



Appeal Decision

Site visit made on 16 October 2025

by Guy Rigby LLB ACGI CEng FICE FCIHT

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/F1040/W/25/3368251

Marsh Farm, Derby Road, Etwall, Derby Derbyshire DE65 6LR

- 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 P A Hammersley against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2025/0145.
 - The development proposed is Supersede of 3x Class Q (Permissions) with 3x Dwelling Houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has various planning consents for change of use of agricultural buildings to dwellings under Part 3 Class Q Prior Approval. Full planning permission has also been granted for conversion of the existing brick-built barns and farmyard immediately adjacent and to the south of the appeal site into four residential dwellings.

Main Issue

3. The appeal site lies outside the settlement boundary where the Council's strategy for the distribution of housing within Policies SDT1, H1 and BNE5 of the South Derbyshire Local Plan Parts 1 and 2, adopted in 2017 (the Local Plan), sets out that development will be limited and that planning permission will only be granted under certain circumstances. The parties agree that the proposed development does not meet any of the policy criteria and that consequently the proposal would conflict with the development plan in this regard. I concur.
4. In view of this, and the evidence before me, I consider that the main issues in this appeal are
 - the effect of the development on the character and appearance of the area; and
 - whether material considerations, with reference to the planning history of the site, indicate that a decision should be made which is other than in accordance with the development plan.

Reasons

5. Marsh Farm comprises a farm yard containing a farm building and agricultural barn outbuildings located in the rural countryside to the north east of the Etwall settlement, accessed from the A516 Derby Road.

6. The appeal relates to the demolition of agricultural outbuildings and replacement with three new dwellings.
7. The parties agree that there is a fallback position, as there is already planning consent for change of use of the buildings to dwellings. The case of *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 establishes the circumstances in which the existence of a fallback position may be treated as a material consideration, and I consider that the presence of a fallback position is a material consideration in this case.
8. I have considered the merits of the existence of the Class Q scheme as a fallback in itself, and I have compared the fallback with the proposal.
9. The surrounding area is characterised by a relatively flat and open landscape with sporadic rural dwellings and farmsteads within which the appeal site forms part of a close and coherent grouping of related farm buildings.
10. The proposed development would demolish three agricultural outbuildings on the north-west side of the farmstead and replace them with three modern buildings in a more dispersed configuration. The northernmost of the three new buildings would be significantly larger than the existing building and would be set at a different orientation in the landscape.
11. I note that the proposal would not involve any additional dwellings, that the footprint of the proposed development would be smaller than the fallback, that the form and bulk of the proposed dwellings would not substantially exceed that of the approved dwellings overall, and that proposed use of materials would be consistent with the other dwellings in the area. These matters indicate a lack of harm and so they are neutral in the overall consideration of the appeal.
12. However, from the information before me and observations made on my site visit, I consider that the configuration of the proposed dwellings would break up the existing coherent grouping and relationship of the existing buildings and that the design would result in a degree of urbanisation and a greater linear extent of built form. This would cause harm to both the coherence of the existing group of buildings and to the essentially flat rural landscape. This is particularly the case in respect of the northernmost of the three proposed buildings, which is significantly larger in plan than the existing outbuilding and which is set at a different and in my view less sympathetic orientation in the landscape when compared with the existing building, and I accord significant weight to this.
13. I also find that the sensitive and well designed Class Q conversion of the existing farm buildings would retain their built form and layout and, by doing so, would maintain the existing coherent grouping and setting of the farmstead as a whole. It would relate better to the agricultural and rural character of the rest of the farmstead and the surrounding area, and would therefore be less harmful than the proposed development. I accord significant weight to this argument.
14. I accept that the more modern design would offer some benefits to the occupiers in terms of better living conditions when compared with the Class Q fallback, but I accord little weight to this argument. The approved scheme is acceptable so the benefits identified would be modest and would not outweigh the harm identified above.

15. I therefore consider that, when compared with the fallback, the proposed development would harm the character and appearance of the area and would not be a better solution.
16. Hence I conclude that the proposed development would have an adverse impact on the character and appearance of the area, there would be clear conflict with Policies SDT1, H1 and BNE5 of the development plan, and I find no material consideration which justifies a decision other than in accordance with it.

Conclusion

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. In my view there is clear conflict with the development plan in that the appeal site lies some distance outside the Etwall settlement boundary, and I find no material consideration which would justify a decision other than in accordance with the development plan.
18. For the reasons given above the appeal should be dismissed.

Guy Rigby

INSPECTOR