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## Appeal Decision

Site visit made on 24 April 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

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**Appeal Ref: APP/R1010/W/25/3359979**

**Birchwood House, Birchwood Lane, South Normanton, Derbyshire DE55 3DE**

- 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 B A Architecture Ltd against the decision of Bolsover District Council.
  - The application reference is 24/00331/OUT.
  - The development proposed is a dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the site would be suitably located with regard to its accessibility; and its impact on the character and appearance of the area.

### Reasons

3. The proposal is in outline, with all matters reserved, for a self-build/custom build dwelling. Although the plan shows a position for a dwelling, this does not include a defined garden. The red line includes a large area with a house and separate detached garage relatively central to it. At present the area to the front of the house, to the east, includes the access and a large area of garden between the house and the road that is laid to lawn with a number of trees. To the northwest, beyond the wall that links the garage to the northern boundary of the site, is an enclosed area that has an industrial or storage use appearance with a large number of lorry trailers, a large industrial style building, various other stored materials and a building described on the plan as a stable. The appellant describes this as a yard area for the use of the owner's truck hobby, describing that the owner was until recently also the owner of a major haulage company which is locally based.
4. Immediately to the rear of the house is a patio area and a mown grassed area of garden which includes a tree and a path. Boundaries to the south and west of this area, which appear to be shown on historic photographs, are no longer apparent. Beyond this area, further to the west, is the indicative area for the proposed house where the land is also grassed and contains a skip. This area extends to the western boundary and currently includes a large number of lorry trailers. The field to the south and shown within the blue line is also grassed. There is currently no physical boundary between the field and the land within the red line of the appeal site.

5. The appellant suggests that the red line site constitutes previously developed land as it forms the curtilage of the dwelling. This is disputed by the council. I have not been provided with the original application details, imposed conditions or the red and blue site boundaries that were accepted as part of the decision. A detailed history of the site, other than the planning application decisions, is also not provided. I only have a plan showing a hatched area which the appellant describes as the previously accepted site location plan but it is not clear if this corresponds with the red line area of that permission. The hatched plan does not include part of the area of the appeal site that lies between the house and the road, other than the access.
6. The land in the northwest corner currently has the appearance of an industrial or storage use, rather than a domestic use and that area is physically separated from the dwelling. The land to the west, including the indicative site of the proposed house, is also used for lorry trailer storage. The planning history and evidence presented is silent as to these uses. The council has also submitted photographs of the house having a relatively constrained and enclosed garden with the land to the west appearing to be used in association with the field to the south.
7. The definition of previously developed land requires that it is land which has been lawfully developed. There is no evidence before me to show that the permission was implemented in full; the historical photographic information provided by the council has not been addressed; and I have no information about any current or historic non-domestic uses of the land, despite some of the uses appearing to be well established in some areas with an unreferenced building also being present. Whilst the above matters may not indicate that the site has a lawful use different to that suggested by the appellant, the matter of what constitutes the curtilage of the dwelling is not clear. It is not the role of this appeal to establish lawfulness and the evidence before me would be insufficient in any event. The lawful status has not however been determinative in my decision.

*Suitability of the location and the character of the area*

8. The council is concerned that the proposal represents new development in the countryside, which does not require a countryside location; would not be accessible by a range of transport options; and would harm the openness of the countryside. The appellant has provided an extract from the Bolsover District Local Plan 2020 (LP) which shows the site outside a development envelope which is drawn around the adjacent, predominantly industrial area, of Clover Nook. The supporting text to LP policy SS9 is clear that for the purpose of the LP, countryside is defined as the land outside the development envelopes of the Policies Map.
9. LP policy SS3 sets out the spatial strategy for the district and advises that new development will be directed to existing settlements: firstly to the larger towns; and then to the larger villages. It advises that beyond the larger villages, only limited development in a number of named smaller villages will be supported. It advises that the smaller villages in the countryside are considered to not be sustainable settlements and urban forms of development, beyond infill development and the conversions of agricultural buildings, will not be supported. The proposal lies outside the development envelope and therefore falls to be considered as being within the countryside. Accepting development in this location would be contrary to the objectives of the spatial strategy and would gain no support from the policy, unless it accords with LP policy SS9.

10. The appellant considers that the proposal gains some support from both LP policy SS1 with regard to being sustainable development; and policy SS9 which accepts some forms of development in the countryside that would otherwise be at odds with the spatial strategy. These policies both relate to the sustainability of the location which is a matter also considered by LP policy ITCR10. This seeks to support sustainable transport patterns. It advises that planning permission will be granted where new development and the provision of services are located so as to support sustainable transport patterns and the use of the district's sustainable transport modes. It goes on to advise that all development proposals should provide convenient, safe and attractive access via footpaths, footways, bridleways, cycle paths and public realm areas.
11. Although the site adjoins the development envelope of the adjoining industrial estate, it has a separate access that is well away from the infrastructure of the industrial area. Birchwood Lane is not speed restricted, has no pavements and no street lights and although it has a relatively wide verge, it does not provide suitable facilities for walking. Cycling would be possible on this unrestricted road for competent and confident cyclists. There is no easily accessible bus service. There is a local train station which would offer accessibility benefits but other than for competent cyclists, this would not be reachable by sustainable modes of transport. Most journeys to this site would therefore be by private vehicles. The site is not however in an isolated location or a long distance from services. There is a full range of services within a relatively short drive. Despite this, the proposal clearly conflicts with policy ITCR10.
12. Policy SS1 sets out that in order to contribute to sustainable development, proposals should be assessed against 14 criteria. It does not require the achievement of benefit against all 14 but considers that the performance overall will provide a basis on which to recognise the various sustainability costs and benefits.
13. Criterion a) relates to the local economy, the provision of employment opportunities and contributions to business expansion. The appellant has made reference to the house being required for a person that would run a haulage business. The evidence relating to this and why that person would need to be on this particular site, is extremely limited. The site contains numerous lorry trailers but I have no evidence to suggest that it can lawfully be used for a business purpose in this regard. The appellant's evidence appears to be that the area used for trailer storage is residential curtilage. On the basis of the very limited information provided, the proposal would offer little to the local economy beyond the economic benefits of a new house with regard to its construction and occupation. It would therefore provide only a minor benefit.
14. Criteria b) and c) promote the efficient use of land and the re-use of previously developed land in sustainable locations; and seeks to locate development in close proximity to trip generators with the aim of reducing the need to travel by non-sustainable modes of transport. Although there are a full range of services that would require only relatively short journeys by car, the proposal performs poorly with regard to being accessible by other means and reducing the need to travel by non-sustainable modes of transport. This represents a considerable development cost.
15. Even accepting the appellant's claim that the site represents previously developed land, it would not be situated in a sustainable location and would not therefore gain

the support of criterion b). Although an extra house would improve the efficiency of the use of this land, two houses on such a large site would not represent an efficient use of land.

16. Criteria d), e), l) and n) relate to the need to reduce the need for energy in new development and ensure that it can use energy efficiently; demonstrate the sustainable use of resources and the management of waste; play a positive role in adapting to and mitigating the effects of climate change to contribute to the health and wellbeing of the community and the environment, through the location, design and operation of the development and the use of sustainable drainage systems to avoid flood risk; and protect and enhance water and air quality. The proposal is in outline and many of the above aspirations would be met when achieving current housing regulations but could also result in some positive benefits, although the location of the development is a detractor in this respect. Overall, these matters could result in a marginal benefit.
17. Criteria h) and i) seek to protect and enhance the character, quality and settings of towns and villages through an appropriate mix of good quality, well designed developments; and protect, create and / or enhance the character, quality and diversity of the district's green infrastructure and local landscapes, the wider countryside and ecological and biodiversity assets. The proposal would consolidate development within this site in the countryside. Although it adjoins the industrial area, because of the woodland screening provided by boundary trees, it is viewed as having a countryside character and is experienced as being a single dwelling, distinct from the settlement. Birchwood Lane has a rural character and appearance. Consolidating development in this area would detract from the open character of the immediate surrounds. The indicative location of the proposed house would be relatively well screened and as a result the scale of the harm would be reduced. With regard to these matters however, although the design of the dwelling would be expected to be of a high quality, the consolidation of development in this rural area, on the approach to the settlement, would result in a cost rather than a benefit with regard to these criteria.
18. Criteria f), g) and k) seek to promote the social and economic wellbeing of Bolsover District's communities, contribute to reducing social disadvantages and inequalities and create a positive image of the district; support the hierarchy of centres and / or enhance their role as a focus for new services and facilities; create well designed places that are accessible, durable, adaptable and enhance local distinctiveness; and support the provision of essential public services and infrastructure. Residents of this dwelling would be likely to use and support local facilities and services and make a contribution to the community. However, one dwelling would result in very limited benefits and the accessibility issue and the harm to the countryside character, would weigh against it. With regard to these criteria the costs and benefits would be generally balanced. Criteria j) and m) are not relevant.
19. Overall with regard to policy SS1, even when taking the appellant's view that the site represents previously developed land for the purposes of criterion b), the costs resulting from the accessibility of this site by a range of sustainable transport modes and the consolidation of development in the countryside, would significantly outweigh the benefits of the building works and the occupation of this single new dwelling with regard to economic and social considerations. With regard to this policy, the proposal would detract from, rather than contribute to, the aspiration of

achieving sustainable development. I do not therefore find this to be a sustainable location for new development, even on the basis of the appellant's assertion with regard to the land being previously developed.

20. The LP is clear that proposals for new buildings in the countryside will be strictly controlled. LP policy SS9 accepts development in the countryside, outside development envelopes, where it can be demonstrated that it falls within one or more of a number of categories. The appellant suggests that the proposal falls within category (a) which accepts the re-use of previously developed land, provided the proposed use is sustainable and appropriate to the location. As with policy SS1, even if I accept the appellant's view that the land is previously developed, it would still be necessary to conclude that the location was sustainable and appropriate for the proposal to fall within category (a). Given my findings with regard to both policy SS1 and policy ITCR10 in relation to sustainable transport patterns, it would not satisfy category (a) and would therefore conflict with policy SS9.
21. Overall, with regard to the development plan, there would be conflict with policy ITCR10 and policy SS9. As a result, the development would also be at odds with the spatial strategy and policy SS3. With regard to policy SS1, this weighs against the development. The proposal therefore conflicts with the development plan when considered as a whole.
22. In relation to the National Planning Policy Framework 2024, there is support for self-build and custom build housing, particularly given the shortfall in provision accepted by the council. It gains support from the thrust within government policy to achieve greater housing provision generally. I have touched upon the social and economic benefits of new housing, the construction process and the contributions that would be made by future residents with regard to nearby services, facilities and local communities in general. I am mindful also that the site is not distant from a full range of services or sustainable travel opportunities; and is located close to a development envelope. The Framework offers some flexibility with regard to accessibility in these circumstances. However, overall, I am satisfied that the benefits would not be sufficient to outweigh the locational concerns that would lead to a reliance on less sustainable transport options; and the harm to the countryside from the consolidation of development within it. Whilst the Framework supports the use of previously developed land, even accepting the appellant's position in this regard, would not result in overall support from the Framework. I conclude that on balance, the proposal would conflict with the overall objectives of the Framework.

#### *Other matters*

23. The environmental health officer has raised concerns with regard to noise from the industrial estate. This is not a matter that has been addressed. Although the intention is that the dwelling would be for a family member to run the business, it is not for a house tied to a particular business and its open market use in the future must be considered. The evidence is entirely unclear what other activity would remain on the site and whether this would be compatible with a residential use. Given my main conclusions, these matters have not been determinative.
24. Reference has been made to other appeal decisions and the comparative benefits of sites that are allocated by the LP. This proposal has to be considered on its own particular merits and with regard to the development plan. I do not have the full

details associated with these other sites but I am not persuaded that they offer significant weight in favour of this proposal, given its very particular circumstances.

25. The appellant has withdrawn the suggestion that the council does not have a five year supply of available housing sites. I have however had full regard to the lack of sites for custom or self-build housing and the benefits of new housing generally. I have afforded these matters significant weight.

### *Conclusions*

26. Although not distant from a range of services and close to a development envelope, the proposal would lie within the countryside as defined by the development plan. Residents would be highly reliant on modes of transport other than sustainable means of travel. The proposal would also consolidate development in the countryside where the LP is clear that development will be strictly controlled. It would conflict with the policies of the development plan in these respects.
27. It would result in a number of social and economic benefits, including new housing and in particular, it would help to meet the shortfall in custom and self-build housing plots. However, for only one dwelling, the benefits would be limited. I have fully considered the proposal on the basis of the appellant's view that the land is previously developed and whilst this adds to the weight in favour of the proposal, it does not outweigh my concerns or align the proposal with the development plan. Whilst there are considerations that provide significant weight in its favour, this weight is not sufficient to outweigh my concerns. I therefore dismiss the appeal.

*Peter Eggleton*

INSPECTOR