverage.
9. Policy ID10 of the LP refers to Allotments as one of four types of “facilities” that the Council will seek to protect and enhance and will not permit development proposals unless it meets criteria relevant to their provision. Criteria A relates to an assessment being undertaken that shows the “facility” to be surplus to requirements. This is the thrust of the appellants case; in that he considers the appeal site to be surplus to requirements.
10. I note that the Shirland and Higham Parish Neighbourhood Plan (the SHNP) has now been “made” since the application was submitted, and the comment of the Parish Council clerk that the land is not allotments. I can only attach negligible weight to this, as a Neighbourhood Plan has to have conformity with the Development Plan. As such the SHNP has to follow the Local Plan, which has the designation of Allotments to the site in question and the SHNP cannot change Local Plan policy.
11. There can be no reliance on the SHNP in respect of policy 2. The site is not an infill site, as the site is at the end of a row of properties, with no further properties on that row, therefore there is no “gap” to infill.
12. Also, the site is not public allotment, but a private site, which the appellant forwards as another point towards its inappropriateness as an allocated allotment site.
13. The Council, in turn, have produced evidence to demonstrate via a Recreation Survey and Research report from 2017, that there is a shortage in provision for allotment sites in the area. I have no evidence provided by the appellant to counter this argument. Although as stated above the site is not publicly available, in the absence of evidence one must assume that if the site was made available, it could well be taken over by a willing participant.
14. In summary, there is insufficient evidence to suggest that the appeal site is surplus to requirements, and as an alternative, a development use would be acceptable.
15. As a result, I find conflict with policy ID10 of the LP which seeks to protect and enhance allotments as part of the LP.

Conclusion

16. The proposal conflicts with the development plan and there are no other considerations that outweigh this conflict. For the reasons outlined above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR