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# Appeal Decision

Site visit made on 6 June 2023

**by S. Ashworth BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 June 2023**

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**Appeal Ref: APP/P1045/W/22/3313855**

**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 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr & Mrs Powell against Derbyshire Dales District Council.
  - The application Ref 22/01082/OUT, is dated 14 September 2022.
  - The development proposed is outline planning application with all matters reserved except access for the erection of up to 3no. single storey eco dwellinghouses.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is made in outline with all matters reserved for subsequent approval except for access. The site plan as proposed<sup>1</sup> shows a layout for three dwellings. However, that plan is indicative only and I have taken into account that there may be alternative ways of developing the site.

## Main Issues

3. The main issues in this case are:
  1. The effect of the proposed development on the character and appearance of the area.
  2. The effect of the proposal on the setting, and significance, of the Grade II listed building 'The Cottage'.

## Reasons

*The effect of the proposed development on the character and appearance of the area.*

4. Policy S2 of the Derbyshire Dales Local Plan 2017 (the Local Plan) sets out a settlement hierarchy for the district which directs new development towards the most sustainable locations. Darley Dale, noted as an amalgam of smaller settlements, including Two Dales, is identified as a second-tier settlement, a 'local service centre'. The appeal site, part of a larger field on the eastern side of Wheatley Road, lies outside of the identified settlement boundary. One of

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<sup>1</sup> Drawing No 3982-003

the purposes of the settlement boundary, the policy notes, is to define the intended relationship between settlements and the countryside beyond.

5. Policy S4 of the Local Plan, which seeks to protect the landscape's intrinsic character, sets out specific circumstances where development outside defined settlement boundaries will be permitted, including development on non-allocated sites on the edge of defined settlement boundaries of first, second and third tier settlements where there is no 5 year housing land supply, subject to consideration against other policies in the local plan and the provisions of the National Planning Policy Framework (the Framework).
6. In this case there is no dispute between the main parties that the Council cannot currently demonstrate a 5 year supply of housing land. On that basis the proposal could be consistent with the settlement strategy, provided it meets the requirements of other adopted policies and national policy guidance.
7. Policy PD5 of the Local Plan seeks to protect the landscape character of the Plan Area through various means including by resisting development which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement.
8. Wheatley Road is a narrow single-track road with no footpaths beyond its southern end and limited street lighting. For the most part, and in the vicinity of the site, the road is bound on both sides by modest dry-stone walls with trees and other vegetation behind them. To the western side, within the settlement boundary, is a modern estate of dwellings fronting Porteous Close. Those dwellings can be glimpsed from the road through the trees and are more apparent further to the south. However, land to the eastern side of the road, between residential properties Andorra to the south and The Bungalow to the north, is free from residential development. Glimpses of the wider countryside beyond the road are available through the access point. Accordingly, the character of the road is that of a quiet rural lane which serves as a visual boundary between the built-up part of the settlement and the countryside.
9. The appeal site is a linear area of open grassed land which runs alongside the road. The site, which is not physically defined or contained within the field, is clearly part of the countryside and forms part of the settlement's countryside setting. The proposal seeks permission for up to 3 dwellings on the site which would be single storey in height and accessed from the road via the existing field access. The site layout submitted shows three 'L' shaped buildings each of a substantial footprint. Whilst this layout is for indicative purposes only, the introduction of up to three large domestic buildings and associated paraphernalia would have a significant urbanising visual impact on the existing rural, open appearance of the site.
10. The dwellings would, to an extent, be screened from view from the road by the existing vegetation. I note that there is no intention to remove that vegetation. However, it seems to me likely that the dwellings would be seen from the access point and, like the dwellings opposite, may be glimpsed through the trees. Moreover, activity on the site, including comings and goings, would be apparent and would have a harmful impact on the quiet

character of the site. Furthermore, the presence of additional built development on the eastern side of the road would diminish the contrast between the built-up area to the west and the countryside to the east.

11. I recognise that the buildings and layout could be designed to reflect the topography of the site and that this part of the landscape lies at a lower level than the hills to the north and east. However, I am unconvinced that the site could be considered an 'infill' site given the length of the gap between Andorra and The Bungalow. Moreover, I am unconvinced that the present rural character of the site, or the clear distinction between the countryside and built-up part of the settlement, would be retained as a result of the development.
12. I acknowledge that The Bungalow, built in the 1970's, is a modern development on the eastern side of the road. I do not know the circumstances in which it was permitted, although anecdotal evidence suggests that it was constructed as an agricultural worker's dwelling. Nevertheless, that building sits adjacent to a group of buildings sited at a higher level around Wheatley House which early maps indicate was historically set apart from the core of the settlement beyond land used as a nursery. Accordingly, the presence of The Bungalow does not have an unduly harmful impact on the settlement pattern.
13. For the reasons set out above, the proposal would cause significant harm to the character of the local landscape and the setting of the settlement and as such would be contrary to Policy PD5. On that basis it would also be contrary to Policy S4.
14. The Council has also drawn my attention to Policies PD1 of the Local Plan and Policy NP16 of the Darley Dale Neighbourhood Plan. However, these policies relate to the detailed design of a scheme which, given this proposal is outline with all matters except access reserved, are not of direct relevance to the scheme before me.

*The effect of the proposal on the setting, and significance, of the Grade II listed building 'The Cottage'.*

15. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in considering whether to grant planning permission for development which affects a listed building, or its setting, special regard should be paid to the desirability of preserving the building, or its setting, or any features of special interest which it possesses. The Framework is clear that the setting of a heritage asset 'is not fixed and may change as the asset and its surroundings evolve'.
16. The Cottage, located on Park Lane at its junction with Wheatley Road, dates from 1704. The building is a modestly sized, two-storey stone building, the principal elevation of which faces the rear garden. That elevation contains several architectural features of note as set out in the list description. More recently, the building has been occupied by a local author. The special interest, or significance, of the building therefore lies primarily in its age, architectural detailing and latterly its cultural association.

17. Evidence in the Heritage Assessment indicates that at one time The Cottage would have been located within a ribbon of development along Park Lane bordering land used as a nursery. Now, the rear garden is bordered by the gardens of properties on Porteous Close. On the opposite side of the road to the east is The Bungalow. Accordingly, very little of the building's significance as a heritage asset is derived from its immediate setting.
18. The Cottage is separated from the appeal site by Wheatley Road and by the trees and vegetation that border it. Whilst there are glimpses through to The Cottage from the road, particularly through the pedestrian access, the building is not readily visible, and is not experienced, from the appeal site itself. I am therefore unconvinced the site lies within the setting of the listed building as defined in the Framework. Even if some vegetation were removed and The Cottage were to become more visible, there is no evidence before me that the site was ever functionally or historically related to The Cottage and as such the site adds little to the significance of the building as a heritage asset as set out above.
19. On that basis, whilst the proposal would change the character and appearance of the site, I am unconvinced that a sensitively designed development would harm the setting of the listed building. Accordingly, the proposal would preserve the setting of the listed building and the ability to appreciate it. In that way the proposal would meet the statutory requirements of the Act and would be consistent with Policy PD2 of the Local Plan which seeks to conserve heritage assets in a manner appropriate to their significance.

### **Other Matters**

20. The appellants have drawn my attention to appeal decisions relating to other sites within the district. I acknowledge that there are some similarities with the case before me but, from all I have read, their circumstances are not all directly comparable. One of those cases, for example, proposed a single dwelling to replace an existing building on previously developed land<sup>2</sup>. In another case, for two dwellings, the character of the area and settlement pattern differed to that before me and the proposal was considered to balance the built form and not cause an unacceptable extension of ribbon development<sup>3</sup>. I note the Inspector in this case, which predated the most up to date version of the Framework, gave very significant weight to the benefits of the proposal. The full details of the points put to the Inspector at appeal are not before me and I do not know all the circumstances that led to this judgement. Nevertheless, the attribution of weight is a matter for the decision maker.
21. Therefore, whilst I have considered all of these cases, I have dealt with the proposal before me in terms of its own site specific circumstances and the significance and setting of this particular listed building.
22. I have noted the concerns of the objectors to the proposal including those relating to matters of highway safety. No objection to the proposal has been

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<sup>2</sup> Appeal Ref: APP/P1045/W/21/3266851

<sup>3</sup> Appeal Ref: APP/P1045/W/16/3145895

raised by the Highway Authority in principle and on the basis of the evidence before me I have no reason to disagree.

### **Planning Balance and Conclusion**

23. Footnote 8 to paragraph 11 of the Framework indicates that in circumstances where a five-year supply of deliverable housing sites cannot be demonstrated, relevant development plan policies are deemed to be out of date. There is nothing otherwise before me to show that the Framework Policies in footnote 7 to paragraph 11 provide a clear reason for refusing the proposal. Accordingly, paragraph 11dii) states that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
24. The principal benefit of the proposal is the provision of up to 3 dwellings, constructed to high environmental standards, in a location which is within easy reach of a village public house and the wider range of services and facilities in nearby Darley Dale, many of which are accessible on foot. The proposal could provide adaptable, accessible accommodation on one level and may also provide an opportunity for downsizing although there is little detail on these matters before me. Moreover, there is no mechanism that would ensure that the dwellings were occupied specifically by the elderly in perpetuity. Nevertheless, the proposal would make a limited contribution to the housing supply in the area generally and would add to the mix of housing types. In addition, there would likely be limited social and economic benefits derived from the construction of the dwellings and from future activity of the occupants of the dwellings.
25. Therefore, taking into account the extent of the shortfall in housing provision, the cumulative benefits of the proposal attract moderate weight in favour of the scheme.
26. Balanced against that is the harm to the character and appearance of the area that I have identified. The Framework is clear at paragraph 130 (c and d) that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting and should establish a strong sense of place using, amongst other things, the arrangements of streets and spaces. Therefore, the conflict with Policy PD5 which is consistent with the Framework in this regard, carries significant weight.
27. Consequently, I find that the adverse impact of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
28. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise<sup>4</sup>. There are no other considerations, including the provisions of the Framework, which outweigh this finding.

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<sup>4</sup> Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

29. For these reasons, and taking all other matters raised into account, including the representation of support for the proposal, the appeal is dismissed.

*S Ashworth*

Inspector