



Appeal Decision

Site visit made on 13 August 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th September 2025

Appeal Ref: APP/F1040/W/25/3367818

The Paddocks, Cockshut Lane, Melbourne, Derby, Derbyshire DE73 8DG

- 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 Earp of MAE Trading Ltd against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2025/0468.
 - The development proposed is Demolition of Existing Buildings and Erection of 4 no. self build dwellings: The Stables, Cockshut Lane, Melbourne, Derbyshire DE73 8DG.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs has been made by the appellant against South Derbyshire District Council and is the subject of a separate decision.

Preliminary Matters

3. The application sought outline planning permission with all matters reserved other than access and layout. I have determined the appeal on that basis, treating any details relating to the reserved matters as illustrative only.

Main Issue

4. The main issue is whether the proposed development would be in a suitable location for housing, having regard to the spatial strategy of the development plan.

Reasons

5. The appeal site is located to the west of Cockshut Lane and outside the defined settlement boundary of Melbourne. It forms part of a horticultural holding and comprises two adjoining buildings previously used as part of a commercial plant nursery. The site is accessed via a private road that also serves neighbouring residential and commercial properties. The surrounding area is predominantly rural in character, comprising open agricultural land, with some sporadic development nearby.
6. The site's location outside of a defined settlement boundary means it forms part of the countryside, as designated by Policy SDT1 of the South Derbyshire Local Plan Part 2, adopted 02 11 2017 (the LP2). The spatial strategy, as articulated through Policy H1 of the South Derbyshire Local Plan Part 1, adopted 13 06 2016 (the LP1), and Policies BNE5 and H28 of the LP2, seeks to direct new residential

development to sustainable locations within settlement boundaries, whilst seeking to strike an appropriate balance between development and conserving and enhancing the built and natural environment.

7. Policy H1 establishes a settlement hierarchy that prioritises development in areas with appropriate infrastructure and services. In rural areas, such as the appeal site, the policy restricts residential development to limited infill and conversions of existing buildings. The proposed development, comprising the demolition of existing buildings and erection of four new-build dwellings, does not fall within these categories and is therefore contrary to the spatial strategy set out in Policy H1.
8. Policy BNE5 reinforces the spatial strategy by permitting development outside settlement boundaries only in narrowly defined circumstances, such as where it is essential to a rural activity, unavoidable, or constitutes limited infill normally comprising of no more than two dwellings. The proposal does not meet any of the exceptions listed under the policy. Furthermore, BNE5 requires that development in rural areas must not unduly impact landscape character, biodiversity, or heritage assets. Although the Council has not raised specific concerns in relation to these matters, their inclusion within the policy highlights its overarching purpose to safeguard the countryside from inappropriate forms of development.
9. Policy H28 supports the conversion of existing buildings to residential use in rural areas, provided the buildings are of permanent and substantial construction and suitable for conversion without extensive alteration or rebuilding. However, the current proposal involves the complete demolition of existing buildings and their replacement with new dwellings. As such, it does not constitute a conversion and falls outside the scope of Policy H28.
10. In summary, the proposed development lies outside a defined settlement boundary and does not meet the criteria for exceptions under Policies BNE5 or H28. It also conflicts with the settlement hierarchy established by Policy H1, which seeks to direct housing growth to sustainable locations with appropriate infrastructure and services. For these reasons, I conclude that the proposed development would not represent a suitable location for housing, having regard to the spatial strategy of the development plan and the resulting conflict with Policies BNE5, H1, and H28.

Planning Balance

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. As outlined above, the proposed development conflicts with the relevant policies of the development plan, and I attach significant weight to this conflict in the overall planning balance.
12. The appellant has advanced several material considerations in support of the proposal. Chief among these is the intention to deliver four self-build dwellings, which is supported by the National Planning Policy Framework (the Framework) and the Self-Build and Custom Housebuilding Act 2015. The Council's own data confirms a significant shortfall in permissions for self-build plots relative to the number of individuals on the self-build register.

13. Although self-build housing is clearly supported by national policy, I note there are currently no adopted development plan policies that specifically relate to it. Whilst the emerging Local Plan includes draft policies aimed at addressing this gap, it remains at an early stage and can be afforded only limited weight. Nonetheless, the provision of self-build housing aligns with national policy objectives and, in principle, attracts significant weight in the planning balance.
14. However, whilst the concept of self-build housing is clearly supported by national policy and carries weight in principle, it must be secured through a legally binding and enforceable mechanism to attract full weight in the planning balance. In this case, a signed and dated unilateral undertaking seeks to address this requirement. However, I am concerned that it lacks sufficient clarity and enforceability. In particular, the absence of a specific planning reference under the operative clauses, a defined marketing period, and a mechanism for monitoring compliance, undermines the certainty that the development would be delivered in accordance with the statutory definition of self-build and custom housebuilding. As a result, I am not convinced that the benefits associated with the provision of self-build housing could be fully secured, and this significantly limits the weight that can be attributed to it in the planning balance.
15. The appellant also refers to a fallback position under extant planning permission DMPA/2024/1077, which permits the conversion of the existing buildings on site to four dwellings. It is noted that the footprint of the development proposed under this appeal would be smaller than that approved under the fallback scheme. The Council also considers that, given the outline nature of the current proposal and the matters reserved for future determination, an acceptable design could likely be secured at the reserved matters stage.
16. However, the fallback scheme involves the conversion of existing buildings and met the requirements of Policy H28. In contrast, the appeal proposal seeks the demolition of existing buildings and the construction of new-build dwellings, which do not benefit from the same policy support. The appellant also seeks to rely on the fallback position as justification under Policy H24 of the LP2, which relates to replacement dwellings in rural areas. However, the appeal proposal is not for replacement dwellings. To comply with Policy H24 would require the implementation of the fallback scheme followed by the demolition of the converted buildings to facilitate new-build development. The Council has reasonably concluded that such a scenario is unlikely. Accordingly, the fallback position attracts only limited weight in the overall planning balance.
17. Reference is also made to the Council's previous decision to approve a dwelling at Robinson Hill (DMPA/2022/0476), which the appellant contends is comparable. However, I have not been provided with full details of that case, and in any event, each proposal must be assessed against its specific considerations. The existence of a favourable decision elsewhere does not, in itself, justify a departure from the development plan in this instance.
18. There appears no dispute between the main parties that the Council can demonstrate a five-year supply of deliverable housing sites. However, this does not preclude the delivery of additional housing, and the provision of new homes built to high standards of sustainable construction carries weight in line with the Government's objective to significantly boost the supply of housing, as set out in the Framework. Although the age of the development plan policies is

acknowledged, the policies most relevant to the determination of this appeal remain broadly consistent with the Framework. As such, although the contribution to housing supply is a material consideration, there is no compelling basis to conclude that the presumption in favour of sustainable development under paragraph 11.d) of the Framework is engaged.

19. Taking all of the above into account, whilst the material considerations advanced by the appellant are relevant, they do not outweigh the substantial weight that must be given to the conflict with the development plan.

Conclusion

20. The proposed development would conflict with the development plan as a whole and there are no considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR