



Appeal Decision

Site visit made on 28 February 2025

by **S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/R1038/W/24/3352509

The Old Smithy, Quarry Lane, Woolley Moor, Alfreton, DE55 6FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Adrian Bailey against the decision of North East Derbyshire District Council.
 - The application reference is 24/00282/FL
 - The proposal is the reconstruction of a former blacksmith's workshop to create a dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters and Planning History

2. The appeal is made in part retrospectively for development already constructed. However, the plans that accompany the planning application differ from what has been constructed on the land in terms of the internal configuration and window openings. For the avoidance of doubt, I have determined this appeal based upon the submitted plans and not based upon what exists on the site now.
3. The National Planning Policy Framework was revised in December 2024 and amended on 7 February 2025 to correct cross references from footnotes 7 and 8, and to amend the end of the first sentence of paragraph 155 to make its intent clear. The 2025 Framework (the Framework) has not materially changed in terms of the identified main issues below and, therefore, it has not been necessary for me to seek comments from the main parties in respect of the changes.
4. Planning permission was approved in 2015 for the conversion of the building on the land to a dwellinghouse¹. While thereafter the former building on the land partly collapsed, it is not entirely clear whether other parts of the building were demolished. However, there is no dispute that the former building that existed on the land has now gone.
5. However, the 2015 planning permission included pre-commencement conditions (conditions precedent), and there is no record of these conditions being discharged by the Council. This casts doubt upon whether the approved development could have been implemented. In any event, the planning permission expired on 31 May

¹ Planning permission 15/01299/FL

2019. Therefore, on the evidence that is before me, I do not find that the 2015 planning permission is extant. It is no longer capable of being implemented because it has expired and because the original building has gone and so cannot be converted.

6. A planning application was submitted to the Council in September 2022² to regularise the erection of a new build dwellinghouse on the land. At the subsequent appeal in relation to its refusal by the Council, the Inspector, when dismissing the appeal in November 2023, commented that *'the proposed replacement building was under construction, with substantial parts of the blockwork completed and stone facing partially carried out'*³. The Inspector concluded that the proposal would not accord with the spatial strategy for the area, i.e., policy SS9 of the adopted 2021 North East Derbyshire Local Plan 2014-2034 (LP), and that it would also cause harm to the landscape character of the area. The Inspector's appeal decision is a material consideration to which I afford significant weight as part of the determination of this appeal.
7. The appeal that is before me now is essentially for a similar dwellinghouse as that considered on appeal in November 2023, albeit with alterations made to window openings.

Main Issues

8. The main issues are (i) whether the proposal accords with the spatial development strategy for the area, and (ii) the effect of the development upon the character and appearance of the area including whether it constitutes good design.

Reasons

Compliance with the spatial development strategy for the area

9. The appeal site falls within the countryside and outside a Settlement Development Limit. I have considered the appeal proposal against policy SS9 of the LP. The appellant asserts that the site has been used for storage. In this context, I have considered whether it could be said that the site comprises previously developed land.
10. The evidence is that the land was originally part of Grove Farm and was subsequently subsumed into neighbouring farmland overseen by the Ogston Estate. It is not disputed that a photograph in 2003 shows hay bales stacked adjacent to the building and the photograph in 2011, in the appellant's heritage statement, shows what may have been a barn in an agricultural field. It is possible that storage use of the former building on the land may have been agricultural storage. At the time of the 2015 planning application, the building was described as an *'agricultural barn'*.
11. Moreover, the former building on the land has now gone and has been replaced with a partly constructed new building which has not been used. The Framework defines previously developed land in annex 2 as *'land which has been lawfully*

² Planning application 22/00944/FL

³ Appeal Reference APP/R1038/W/23/3318160

developed'. I consider that the building on the land has been recently constructed (i.e., new build development) and is not lawful. The onus is on the appellant to demonstrate that the appeal site comprises previously developed land. For the reasons outlined above, I do not find that the land is previously developed. In this regard, the proposed new build dwellinghouse does not meet the development type as permitted under 1(f) of policy SS9 of the LP.

12. I have considered the other development types that are permitted in the countryside under policy SS9 of the LP. The proposal is not for a *'replacement building for the same use'*. A different use is proposed, and the former building collapsed and/or was partly demolished. Any associated use of the building was at least lost at this time. Moreover, the proposal is for a significantly larger building than existed previously, being about 3.8 metres larger in its linear dimension, deeper and higher, and of a different footprint. Furthermore, it does not involve the re-use of a building: the former building no longer exists.
13. In addition to the above, I have considered the location of the site relative to its proximity to a settlement. I accept that the site is close to other dispersed buildings including a dwellinghouse opposite. Nonetheless, the site is far away and remote from a settlement and hence I find conflict with paragraph 84 of the Framework. This states that decisions should avoid the development of isolated homes in the countryside.
14. I do not find that the development meets any of the circumstances or exceptions listed in paragraph 84 (a) to (e) of the Framework. Indeed, the development is not for an essential need for a rural worker and even if the former building had been considered to be a non-designated heritage asset (although the evidence does not support any such view), that building has now gone and been replaced with unauthorised new build development. The proposal does not involve the re-use of a redundant building for the same reason. Moreover, it does not involve the subdivision of an existing residential building, and the design is not of exceptional quality. The proposal does not meet any of the permitted types of development within the countryside as outlined in 1(a) to (i) of policy SS9 of the LP.
15. For the above reasons, I conclude that the proposal would not constitute sustainably located development in this countryside location. Consequently, it would not accord with the sustainable development, or the re-use/conversion of building requirements, in policies SS1, SS2, SS9 and SDC1 of the LP and the Framework.

Character and appearance

16. The appeal site falls within the Wooded Slopes and Valleys landscape character type of the Derbyshire Peak Fringe and Lower Derwent landscape character area. The key characteristics of this area include undulating land with steep slopes, vast pastures and scattered woodlands. The site sits at the brow of a hill and next to open fields. A public footpath runs alongside the northern boundary of the site. While there is a contemporary dwellinghouse opposite the site, the area is nonetheless otherwise experienced as being essentially open and rural in character.

17. In considering the previous proposal for a dwellinghouse on the site, the Inspector found such development to be unacceptable given its extended linear footprint, increased height, different position on the land, and additional window openings.
18. While this appeal proposal has addressed former concerns about the shape and size of window openings, it nonetheless has not addressed concerns raised about the relative linear footprint, increased height, and the position of the building on the land. I note the concern raised by the LPA in respect of the use of the stonework on the building now which does not appear to be reflective of the coursing and finish of the stonework on the former building on the land. However, I find that the type, pointing and coursing of the stonework used in the building could be addressed by means of the imposition of a condition and notwithstanding what exists on the land now.
19. In considering the previous planning appeal, the Inspector commented that *'the small footprint and differentiation between the two sections of the former building assisted in giving it a quaint, unassuming appearance'*. Like the previous Inspector, I find that the current proposal unacceptably dilutes these positive and distinctive features (e.g., the proposed building has no break in the roof on the rear elevation between the two sections) and hence would be of a poor-quality design which fails to respond positively to its rural landscape character context. It would be readily apparent when viewed from the adjacent footpath and on the brow of a hill.
20. I acknowledge that the appellant has sought to address the concern about the lack of a break in the rear roof slope by submitting amended plans as part of this appeal. It is not a function of the appeal process to evolve proposals in this way. Such a proposal has not been the subject of public consultation, and I find that injustice would be caused if I were to accept such plans for the purpose of my assessment and decision. Even if I were able to accept and consider these plans, it would not fully address all my concerns in terms of this main issue and would not alter or overcome my conclusion in respect of conflict with policy SS9 of the LP.
21. For the above reasons, I conclude that the proposal would cause some harm to the character and appearance of the area, and that the development would not constitute good design. Therefore, it would not accord with the design, character and appearance requirements of policy SDC12 of the LP, policy CH1 of the 2019 Brackenfield Neighbourhood Plan 2017-2034, and chapter 12 of the Framework.

Other Considerations

22. The appellant has referred me to other decisions where the Council has granted planning permission for re-building works. These examples are not directly analogous to the circumstances that relate to this appeal. One relates to what was previously developed land, and the other relates to a situation where a material operation was carried out upon an earlier permission and where part of the building was still in situ. I have, in any event, determined this appeal on its individual planning merits including comments made in respect of the previous appeal decision, which is a material planning consideration of significant weight.
23. I recognise that the partial collapse of the building was an unfortunate event. However, I am not certain why the LPA was not immediately contacted at this stage

given the requirements and stipulations imposed in respect of the 2015 planning permission.

24. The appellant states that, prior to beginning construction on the site, Assent Building Control inspected the site and found that the structural shell that was present at the time was dangerous. It was incumbent upon the appellant to have contacted the LPA at this time to discuss options in terms of possible re-building works. Moreover, no planning permission was in place at this time for the provision of a new build dwellinghouse on the land. Hence, the construction of a new building on the land should not have commenced without first obtaining planning permission from the LPA.
25. I do not doubt that the appellant has invested money in terms of the erection of the building that currently exists on the land. However, this must be weighed against the identified conflict with the spatial development strategy for the area and the harm caused to its character and appearance.
26. The appellant claims that not allowing the building to be re-instated would result in the loss of tangible links to the history of the area. However, there is no longer a building to re-instate on the land. It no longer exists and has been replaced by unauthorised development. Furthermore, the proposal is not to re-instate the development that was in situ originally. It is for a materially different and larger form of development, and for a different use.
27. The development would boost the supply of homes in the area and occupation of the dwellinghouse would no doubt offer some economic support for existing facilities and services in the surrounding area. Moreover, completion of the development would be likely to offer some construction employment benefits, although this would be short-lived.
28. As this proposal involves only one dwellinghouse, I afford these social and economic benefits only limited positive weight in the planning balance. The appellant asserts that the Council may not be able to demonstrate a five-year supply of deliverable housing sites given that local housing need numbers have increased from 224 to 591 residential units per annum. The claim about not being able to demonstrate a five-year supply of deliverable housing sites has not been substantiated by the appellant. However, even if a five-year supply could not be demonstrated, I find that the supply contribution from only one dwellinghouse would not be very significant.
29. The appellant refers to an alleged precedent for allowing a building to be re-built elsewhere and refers to an appeal decision in Cornwall. I am not bound by the appeal decision, and have considered the subject appeal on its individual planning merits. This includes a consideration of development plan policies that are relevant to the subject area, and the specific circumstances relating to the appeal.
30. The appellant asserts that the 2015 planning permission established the principle of residential development on the site. A new development plan is in place for the area, and this post-dates the 2015 planning permission. Furthermore, the current appeal proposal is not for a conversion, but rather it is for a new build dwellinghouse. In addition, the proposed dwellinghouse is not the same design, size or position as the former building that was on the land.

Planning Balance and Conclusion

31. I conclude that the proposal does not accord with the spatial development strategy for the area. It would not deliver sustainable development in this regard. This in itself justifies the dismissal of the appeal. Furthermore, material harm would be caused to the character and appearance of the area, and the proposal would not amount to good design. The other material considerations, including the personal circumstances of the occupiers of the site, are not of sufficient weight to outweigh the above harm and conflict with the development plan for the area.
32. I acknowledge that the applicant and his wife are living in a caravan on the site. As there is no lawful planning permission on the site for the formation of a new dwellinghouse, I have therefore assumed that any associated use of the land for the siting of a residential caravan is also unlawful. I have considered the implications of my decision in terms of the possibility of planning enforcement action being taken by the Council in respect of both the subject building, and the use of the land for the siting of a residential caravan. In this regard, there is potential for the appellant and his wife to be made homeless. Therefore, I have considered the Article 8 rights of occupiers of the site in terms of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. In this regard, I find that my decision to refuse planning permission is proportionate, legitimate and necessary in the public interest.
33. It is claimed by the appellant that the LPA may not be able to demonstrate a five-year supply of deliverable housing sites. Other than an increase in required housing numbers per annum, this has not been reasonably substantiated by the appellant. Even if I were to conclude that there is a shortfall in a five-year housing supply, as argued by the appellant, and on a worst-case supply extent basis, I conclude that the adverse impacts of granting planning permission for the proposed development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.
34. I conclude that there are no material planning considerations that indicate the application should be determined other than in accordance with the development plan for the area and national planning policy. For the above reasons, I therefore conclude that the appeal should be dismissed.

S. Hartley

INSPECTOR