



Appeal Decision

Site visit made on 1 July 2025

by A O'Neill BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2025

Appeal Ref: APP/F1040/W/25/3362727

86 Swarkestone Road, Barrow on Trent, Derby, Derbyshire DE73 7HF

- 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 Ian Boddy against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2025/0027.
 - The development proposed is the erection of a single self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme relates to an outline proposal, with access and layout to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal accordingly.
3. During the course of the appeal an amended Unilateral Undertaking (UU) was provided, and I have taken that into account.

Main Issues

4. The main issues relevant to this appeal are:
 - whether the appeal site would be in a suitable location, having regard to the Council's strategy for the location of housing; and
 - the effect of the proposal on the character of the area.

Reasons

Location

5. Policies in the South Derbyshire Local Plan Part 1 (2016) (LP Part 1) and South Derbyshire Local Plan Part 2 (2017) (LP Part 2) seek to ensure development is in the most sustainable locations. At a strategic level, LP Part 1 Policy S2 requires development to fit with the policies of the plan and to comply with the National Planning Policy Framework's (the Framework) principles of sustainable development.
6. Policy H1 of the LP Part 1 defines the district's settlement hierarchy and sets out the scale of development which is considered suitable at each tier of the settlement hierarchy. The explanatory text to the policy explains that priority is afforded to those places which are served by high quality public transport services and those which have a convenience shop offering a range of day to day goods.

7. The appeal site is located close to, but outside of the settlement boundary of Barrow upon Trent village. The site is therefore located within the 'Rural Areas' tier of the settlement hierarchy. Policy H1 states that, due to the lack of services and facilities, only development of limited infill and conversions of existing buildings will be acceptable in the Rural Areas.
8. Policy BNE5 of the LP Part 2 builds on the provisions of Policy H1 and allows for development outside of settlement boundaries in Rural Areas where it meets the policy's prescribed criteria. In this context, there is no evidence submitted that the proposal is essential to a rural based activity nor that it constitutes unavoidable development outside of a settlement boundary.
9. The policy also allows for infilling of a small gap within small groups of housing. Whilst there is existing built development to the east and north, the site is otherwise surrounded by undeveloped open land. The proposal would therefore not constitute infilling of a small gap. As such, it does not comply with any of the criteria in Policy BNE5.
10. With regard to access to services and facilities, Barrow upon Trent village is a short walk along a lit, dedicated footway. However, the village does not have a convenience shop. Its services and facilities are limited to a primary school, public house, church and village hall, which are unlikely to meet the day to day needs of future occupiers.
11. There is a bus stop located opposite the appeal site on the other side of Swarkestone Road. The appellant states there are buses which service this stop, which provide access to Chellaston, Alvaston and Derby, where there are a range of services and facilities. The evidence submitted indicates the bus service only operates 5 times per day, Monday to Friday, with no services at weekends. Based on the information before me, I am not satisfied that the appeal site would be serviced by a regular bus service which would provide convenient access to services and facilities.
12. Reference is also made to local footpath and cycle routes, although it is not explained how these routes would connect the site to locations with services and facilities. When travelling along the A1532 / Swarkestone Lane between the site and the Chellaston area I saw that whilst there is a dedicated footpath, much of the route is unlit. As such, this would not be a particularly desirable walking or cycling route outside of daylight hours.
13. The Framework does acknowledge that sustainable transport solutions will vary between urban and rural areas. However, it also requires development to promote walking, cycling and public transport use. I have found that the appeal site location would have limited potential to promote such sustainable transport use.
14. It is suggested that the site falls within the Framework definition of 'Previously Developed Land' as it is part of the garden land of Manor Farm Lodge. Paragraph 125c of the Framework gives substantial weight to the value of using suitable brownfield land within settlements for homes unless substantial harm would be caused. However, as identified above, the site is not within a defined settlement.
15. Permitting the proposed dwelling would be harmful in that the strategy for the distribution for housing would be undermined as the site is not in a sustainable location, as defined by the development plan. Given that the proposal is inconsistent

with an important element of the Council's approach to development I have judged the magnitude of harm to be substantial.

16. There is no policy in the development plan which relates specifically to the location or provision of self-build housing. Nevertheless, I conclude that the proposal would conflict with the Council's strategy for the location of housing, contrary to LP Part 1 Policies S2 and H1 and Policy BNE5 of the LP Part 2.

Character

17. In the vicinity of the appeal site, the two sides of Swarkestone Road have quite different characters. On the side of the appeal site, there are two dwellings, known as Manor Farm Lodge and Jacobs Cottage which form the historic entrance to the adjacent farmland. The site comprises an open area of grassland adjacent to Manor Farm Lodge. Apart from the two existing dwellings, the site is surrounded by undeveloped land. The southern side of Swarkestone Road, in the vicinity of the site therefore has a predominantly open and verdant character. The northern side, opposite the appeal site, is characterised by a ribbon of detached and semi-detached residential properties.
18. In its current, undeveloped state, the site makes a positive contribution to the character of the southern side of Swarkestone Road. I understand that the site is not covered by any landscape designations. I also appreciate that it is surrounded by mature trees and vegetation, which, to some extent, limit views into the site. Although the density of this screening may be reduced in winter months when deciduous trees shed their leaves. Nevertheless, the introduction of built development and the likely associated domestic paraphernalia to the site would erode its open and verdant character.
19. Thus, the proposed development would be an alien and discordant feature in the landscape on this side of Swarkestone Road which would, in my judgement, comprise countryside encroachment.
20. Taking all of the above into account, I find that the proposal would unacceptably harm the character of the area. As such, it would conflict with LP Part 1 Policy BNE4 and LP Part 2 Policy BNE5 which together protect the character, local distinctiveness and quality of South Derbyshire's landscape and require that development does not unduly impact on landscape character.

Other Matters

21. It is common ground between the main parties that the Council has a significant unmet demand for Self Build and Custom Build (SBCB) housing, which is required by the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). Despite the proposal being for just a single dwelling it would assist in reducing the Council's deficit and it would be secured by the UU submitted with this appeal. In light of the Council's shortfall in SBCB housing provision, this benefit attracts moderate weight.
22. The proposed development would, however, have limited social and economic benefits. One additional house would make little difference to the overall supply of housing and the support that its construction and future occupancy would provide to construction employment and the local economy would be limited.

23. I appreciate the proposal may otherwise be acceptable in terms of its impact on highways, living conditions, drainage, flooding, ecology and trees. Nevertheless, these are neutral points and so they do not outweigh the harm identified above.

Planning Balance

24. My attention has been drawn to two appeal decisions (APP/G2435/W/24/3343890, 20 September 2024) and APP/H1840/W/19/3241879, 23 July 2020) where the test of paragraph 11 d) ii) of the Framework was applied due to the lack of a specific policy relating to SBCB housing. I have also had regard to the Court's approach to this matter (*Paul Newman Homes Ltd v SSHCLG & Aylesbury Vale District Council* [2021] EWCA Civ 15), which confirms that the lack of a specific policy does not mean that paragraph 11 d) is automatically engaged. Rather consideration is given to whether there are any relevant, up to date policies for determining this appeal.
25. There is no policy in the development plan to specifically address the demand for SBCB housing, but there are policies relevant to the consideration of this proposal, as identified above. These policies are broadly consistent with the Framework which promotes locating development where there is access to a range of facilities and sustainable transport. The Framework also seeks development that is sympathetic to its context, whilst recognising the intrinsic character and beauty of the countryside. I therefore consider that the most important policies for determining this appeal are up to date and conflict with them carries full weight. As a result, the presumption in favour of sustainable development does not apply.
26. The appeal site location conflicts with the Council's strategy for the location of housing which directs development to the most sustainable locations in the District and only allows new housing in Rural Areas where it meets prescribed exceptions. The site's location would not allow convenient access to services and facilities via walking, cycling and public transport and the proposal would unacceptably harm the character of the area. I attribute these harms significant weight in the planning balance.
27. The provision of SBCB housing attracts moderate weight given the Council's shortfall in provision. However, I have not been provided with evidence that the Council is not otherwise meeting its housing needs. One dwelling would make a minor contribution to the overall supply of housing and as described above, the benefits associated with one additional dwelling would be limited.
28. Consequently, I conclude that these benefits do not outweigh the adverse impacts on the Council's development strategy and the limited potential for the site location to promote sustainable transport use as well as its adverse effect on the character of the area.

Conclusion

29. For the reasons given above, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, that indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

A O'Neill

INSPECTOR