



Appeal Decision

Site visit made on 13 November 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/M1005/W/24/3345622

Land To Rear Of Meadowbank, 2 Mill Lane , Belper DE56 1LG

- 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 F Flegg against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2020/0950.
 - The development proposed is a self-build family dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. This proposal seeks outline planning permission with all matters reserved.

Main Issues

3. The main issues with this case are
 - a) its effect on the character and appearance of the area, including whether the development would preserve the character or appearance of the Belper and Milford Conservation Area, and harm its significance,
 - b) whether it could have access that would not compromise highway safety and
 - c) its effect on ecology and biodiversity.

Reasons

Conservation area

4. The conservation area covers the village of Milford, the older parts of Belper, and the river valley in between. Its character and appearance are very much linked to how these settlements have grown up over time in an incremental way around the river and the valleys running down to it. The layout of buildings and their various styles reflect this organic growth, and its significance is therefore partly historic and partly architectural.
5. Included in the conservation area is a large pleasant area of open space and mature woodland to the south-east of Belper town centre and to the west of Mill Lane. I was told this is, in part, the remnants of a medieval deer park, but now it is, to a great extent, open to public access. It makes a positive contribution to the conservation area, as it provides a pleasing context to the settlements, and enhances the understanding of their historic evolution.

6. The proposed dwelling would be set within this area of woodland, in a portion privately owned by the appellant. It would be located at the end of a relatively long access, though the red line on the submitted plans gives the house very little curtilage beyond its actual footprint.
7. Being so deep into the woodland, away from the Mill Lane properties, the proposal would not reflect the general pattern of housing commonly found throughout the conservation area. Furthermore, I consider that building a dwelling here, with its associated domestic activity, would inevitably lead to an adverse change in the character of this tranquil and seemingly undeveloped site and its surroundings, so undermining the pleasing and remote nature of this woodland, and diminishing an appreciation of its history. Although I noted the varied topography, given the nature of the tree cover around and the nearby public access, I am not satisfied that the proposal would be totally concealed. In any event, I consider the conservation area should not be protected just from public viewpoints. Therefore, the proposal would fail to preserve the character and appearance of the area in general and of the conservation area in particular, and so cause harm to the significance of that asset.
8. The Council said that the land levels meant earthworks may well be required to form a platform on which to construct the house, and this would inevitably result in a greater impact. The need for such action has not been confirmed by the appellant and so my reasoning is on the premise that no platform is necessary. Similarly, although the above findings are based on the view that no trees are to be felled, given the proximity of tall trees around I cannot be certain that it would be reasonable to ensure they all remained, as that could result in an unduly dark and oppressive environment. If such felling occurred this would inevitably increase the development's adverse impacts still further.
9. I was told there was the footprint of a building near the site, probably in connection with a reservoir beneath, but it was not readily apparent on my visit. If that footprint is still there and has not blended into the landscape, its removal does not form part of this scheme and so does not weigh in its favour. Moreover if the appeal site is in its curtilage, it should not be assumed the presence of this building means the whole of the curtilage, or even a substantial part of it, should be developed. As such, the presence or otherwise of that earlier building does not lead me to a different view.
10. The eastern half of the proposed access is in the Derwent Valley Mills World Heritage Site (the WHS). This area encompasses an industrial landscape of high historical and technological interest that is focussed on 18th and 19th Century cotton mills and associated buildings, and so its significance is partly architectural and partly historical. No works are proposed to the access that would have a material effect on the WHS, while I consider the new house would not harm the setting of that asset.
11. Accordingly, I conclude that the proposal would not preserve the character or appearance of the area in general or the conservation area in particular, causing harm, albeit less than substantial, to the significance of that designated heritage asset.

Highway safety

12. Although access is a reserved matter, as I am assessing the principle of the development, it is necessary to consider whether there is a reasonable prospect of a suitable access being achieved.
13. Vehicular access would be taken from an existing narrow drive off Mill Lane that currently serves a small parking area to 4 flats in No 2. Indeed, this is the only point from where access to the site of the proposed house could be reasonably gained.
14. Visibility when emerging from this access is currently poor due to the narrow pavement, the walling/planting to either side, and the geometry of the road. Moreover, turning into the access is also difficult because of its limited width and the inability to see whether vehicles are, at that time, emerging. As a result, its arrangement is not one I would consider to be safe or satisfactory. Consequently, to increase its use with traffic associated with the proposal would, in my opinion, exacerbate the failings of the access and so compromise highway safety further.
15. The appellant has submitted a plan indicating a pedestrian splay would be formed to the north of the access, over land owned by the neighbouring resident. This splay would also allow some improved visibility northwards along the road. It is contended that this improvement to the visibility would offset any additional harm resulting from increased usage of the access. However, whilst this would be a benefit, to my mind there is a greater danger resulting from poor intervisibility between emerging drivers and those approaching along Mill Lane, even if traffic was travelling at an appreciably lower speed than 30mph. As a result, this extra splay would not be sufficient, of itself, to offset the highway danger from increased usage of the access.
16. Whilst there might not have been any injury accidents at this junction, that to my mind does not mean it is safe or that its use can be further intensified. It was also said that the proximity to the town, and the appellant's concerns about sustainability, meant there would be only a limited number of vehicle movements associated with the new house. However, this cannot be controlled or ensured.
17. Furthermore, if the intended parking for cars associated with the scheme is to be on the existing parking area for the flats at No 2, it is possible that, with increased usage, the ability for vehicles to enter and leave in forward gear is diminished. As a result, although not an attractive proposition for drivers, they may have no alternative but to reverse out of the access, exacerbating highway safety still further. The appellant has said he would increase the parking area and delineate it in a clearer manner, but I have nothing to show that the parking area is to be made bigger, and in any event it lies outside of the application site. This matter cannot therefore be afforded any appreciable weight in my decision-making. Whilst the appellant has offered to resurface the access I consider this does not have a material effect on its safety.
18. Accordingly, I conclude that the development would detract unacceptably from highway safety, in conflict with Policy TP1 in the *Amber Valley Borough Local Plan* which seeks to protect highway safety.

Ecology and biodiversity

19. Not only is the site in a mature wood, but it is also close to, though outside of, the Belper Parks Local Nature Reserve, which wraps round its north, south and west sides. Given this context, the potential presence of protected species is a material consideration when assessing a proposal that would be likely to result in harm to any that may be present or their habitats. It is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted. Similarly, the ecological baseline needs to be confirmed to appreciate if the impact on biodiversity is minimised. To my mind the submitted information is not sufficient to establish these matters.
20. Accordingly, I conclude it has not been shown the scheme would not adversely affect ecology and biodiversity, and so it has not been shown it would not conflict with Policy NPP2 in the *Neighbourhood Plan For Belper Civil Parish*, or the *National Planning Policy Framework* (the Framework) which require proposals to protect and enhance the natural environment and minimise effects on biodiversity.

Planning balance

21. Accordingly I have found harm to the area, to the conservation area and to highway safety, while I conclude it has not been shown harm would not be caused to ecology.
22. The Framework says heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset requiring clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any asset, that harm should be weighed against the public benefits in what I shall call the heritage balance. A second balance is found in section 38(6) of the *Planning and Compulsory Purchase Act 2004*, which says development should be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
23. To weigh in favour of the scheme the appellant has stated the development would be an extra house that would be a self-build unit and an exemplar of sustainable construction. I have not been told there is a shortfall in the housing land supply in the borough, though this one extra property would be in line with the Government's aim to boost the supply of housing and would be in the Built Framework of Belper. I therefore afford this great weight although I recognise that one dwelling offers only a limited benefit. However, there is no mechanism before me to ensure the property would be developed in a manner that accorded with the definitions of self-build housing, and there is no means of assessing the level and nature of any sustainability intentions. As such, only limited weight can be given to these matters. I recognise too that there would be some economic benefits flowing from the proposal, both during the construction phase and as a consequence of future residents' spending, to which I afford moderate weight.
24. In regard to the heritage balance, whilst I accept all these matters could be public benefits, I conclude that, even if taken together, they do not outweigh the great weight I should afford the conservation of designated heritage assets and the less than substantial harm I have identified to the conservation area.

As such, the proposal would be contrary in this regard to Policies EN7, EN8 and EN27 in the Local Plan, Neighbourhood Plan Policy NPP11 and the Framework, which all seek to safeguard the significance of conservation areas, historic landscape features, and woodland.

25. Turning to the planning balance, again the weight I attach to these material considerations is not sufficient to justify a decision otherwise than in accordance with the development plan conflict I have identified.

Conclusion

26. I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR