



Appeal Decision

Hearing held on 25 March 2025

Site visit made on 25 March 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2025

Appeal Ref: APP/R1038/W/24/3356078

Land at Hollybush Farm, 14 Main Road, Morton DE55 6GS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Brian Cooper against North East Derbyshire District Council.
 - The application Ref is 23/00262/OL.
 - The development proposed is residential development of up to 4 dwellings with access off Main Road (landscaping reserved).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Brian Cooper against North East Derbyshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development above is taken from the appeal form, omitting wording that is not an act of development, as the proposal has changed from that stated on the application form. This was agreed with the Council. The application was made in outline, with landscaping reserved for future consideration. While I have had regard to the indicative landscaping shown on the submitted plans, as this is a reserved matter to be determined at a later date, I have treated the plans for illustrative purposes only in relation to landscaping.

Main Issues

4. Following the submission of the appeal against non-determination, the Council has confirmed that it would have recommended refusal if it had had the opportunity to make a decision. From the evidence before me, together with observations from my site visit I consider the main issues to be:
 - the effect of the proposal on the character and appearance of the area, bearing in mind it would be in the Morton Conservation Area (MCA) and nearby to two grade II listed buildings and a Non-Designated Heritage Asset (NDHA); and
 - whether the appeal site is a suitable location for housing, having regard to the Council's spatial strategy.

Reasons

Character and appearance

5. The appeal site is located to the rear of the dwelling at 14 Main Road, known as Hollybush Farm and is accessed from a track at the north of the site at the junction with Main Road. It has largely open qualities and accommodates a turning head, stable buildings, horse exercise area and other outbuildings. To the east of the site is Hollybush Farm, the garden of No 16 and open fields. To the west is an open playing field and the dwelling and garden at No 10 and to the south are open fields. The southern part of the appeal site and surrounding landscape falls within the Coalfield Village Farmlands landscape character type¹; a broad, gently undulating landscape where villages retain a distinct character with their historic cores constructed of local sandstone.
6. Part of the site falls within the MCA itself, the remainder of the site is within its setting, and there are two Grade II listed buildings nearby. Mindful of the statutory duty set out in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have had special regard to the desirability of preserving or enhancing the character or appearance of the conservation area, and of preserving the listed buildings or their settings or any features of special architectural or historic interest which they possess.
7. The special interest and significance of the MCA, insofar as is relevant to this case, is primarily derived from the historic linear pattern of development and its relationship with the surrounding countryside which reflects the agricultural origins of the village. The cluster of historic buildings in the core of the village contribute to the agricultural and rural character of the MCA and architectural interest is evident in the harmonious materials palette, including local stone.
8. As a parcel of land that is part of the farmstead of Hollybush Farm that has historically remained open and includes ancient enclosure, the appeal site displays some of the characteristic qualities of the MCA. While the built form at the site has negligible architectural merit, its single storey height and unassuming form and design means that it does not perceptibly compete with, or detract from, the MCA. Nonetheless, the poor condition of the buildings at the site, combined with the general unkempt appearance, mean that, at present, the appeal site makes a neutral contribution to the MCA.
9. The site is proximate to the Grade II listed building known as the Morton Miners Welfare (MMW). Its special interest and significance stems from its historic and architectural interest as a large dwelling in a rural settlement comprising sandstone dressings, slate roofs and angled stones at the edge of the roof. However pertinent to this appeal, it is also derived, to a greater or lesser extent, from its largely open and rural setting to the rear. Its setting comprises the streetscape within which it is located and the open land to the rear, including the appeal site which for the same reasons as above, makes a neutral contribution to the listed building.
10. The Grade II listed Morton War Memorial (MWM) is also nearby, which has special interest and significance derived from its historic interest as evidence of a public commemoration of the impact of world events on the local community. Its setting

¹ Within the Nottinghamshire, Derbyshire and Yorkshire Coalfield Character Area, as identified in The Derbyshire Landscape Character Area Assessment

includes the streetscapes of Main Road and Church Lane and includes the appeal site's access which makes a neutral contribution to the memorial.

11. In addition, it is not disputed that Hollybush Farm is a NDHA. It is shown on the 1843 Tithe Map and there is no substantive evidence that it is not an NDHA. It holds a close relationship with the agricultural function of the village, derived from its role as a historic farmstead comprising the farmhouse and the open land to the rear, which includes the appeal site. Despite some unsympathetic alterations, the historic farmhouse remains legible which has architectural value through the use of vernacular materials including sandstone and detailing which contributes to the distinctiveness of the MCA. The appeal site falls within the setting of the NDHA and contributes positively to its significance because of its rural character and historic association with the former farm.
12. Given the property's status as a NDHA, in accordance with the National Planning Policy Framework (the Framework), a balanced judgement should be undertaken having regard to the scale of any harm or loss and the significance of the heritage asset. This approach is reflected in Policy SDC9 of the North East Derbyshire Local Plan 2014 – 2034 (2021) (NEDLP).
13. The introduction of four dwellings at the appeal site would inevitably change its character and appearance. The scheme has been reduced in scale since the application was first submitted and takes inspiration from the appearance of traditional farm buildings in Morton, including Yew Tree Farm. I have carefully considered the appellant's attempts to replicate the appearance of a converted farmstead, avoiding domestic features such as chimneys and using a palette of materials to match the appearance of the MCA. However, while these design features would help to assimilate the development into the surroundings, the increase in quantum of built form would have an urbanising effect.
14. The height, bulk and shape of the proposed dwellings, alongside the arrangement of the buildings and their relationship to each other and the surrounding landscape would alter the site's largely agrarian character by harmfully encroaching into the countryside. Mr Job indicated at the hearing that the removal of the existing hard edge of the stable block and its replacement with landscaping and gardens would soften the transition from the appeal site to the open countryside beyond. However, despite the backdrop of the properties that front Main Road, the introduction of domestic paraphernalia in the proposed gardens at the west and south boundaries of the site would exacerbate the urbanising effect of the scheme by bringing development conspicuously into view.
15. While there would not be any long-range views of the site, there would be a visual connection between the proposal and the adjacent dwellings and gardens, including Hollybush Farm, and between the proposal and the MMW. Despite the reduction in footprint, set in from the boundaries and design of the scheme to step down towards the south-east of the site with a bungalow in Plot 4, overall, the volume of the proposed built form would be a discordant feature. Even though the removal of the existing development would improve the appearance of the appeal site, in its place the proposed development would harmfully erode the rural character at the edge of the village.
16. The proposal's adverse effects would be manifest in views from the public footpath and playing field to the west and south-west, which I observed to be used by dog

walkers, and from which the MMW and the proposal would be seen together. Even though views of the proposal from here would be filtered by existing vegetation when in leaf, the harmful increase in built form at the appeal site including the introduction of two storey development would be discernible above sections of the vegetation. Because of the proposed volume and massing, particularly nearest to the MMW, this is not a matter that could be overcome through a landscaping scheme at the reserved matters stage.

17. Given my above findings, the proposed dwellings would appear out of place, detracting from the historic environment. Consequently, taking account of the location, extent and nature of the proposal in relation to the MMW, the setting of this listed building would not be preserved and the contribution it makes to the asset's significance would be harmed. The proposal would also diminish the significance of the NDHA and cause some limited, localised harm to the character and appearance of the MCA.
18. In coming to this conclusion, I have taken into account that the MCA and MMW are identified as heritage assets at risk on Historic England's register as sites that are most at risk of being lost as a result of neglect, decay or inappropriate development. The Coalfield Village Farmlands landscape type is also identified as an area where recent housing built on the urban fringes of villages is beginning to dilute their distinctive character. Despite its overgrown appearance I did not observe a discernible difference between the general landscape character of the vacant green field part of the appeal site and the open fields beyond. Consequently, the proposed development would contribute to a small, but nevertheless, detrimental erosion of the countryside on the urban fringe of Morton.
19. The proposal's effect on Main Road would be limited to the site's access and bin collection point. Having regard to the width of the proposed access and its splayed design, it would harmfully alter the modest appearance of the existing access, in combination with the lowering of the wall, removal and reangling of a section of wall and use of bituminous material or similar. The bin collection point would accommodate 12 bins on land that has historically been open in front of Hollybush Farm. The retention of the hedgerow on the west side of the access and additional soft landscaping would not mitigate the effects of the engineered access, and the bin collection point would only be partially screened by the boundary wall. As such, their visual incongruity would be readily apparent given the sites prominent position on the main thoroughfare at the centre of the village.
20. The proposed works would be out of keeping with the rural character of the MCA and would be noticeable as such on approach in either direction on Main Road. In doing so the proposal would also cause some modest harm to the setting of the MMW and would detract from the setting of the NDHA. The access design is required to meet the necessary visibility splays for safety and there is said to be no other appropriate location for the bin collection point. These elements of the proposal would, nonetheless, be harmful to the prevailing character and appearance of the area and the historic environment.
21. I have had regard to the fallback position advanced by the appellant comprising the exercise of permitted development rights to relay the existing access with a different surface and the removal of the front boundary wall. Mr Job explained at the hearing that the appellant may wish to carry out such development to attract a future developer or to improve the safety of the existing access. As such, it seems

reasonable that if the appeal is dismissed there is a real prospect of the fallback position being pursued. However, no further details of such a proposal are before me and without such information a full and detailed comparison with the appeal scheme cannot be made. Therefore, I find the suggested fallback position to have limited weight in the determination of the appeal.

22. Overall, the proposal would not preserve or enhance the character or appearance of the MCA and would harm its significance as a whole. The proposal would not preserve the settings of the MMW or MWM. On this basis, it would cause harm to the significance of these listed buildings. The proposal would therefore not meet the requirements of the Act or the provisions in the Framework regarding the conservation and enhancement of the historic environment. Bearing in mind the scale and nature of the proposal relative to the designated heritage assets, the degree of harm would be less than substantial. In these circumstances, the Framework states that the harm should be weighed against the public benefits. I will return to this matter later.
23. To conclude on this main issue, the proposal would harm the character and appearance of the area, failing to preserve the MCA and the settings of the MMW, MWM and the NDHA, harming their significance. It would conflict with NEDLP Policies SDC5, SDC6 and SDC9. These policies, amongst other things, require that development preserves or enhances the character or appearance of a conservation area and its setting, and preserves the significance of a listed building and its setting. Development affecting a NDHA is required to positively sustain or enhance its significance, features, character and setting.

Location

24. NEDLP Policy SS2 defines the countryside as land outside of a settlement development limit (SDL) and is not allocated for development. At the hearing it was agreed that 37.7% of the appeal site is located within the Morton SDL which would accommodate the site access, garage block and part of Plot 4. It is also agreed that most of the site is adjacent to but beyond the SDL and is therefore located in the countryside.
25. The aim of NEDLP Policy SS9 is to strictly control new buildings in the countryside, subject to several categories. It is agreed that 47.4% of the site is previously developed land (PDL) and so of relevance to this appeal is the category at criterion f of Policy SS9, under which, proposals involving the reuse of PDL are required to demonstrate that it would not have a greater impact on the character of the countryside than the existing development. Proposals also required to respect the form, scale and character of the landscape.
26. Despite being within and adjacent to Morton, a settlement identified in the NEDLP to have a good level of sustainability, in light of my assessment under the first main issue in relation to the harmful effect on the character and appearance of the area arising from the increase in built form, the proposal would have a greater impact on the character of the countryside than the existing development at the site does. It would also not be sympathetic to the distinctive landscape area as identified in the Derbyshire Landscape Character Assessment, as required by NEDLP Policy SDC3.
27. While the appellant contends that settlement boundaries are a starting point and a more flexible approach should be taken when applying NEDLP Policy SS9, the

contexts and circumstances of the appeal decisions² that my attention has been drawn to are different to the scheme before me. In the Calow decision, as an affordable housing scheme, the determinative policy was NEDLP Policy LC3 which has different requirements to Policy SS9 and is not applicable to this appeal scheme. The Newhall decision was made under a previous development plan and that appeal site was at the edge of an urban area rather than a linear historic village. Finally, the Woodthorpe decision was in a different local authority area with a different policy context, moreover the Inspector in that case did find some harm in relation to the site's countryside location and permission was granted after applying the Framework's presumption in favour of sustainable development.

28. The other examples are not directly comparable, and do not therefore lead me away from my above findings. In any event, I have come to my own view on the effect of the proposal on the character of the countryside compared to the existing development. As such, I conclude that the appeal site is not a suitable location for housing, having regard to the Council's spatial strategy. The proposal would therefore be in conflict with NEDLP Policies SS9 and SDC3.

Other Matters

29. The appellant has expressed frustrations with the Council's handling of the case, including taking the scheme to a design surgery when comments had been provided by the conservation officer. However, this has not affected my consideration of the scheme's planning merits and my findings on the main issues.

Heritage Balance

30. The harm to the significance of the MCA and the settings of the MMW and MWM listed buildings would be less than substantial harm. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification. Nevertheless, the Framework also requires such harm to be weighed against any public benefits.
31. It is common ground that the latest published 5-year housing land supply position running until 31 March 2025 is 5.55 years or 1,922 dwellings, based on the NEDLP housing requirement. As set out in the housing trajectory within the latest Authority Monitoring Report (2024), based on the evidence at that time, and assuming no new sites come forward, the future supply was projected to fall below five years on 1 April 2025 to 4.81 years or 1,667 dwellings. The Council are currently re-calculating the housing land supply position, however information was submitted at the hearing in relation to windfall permissions granted since 1 April 2024. Based on this information, both parties agree that the housing land position is close to the minimum level required. It is the Council's view that taking account of windfalls the housing land supply is better than shown in the housing trajectory and is at least 5 years. Following discussion at the hearing, the appellant's position is that in applying caution, there may be about a 5-year supply of housing.
32. The exact housing land supply position is unknown until the Council have completed their updated monitoring report. At best the Council has a 5.55-year supply, and this is the only published figure. However, the figure is likely to be lower, at or around 5 years. Within this context, the proposal would deliver four

² Appeal refs: APP/R1038/W/23/3322479, APP/F1040/W/23/3323098 and APP/X2410/W/23/3327868, provided by the Appellant.

homes on a partially PDL windfall site. In doing so it would contribute to the supply and mix of housing in a location that has a good level of sustainability.

33. The requirement to demonstrate a deliverable 5-year supply of housing is a minimum not a maximum, and there is considerable support for boosting the supply of homes and the use of PDL. Given the scale of the proposal, I consider there would be a limited benefit from the proposal of adding to the supply and mix of housing in the area. I therefore give the above social benefits limited positive weight. There are also likely to be modest, time-limited economic benefits from the construction stage and some limited economic benefits arising from expenditure by future occupiers. Although there is limited guarantee of the extent to which this would be directed to local businesses or services or contribute to sustaining the village of Morton.
34. Taking the above into consideration, overall, even cumulatively, the sum of the public benefits of the proposal would not outweigh the harm to the significance of the designated heritage assets that I have identified, and the considerable importance and weight, in each instance, this carries.

Planning Balance

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found the proposal to be harmful to the character and appearance of the area, failing to preserve the MCA, and harming the setting of nearby listed buildings and a NDHA, it would also not be in a suitable location. I give the development plan conflict on these matters significant weight. I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.
36. The social and economic benefits outlined in the heritage balance each carry limited weight. The proposal would not be harmful to highway safety, biodiversity or existing and future occupiers' living conditions. However, these matters, and any other policy compliance including surface water and foul drainage, are neutral factors which weigh neither for nor against the proposal.
37. The housing land supply evidence does not indicate that it is correct to apply the presumption in favour of sustainable development set out in Framework paragraph 11 d) ii. Even if I were to find that there was a lack of a 5-year housing supply, part i. of paragraph 11d) and footnote 7 confirm that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including designated heritage assets, provide a strong reason for refusing the development. As a consequence of my heritage balance conclusion, this provides a strong reason for dismissing the appeal and the proposal would not benefit from the presumption in favour of sustainable development in this instance.
38. The proposal would result in benefits, but it would also cause harm. Weighing the two up is a matter of planning judgement. In this case, the benefits of the proposal are insufficient to outweigh the identified conflict with development plan policies.

Conclusion

39. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Alexander Job MPlan	Planning Consultant, Senior Planner (Heatons)
Mrs Louise Thorne BA (Hons) BTP MRTPI	Planning Consultant, Planning Director (Heatons)
Mr Brian Cooper	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Susan Wraith	Planning Consultant, 4 Planning Delivery Ltd
Mr Adrian Kirkham	Planning Manager (Development Management), North East Derbyshire Council
Mrs Helen Fairfax	Planning Manager (Planning Policy), North East Derbyshire Council

DOCUMENTS SUBMITTED AT THE HEARING

1. – Copy of windfall data and 5-year housing land supply calculation, provided by the Local Planning Authority