



Appeal Decision

Site visit made on 9 October 2025

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2026

Appeal Ref: APP/A1015/W/25/3369539

Former Tapton City Cottages, Tapton, S43 1QQ

- 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 planning permission
- The appeal is made by Mr and Mrs C Franczak against Chesterfield Borough Council.
- The application reference is CHE/25/00084/FUL.
- The development proposed is redevelopment to provide 1 no. single storey dwelling.

Decision

1. The appeal is dismissed and planning permission is refused for redevelopment to provide 1 no. single storey dwelling.

Main Issue

2. Having regard to the Council's committee report issued following the appeal being lodged, the main issue is whether the proposal represents a suitable location for housing, having regard to the spatial strategy of the Chesterfield Borough Local Plan (July 2020) (the BLP) and in particular i) the protection afforded to the functional aim of, and openness provided by, the Brimington and Tapton Strategic Gap; ii) the accessibility of the site to local services and facilities, and iii) the effect of the proposal on the landscape character of the area.

Reasons

Site Context

3. The appeal site is located in open countryside, within a defined Strategic Gap (SG) between the built-up areas of Tapton and Brimington. Two dwellings historically stood on the site prior to their demolition in the 1960s. Remains of the dwellings are perceptible on site amid vegetation and various building materials stored in the open. The site has been subject to a number of previous planning applications and appeals. I am provided with the most recent of these, an appeal decision from February 2023¹ for a development of two dwellings, wherein the Inspector determined that the site amounted to previously developed land (PDL) per the definition of the National Planning Policy Framework (the Framework). I see no reason to depart from that finding.
4. The site itself stands on a small plateau amid wider surroundings comprising agricultural fields in an undulating landscape, defined by hedgerows and with scattered woodland, copses and linear tree belts, including one providing a backdrop to the north of the site. A farmhouse and agricultural buildings belonging

¹ Appeal Ref APP/A1015/W/22/3298635

to the appellant stand to the west and north-west on lower ground. The edge of urban development in Brimington Common stands to the east on higher ground and public footpaths pass immediately by the site which afford views of the appeal site in the landscape at both close range and in wider panoramas.

Strategic Gap

5. Policy CLP1 of the BLP sets out that the purposes of the SGs are to give distinct identity to different areas, prevent neighbouring settlements from merging into one another, and maintain open space, with a policy of protecting the open character of the SGs from development.
6. Policy CLP2 sets out principles for the location of development on non-allocated sites in order of priority. It also stipulates an exception to the spatial strategy where the development is required to regenerate sites and locations that could not otherwise be addressed.
7. Policy CLP3 further addresses the location of housing, setting a number of criteria for development outside of built-up areas. Relevant to this proposal are criteria a) the development would have reasonable access to a range of key services as set out in Policy CLP2, and d) redevelopment of previously developed land in a manner that would not harm the intrinsic positive character of the countryside.
8. In view of the modest size of the site relative to the overall size of the SG and the proposal being for a single dwelling, there would not be an adverse effect on the aims of the SG to give distinct identity to different areas and prevent neighbouring settlements from merging into one another. However, the proposal would amount to new, visible development that would erode the present openness of the site and in doing so would conflict with the aim of maintaining the open character of the SG, contrary to this aspect of Policy CLP1.

Accessibility

9. The site is located in the countryside beyond the built-up area of Brimington Common, accessed via Dark Lane, a narrow, winding, rural road lacking verges or street lighting. I note the assessment in the previous appeal that the proposal would have represented 'isolated homes' in the countryside. However, the *Braintree*² judgment established that 'isolated' in terms of the Framework refers to physical proximity to other dwellings and settlements, rather than a question of accessibility to local services, and is a matter of judgment for the decision maker. In this case, the site is close to the appellant's current dwelling and, in physical terms, it would not be significantly separated from the nearest development. In my judgment, it would not amount to an 'isolated home' in terms of the Framework and it is not necessary to consider if any of the exceptions at Paragraph 84 apply.
10. However, the site is detached from the built-up area and if travelling along Dark Lane and Manor Road, the nearest facility is a bus stop some 900m away, with the local school around 1.4km away and convenience store around 1.5km away. The appellant cites shorter distances, but these appear to be via a route to the north along public footpath FP21 and Grove Road. The footpaths in the area are not suitable for regular journeys given they are unpaved and unlit. They would be difficult to navigate in poor weather and hours of darkness, and if carrying

² *Braintree District Council v Secretary of State for Communities and Local Government & Others* ([2018] EWCA Civ 610)

groceries or walking with children. As such, I do not regard them as realistic options for day-to-day travel.

11. Having travelled along Dark Lane, I concur with the previous Inspector that it is not conducive to walking or cycling, due to its narrow width, sharp bends and lack of verges and lighting rendering it hazardous for pedestrians and cyclists. These conditions and the time it would take to reach local services would discourage regular walking and cycling, with occupants of the proposed dwelling instead likely to rely on the private car for most, if not all, journeys.
12. Car use is a reality for dwellings in rural locations and I acknowledge that the number of car journeys from a single dwelling would not be significant in absolute terms. Many of those journeys also would be relatively short to reach facilities in Brimington or Chesterfield. However, whilst the Framework recognises that sustainable transport solutions will vary between urban and rural areas, it seeks to ensure sustainable transport modes are prioritised. In my view, the proposal does not fulfil this objective, but rather would exacerbate private car use and the number of unsustainable journeys made due to its location well beyond a built-up area.
13. Overall, I conclude that the proposal would not be a reasonable distance from key services and so would fail to maximise opportunities for walking and cycling access to those services, in conflict with Policies CLP2(d) and (e) and CLP3(a). In turn this would conflict with the approach of the spatial strategy under Policy CLP1 to concentrate development in walking distance of a range of key services.

Character and Appearance

14. The site constitutes PDL and is somewhat unkempt, but this is in part due to the choice to store building materials and other detritus in the open, which could be removed at any point to improve the site's appearance. Moreover, I concur with the previous Inspector that the remains of the previous dwellings, though not completely gone, are not prominent features of the site and that its lack of substantial built form means that, despite its detracting appearance up close, it contributes positively to the wider openness of the landscape as seen along the public footpaths and in longer vistas from the urban edge to the east.
15. The appellant argues that the development responds to concerns of the previous Inspector in appeal 3298635 that *"addressing the visual impacts of decline associated with absence of a use for the site should not be at all costs and should come in the form of development that is responsive to its current context"*. However, I do not read this as indicating a specific form of development should be permitted on the site. Indeed, the Inspector went on to say that *"The evidence before me does not clearly demonstrate that the appeal scheme is required to regenerate the site or that its environmental and visual enhancement could not be addressed by other, less intrusive and cost effective, means including tidying of rubble and a greater extent of planting to boundaries in addition to that already proposed."* The appellant refers to the prohibitive cost of restoring the land for agricultural use, but I have no evidence that this, or housing in the alternative, are the only viable options for the land. Although not in productive use, the land forms an open space that contributes passively to the rural character in a similar manner to the adjacent fields and wooded areas. Thus, I am not persuaded by the evidence that the proposal is required to regenerate the site, and thus it does not gain support under Policy CLP2(ii) as an exception to the spatial strategy.

16. The proposal differs from the previous appeal where two detached dwellings were proposed around shared courtyard parking. Notably, the proposed single-storey dwelling would be positioned further back in the site, close to the copse of trees and at a lower ground level compared to the front of the site. The design is intended to reflect the shape of traditional rural outbuildings, having a long, linear shape with low eaves, a dual pitched roof and stone walls. At 5.25m to the ridge, it would be modest in overall scale.
17. The site lies within the Coalfield Village Farmlands Landscape Type, with the surroundings exhibiting a number of its key features, including gently undulating landform, pastoral farming, copses, linear tree belts and winding country roads with trees. The surroundings of the appeal site include the agricultural buildings to the west, the appellant's dwelling to the north-west and the urban edge beyond to the east. However, contrary to the appellant's Landscape and Visual Appraisal, I saw the appeal site was located to the opposite side of the access lane from the existing barns and dwelling, which themselves stand individually in separate fields with clear gaps between them. This spaced layout means I did not observe a physically or visually contiguous farmstead, but rather a limited number of standalone buildings that do not appear to have an obvious functional connection, in an area that still retains a distinctly rural character.
18. The dwelling would be visible at close range from both public footpaths. It would incorporate natural stone facades and a green roof system, but it would not display the authenticity of a traditional barn given the expansive glazing proposed to the front elevation that would belie its residential use. It would not relate in form or function to any surrounding buildings. Although it would be seen in the same vista as the agricultural barns on approach from the east, it would not be read as naturally associated with them, given the distance between them and their starkly different form and scale. Consequently, the proposal would have a jarring presence as a standalone residential plot within an expansive rural setting.
19. I accept that the proposed landscaping to the front part of the site would go some way to softening the presence of the dwelling in approaching views from the footpaths. However, the landscaping, though intended to integrate with the natural surroundings, would nevertheless have the hallmarks of a residential garden given it would include managed areas and would be likely to have domestic garden paraphernalia for recreational use, particularly given the front garden would have a southerly aspect. Tellingly, the domestic use of the site would be clearly identified by the large parking and turning area to the front of the site, immediately next to and visible from the footpaths.
20. The wider setting for visual receptors on the public footpaths is not one of completely natural, unspoilt surroundings, given the visible urban edge and scattered rural development. However, the isolated number of buildings near the site are either agricultural in character (the barns) or located discreetly on lower land (the appellant's dwelling). The appeal site, by contrast, is on a higher, more open plateau subject to elevated views from a large number of dwellings to the east. In these views, the dwelling would form an incongruous incursion of residential development into a predominantly open, natural landscape.
21. I acknowledge that the landscaping would mature in time and would help filter longer distance views of the dwelling. In these respects, the adverse visual impact on the wider landscape would reduce in the long term, though openness would still

be permanently lost. However, there would continue to be clear visibility of the dwelling from the public footpaths passing immediately adjacent that would erode the natural qualities of the site and its immediate surroundings, causing localised, but nonetheless permanent, harm to the rural character of the area.

22. The proposal would also include removal of sections of hedgerow to either side of the entrance from Dark Lane to enable visibility splays to be achieved, along with removal of other sections along the entrance drive to provide passing places. Based on the plans before me, long strips of hedgerow would be lost on either side, to be replaced by new hedgerow planting further back. The removal of one tree to the eastern side would be compensated by up to five new trees being planted around the entrance.
23. Dark Lane would be adversely altered by these works. The openness created by the loss of hedgerows and trees would harm the enclosed character of the lane. The loss of hedgerow would not be permanent and would in time recover as replacement planting matures and restores a contiguous density of foliage along the roadside. However, it would still leave a significant stretch of the lane that would be notably wider due to the visibility splays. This would exacerbate the scale and prominence of the entrance to the site, particularly as the sections of hedgerow alongside the splays would have to be kept cut back. This would conflict with the tight, organic layout of the lane and its natural character. The alterations along the entrance lane, which is also a public footpath, would similarly undermine the pleasant, rural vista along its length that takes in the continuous hedgerows to either side.
24. For these reasons, I conclude that the proposal would harm the rural landscape character of the area, contrary to Policy CLP15(f) and I am not satisfied that proposed landscaping measures would satisfactorily address this harm. Given this finding, the appeal scheme would not represent suitable redevelopment of PDL, in conflict with Policy CLP3(d), and would harm the character and function of the SG in conflict with Policy CLP15(b).

Overall Conclusions on Main Issue

25. The relevant policies discussed above interweave various considerations to be made in assessing the suitability of a location for development under the spatial strategy. There would be conflict with Policy CLP1 in so far as the proposal would introduce new built form into the SG that would, by its presence, reduce the openness of the site and that of the SG. However, having regard to the overall scale of the proposal compared to that of the SG, the effect in this case would be modest, and I concur with previous appeal findings that there would be no tangible harm to the function of the SG in keeping settlements separate. Thus, the degree of conflict with CLP1, as it relates to development in the SG, is modest.
26. The proposal would make use of PDL, but would fail to preserve the rural character and appearance of the landscape, in conflict with several criteria of Policies CLP2, CLP3 and CLP15. Moreover, the site would not be in a reasonably accessible location to key local services and so would conflict with other criteria of these same policies. Importantly, these locational criteria reflect the overarching aims of Policy CLP1 to concentrate new development within walking distance of a range of key services. Overall, I conclude that the proposal would not represent a

suitable location for development due to the conflicts with the relevant criteria of Policies CLP1, CLP2, CLP3 and CLP15.

Other Matters

27. The appellant has advanced a fall-back position whereby the existing agricultural buildings to the west of the site could be converted to dwellinghouses under permitted development (PD), subject to a prior approval process³. The appellant has offered a signed unilateral undertaking (UU) to forego these PD rights. The Council has indicated that no application for prior approval has been made by the appellant. I also have no plans or other particulars before me to demonstrate how the buildings could potentially be converted to dwellinghouses, including the potential number of units or how the prior approval matters would be met, though I note conversion to two dwellings was discussed under the previous appeal. Ultimately, there is no established fall-back position that could be immediately implemented instead of the appeal scheme. However, there is also no evidence that the PD right does not exist, and thus the conversion of the agricultural buildings in this way is a possibility, and thus a material consideration.
28. If pursued by the appellant, a Class Q scheme could result in an increase in traffic movements compared to the appeal scheme, although this would depend on the number of dwellings created and may be offset by reductions in agricultural traffic no longer using the buildings. Conversely, a Class Q scheme would avoid new buildings in the SG and effect significantly less change to the landscape since the overall shape and form of the agricultural buildings would remain. Moreover, in the context of the Council's current housing position, a conversion scheme for two or more dwellings would actually be more beneficial than the appeal scheme in terms of addressing the shortfall. Overall, there is insufficient evidence to conclude that a conversion scheme would amount to a more harmful development in overall planning terms. Therefore, there is not a justification for removing national PD rights through the offered UU, as it has not been shown that it would lead to a more harmful development than the appeal scheme. Consequently, it is not a matter weighing in favour of the proposal as a material consideration.
29. Concerns have been raised in representations regarding highway safety on Dark Lane. The evidence before me indicates that Dark Lane is lightly trafficked and speeds are low, and the proposal for a single dwelling would generate a modest amount of additional traffic. Should visibility splays be provided, it would prevent conflict arising at the site entrance. I am otherwise satisfied that the additional volume of traffic arising would not create an unacceptable risk to highway safety.
30. The Council has not argued against the proposal in respect of neighbours' living conditions, flood risk, drainage, archaeology, land contamination or ecology, subject to mitigating conditions in some cases. On the evidence before me, I have no firm reasons to find harm in these matters, which are neutral considerations in the overall planning balance.

Planning Balance and Conclusion

31. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites, with supply stated to be 3.12 years. In this scenario, Paragraph

³ Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO)

11(d)(ii) of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

32. In this scenario, policies which are most important for determining the application are deemed to be out-of-date. This includes Policies CLP1, CLP2 and CLP3 which all relate to the location of housing. However, I find that these policies still accord with key aims of the Framework to direct development to the most sustainable locations, including in terms of accessibility. Therefore, they still merit considerable weight. Policy CLP15 is consistent with the Framework in terms of recognising the need to conserve and enhance the natural environment, including landscapes and green infrastructure, and merits significant weight.
33. The proposal would add to the district's housing stock at a time when the Council cannot demonstrate a sufficient housing land supply, in line with the Framework aim of boosting the supply of housing. However, even in this circumstance, the benefit of a single dwelling would be limited. There would also be modest, but nonetheless positive net gains for biodiversity and economic activity generated by the construction of the development, but given the scale of the proposal, these would attract limited weight in its favour. The potential benefit of tidying up the existing site would attract modest weight, given its condition is the result of the appellant's own activity on the land and is capable of being otherwise addressed.
34. Set against this, I have found that the proposal would not represent an appropriate location for housing having regard to the spatial strategy of the area and accessibility to local services, contrary to the key aims of the Framework to create sustainable patterns of development and travel. It would also cause harm to the character and appearance of the area and so would not amount to an effective use of land, conserve the natural environment or create well-designed places, as expected by the Framework.
35. For reasons set out above, the appellant's fall-back position has not been shown to represent a more harmful development in overall planning terms and does not weigh in favour of the proposal as a material consideration.
36. Overall, I find that the adverse impacts of granting planning permission, taken together, would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole and having particular regard to the stated key policies for directing development to sustainable locations and securing well-designed places. Therefore, the presumption in favour of sustainable development does not apply.
37. Consequently, the Framework does not indicate that permission should be forthcoming, and there are no other material considerations that would justify a decision being made other than in accordance with the development plan.
38. Therefore, for the reasons set out, I conclude that the appeal should be dismissed and planning permission refused.

K. Savage INSPECTOR