



Appeal Decision

Site visit made on 14 January 2026

by **C Evans MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2026

Appeal Ref: APP/P1045/W/25/3372260

Land to the East of Wheatley Road, Two Dales DE4 2FF

- 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 Powell against the decision of Derbyshire Dales District Council.
 - The application Ref is 25/00557/OUT.
 - The development proposed is the erection of a single self and custom build dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single self and custom build dwellinghouse at Land to the East of Wheatley Road, Two Dales DE4 2FF in accordance with the terms of the application, Ref 25/00557/OUT, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application is made in outline with all matters except access reserved for future consideration.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site lies adjoining the settlement boundary of Darley Dale, an amalgam of smaller settlements, which includes Two Dales. It is part of a field, which has an existing access point and track to an agricultural building. The proposal would utilise this access point from Wheatley Road. The boundary is made up of dry-stone walls and mature trees. Adjoining the site on one side is a single dwelling, The Bungalow. The other adjoining side would remain as a green field. Opposite the proposal site, across from Wheatley Road is housing, which is accessed via Porteous Close.
5. Wheatley Road runs along the edge of the settlement. It is somewhat narrow in width and has no footpath along this stretch. There are gaps in the trees and dry-stone walls lining Wheatley Road. These allow views of open countryside on the proposal side of the road, and the denser, built-up settlement on the opposite. As a result, Wheatley Road provides a clear boundary between the settlement and the open countryside.

6. The proposed dwelling would be positioned behind the mature trees and dry-stone wall of Wheatley Road, adjacent to The Bungalow. The appellant has made changes to address matters raised in previous appeal decisions for the site (Refs: APP/P1045/W/22/3313855 and APP/P1045/W/24/3353459). Nevertheless, the proposal would lessen the gap and consequently, the open views between the dwellings on Wheatley Road. This would result in the current distinction between the built-up area and open countryside on either side of Wheatley Road becoming less distinct.
7. I acknowledge that the mature trees would screen the proposed dwelling to some extent. Retaining these and requiring other landscaping could be conditioned should this meet visibility splay and other requirements. However, it is likely that the proposed dwelling would be visible from various viewpoints through gaps in the trees and from the access point.
8. For the reasons highlighted above, I conclude that the proposed development would cause moderate harm to the character and appearance of the area. It would conflict with Derbyshire Dales Local Plan (December 2017) (Local Plan) policies S1, S4 and PD5. Collectively, these policies seek to protect the character and appearance of the area, in part through resisting development that is harmful or detrimental to the character of the local and wider landscape or setting of a settlement. It would also conflict with Policy NP6 of the Darley Dale Neighbourhood Plan (2020), which supports proposals that follow the existing development pattern along the roads through Two Dales.

Other Matters

9. The proposal site is located near to The Cottage, a Grade II listed building. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. The significance of the building is derived from its age; architectural features, in particular to its rear elevation and cultural association from the historic author Leslie Crichton Porteous, who was a resident for a number of years.
10. The Inspectors for both previous appeals on this site concluded that the proposal would preserve the setting of the listed building. Based on the evidence before me, I have no reason to take a different view and consider that the significance of The Cottage would not be harmed. I note the Council had no concerns in this regard either.
11. Various matters have been raised by local residents. It has been put to me that there would be a negative impact on the local ecology. Planning conditions are included to manage this, and the Council could require a landscaping scheme as part of a future reserved matters application.
12. It is unlikely that one dwelling would lead to an increase in noise and disturbance to such an extent that it would impact the living conditions of occupiers of neighbouring properties.
13. The availability of building plots in the area has been raised. I have not been provided with information to confirm whether they are available to the appellant or could accommodate the proposed development. In any case, this falls outside of the remit of this appeal.

14. Whilst the proposal would result in the loss of agricultural land, I have not been given information on the grading. The proposal would result in a small parcel of development, which would not compromise the remaining field. The proposal would, therefore, result in a modest loss.
15. There is little evidence before me that the proposal would result in a negative impact to highway safety. The increase in traffic flows from a single dwelling would be limited. The Highway Authority has not raised concerns regarding this matter, and based on the evidence before me, I have no reason to disagree.
16. Local residents report issues with water draining from the site, however, based on the evidence before me, I am not convinced that suitable drainage could not be provided.
17. Concerns have been raised that allowing this appeal could lead to further development of the field. Each application must be considered on its own merits. This includes the impact of proposals on the character and appearance of the area. This also falls outside of the remit of this planning appeal.

Planning Balance

18. Whilst the site lies outside of the defined settlement boundary, should the Council not be able to demonstrate a 5 year housing land supply, Local Plan Policy HC1 applies. This allows for development of unallocated sites in this location, subject to other policies and the National Planning Policy Framework (the Framework). The Council has confirmed that they cannot demonstrate a 5 year housing land supply and described this as a substantial shortfall. The appellant is in agreement and makes reference to a 1.36 year supply, which the Council has not contested. On this basis, Local Plan Policy HC1 applies.
19. The proposal would cause harm to the character and appearance of the area, which is in conflict with Local Plan policies as highlighted above. On this basis, the proposal would conflict with the development plan as a whole, and consequently, it should be refused unless material considerations indicate otherwise.
20. Paragraph 11 d) of the Framework applies when a Council cannot demonstrate a 5 year supply of deliverable housing sites. Planning 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.
21. The proposal would make a small contribution towards the housing land supply in a site that is in an accessible location, with facilities and services nearby. There would be some limited social and economic benefits as a result of the proposal during construction and once the dwelling is occupied. Although proposals for self-build dwellings are exempt from statutory biodiversity net gain requirements, Local Plan Policy PD3 encourages all proposals to ensure an overall gain. This is a small benefit of the proposal.
22. The Framework supports proposals for self-build dwellings. Both parties are in agreement that there is a need for self-build plots in the area. The appellant contends that none have been delivered and the Council has not contested this. The appellant has submitted a planning obligation via a Unilateral Undertaking (UU) to secure the self-build element of this proposal. As a UU, it is not necessary for the

Council to be a party to ensure its enforceability. The definitions and safeguards included are in-line with relevant guidance. Whilst it was received late in the appeal process, as a legal document, I am able to accept it. It meets the requirements of paragraph 58 of the Framework, as it is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. This is another benefit of the scheme that weighs in its favour.

23. The harm to the character and appearance of the area would not significantly and demonstrably outweigh the benefits having regard to the acute shortfall in land supply and when assessed against the Framework taken as a whole. As a result, the proposal represents sustainable development, and permission should be granted in accordance with the presumption in favour of sustainable development. This is a different outcome to the previous appeals on the site, but I have assessed this proposal on the basis of its own merits. This appeal is for an amended scheme and there has been a change in circumstance since the previous appeals were dismissed.

Conditions

24. I have imposed conditions regarding the approval for reserved matters, the time period and the approved plans for certainty and clarity.
25. To safeguard protected habitats and species, conditions regarding a Herptile Mitigation Strategy and a detailed lighting strategy are included. The condition regarding the Herptile Mitigation Strategy is a pre-commencement condition so that it is in place and enforceable before any construction works begin.
26. A condition securing a Biodiversity Enhancement Plan is necessary to comply with Local Plan Policy PD3. This is necessary as a pre-commencement condition to ensure a satisfactory scheme is designed prior to construction.
27. I have included a condition to secure a scheme for the disposal of foul drainage, as requested by the Environment Agency. This is to satisfy the Local River Basin Management Plan, which requires the restoration and enhancement of water bodies to prevent the deterioration and promote recovery of water bodies. Without this condition, the development could cause deterioration of a quality element to a lower status class. This is also necessary as a pre-commencement condition to ensure the scheme is designed prior to construction and meets requirements.
28. The Council has suggested a condition to secure the dwelling as a self-build. This is not necessary to make the proposed development acceptable, as this is secured by a UU.
29. The Council also suggested a condition regarding vegetation clearance to protect nested birds. This would fail the test of necessity, as nesting birds are protected through the Wildlife and Countryside Act 1981.
30. The appellant has made reference to a condition to preserve the existing mature and recently planted laurel hedgerow surrounding the site. There is an opportunity for the Council to secure this at Reserved Matters stage.

Conclusion

31. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above the appeal should be allowed.

C Evans

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of all reserved matters must be made not later than the expiration of three years from the date of this permission. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval of such matters on different dates, the date of the final approval of the last such matter to be approved.
- 2) An application for details of the following matters (hereafter referred to as the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any works:
 - a) the scale of the development;
 - b) the layout of the development;
 - c) the external appearance of the development;
 - d) the landscaping of the site.

The development shall thereafter be implemented in accordance with the approved details.

- 3) The development hereby permitted shall be carried out in accordance with drawing nos:

SP - 25 - 043 - Location Plan; and

SP - 25 - 043 - Site Plan - Proposed

but only in respect of those matters not reserved for later approval.

- 4) Prior to the commencement of works (including clearance of grassland, refugia piles, hedgerow and scrub, groundworks or the introduction of machinery / materials to site) a Herptile Mitigation Strategy shall be submitted to the local planning authority to safeguard grass snake and common amphibians, along with any other reptiles or amphibians encountered. This shall include reasonable avoidance measures and seasonal timings for habitat clearance. Instructions will be provided in the event any individuals are discovered. The Herptile Mitigation Strategy shall be implemented in full and a short statement of compliance submitted at the end of site clearance works.

- 5) Prior to the commencement of works above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include at least three of the following measures:
- a) universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
 - b) integrated bat boxes, insect bricks / towers
 - c) fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs
 - d) ecologically beneficial landscaping including native species planting (can be detailed in a landscaping plan)

Evidence that these measures have been implemented shall be submitted to the local planning authority for approval within one month of completion of development.

- 6) Prior to the commencement of works a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
- 7) Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the local planning authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. The Strategy should refer to Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023) and explain how proposals have been designed in compliance with this document. Such approved measures will be implemented in full.

END OF CONDITIONS