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# Appeal Decision

Site visit made on 1 December 2015

**By Elaine Worthington BA (Hons) MTP MUED MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13<sup>th</sup> January 2016

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**Appeal Ref: APP/F1040/W/15/3136939**

**Land at Main Street, Etwall, Derby, Derbyshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Hannah Ellis, Gainsborough Developments, against the decision of South Derbyshire District Council.
  - The application Ref 9/2015/0215, dated 11 March 2015, was refused by notice dated 26 August 2015.
  - The development proposed is a development of over-55s housing, community hub, self-build housing, residential care home, formation of access road and provision of open space.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The planning application was submitted in outline with all matters reserved for future consideration and I have deal with the appeal on this basis. However an illustrative layout and general context plan has also been submitted, to which I have had regard.

## Main Issue

3. The main issue in this case is whether the proposal is a sustainable form of development and would provide a suitable site for development having regard to policies which seek to protect the open countryside, including its effect on the character and appearance of the area and the setting of the Etwall Conservation Area.

## Reasons

4. The appeal site is an open field on the north side of Main Street. It is outside the defined boundary for Etwall as set out in the South Derbyshire Local Plan (Local Plan) and is therefore in the countryside in policy terms.
5. The Council accepts that it is unable to demonstrate a five year supply of housing land. Paragraph 49 of the National Planning Policy Framework (the Framework) indicates that where local planning authorities are unable to demonstrate a five year supply of deliverable housing sites, relevant housing supply policies should be considered out of date. In this instance these include Local Plan Policies H5 and H8.

6. As such, in itself, the appeal site's location outside the Etwall settlement boundary does not necessarily exclude its development for housing in policy terms. The presumption in favour of sustainable development is set out at paragraph 14 of the Framework and indicates that where relevant policies are out of date, 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 as a whole. Paragraph 7 of the Framework establishes the three dimensions to sustainable development; economic, social and environmental.
7. The proposal would provide a development of housing for people aged over 55 along with some self build housing, a residential care home for elderly people and a community hub. The illustrative plan submitted shows 27 self build houses, 13 over 55s bungalows, 12 over 55s apartments, and a 60 bedroom residential care home. The community hub would be a building with space for such things as a site office, coffee shop and communal space and could provide a base for a live at home scheme to support elderly people to remain independent at home. Low maintenance gardens, a bowling green, formal gardens to the care home, a pond and outdoor gym equipment on the surrounding open space are also proposed.
8. In terms of the economic and social role of sustainability, although outside the settlement boundary, the site is adjacent to it and accessible to the village on foot. Etwall has a convenience store, post office, secondary school, primary school and other village services including a library, community hall and leisure centre. Bus stops are also nearby with frequent services to Derby, Hilton and Burton upon Trent. Main Street has cycle lanes and connects to the National Cycling Network which provides dedicated cycle routes to nearby settlements. Consequently the future occupiers of the proposal would not be unduly reliant on the use of a car to meet their day to day needs.
9. This would support the core planning principle of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. It would also align with Paragraph 55 of the Framework which advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
10. The appellant considers that the Council's Strategic Housing Market Assessment Update 2015 identifies an ageing population as a particular issue in South Derbyshire. The 2011 Census indicates that Etwall is an attractive place for older people to live since a high percentage of the adult population is over 55 (compared to South Derbyshire overall). The appellant also refers to national research on retirement housing which shows that over a quarter of people over 55 would consider moving to some sort of retirement housing.
11. Recently approved schemes in Etwall make no specific provision for housing for older people and Council is not proposing to allocate land in its emerging Local Plan specifically for such accommodation. As such, the appellant predicts a shortfall in meeting the housing needs of older people in Etwall. Additionally the appellant cites the government's support for self build projects and mentions the absence of allocated sites for this purpose. The Council does not dispute these findings.

12. Paragraph 50 of the Framework aims to deliver a wide choice of high quality homes and requires local planning authorities to plan for a mix of housing based on current and future demographic trends and the needs of different groups in the community such as older people and people wishing to build their own homes. The proposal would provide up to 52 homes that would make good use of public transport, walking and cycling in an area of housing supply shortfall. It would contribute to meeting the identified needs of an ageing population, including the construction of a care home. Thus it would offer a choice of retirement housing and care facilities along with support for independent living. This in turn would free up larger family homes in the village. Opportunities for self build would be increased and additionally contributions towards affordable housing would be made. This being so, the proposal would support this aim of the Framework.
13. Furthermore, the scheme would be of value to the construction industry and result in direct and indirect employment generation with associated positive impacts on economic output. This would include short term construction jobs (estimated by the appellant to be over 150 jobs over the 3 to 5 years the project would take to construct). The self build houses would involve local traders and materials sourced from local suppliers. The future occupiers of the accommodation would support local services and facilities through expenditure. Jobs would be created in the care home, community hub and in supporting residents. The Council also acknowledges the benefits of the scheme in relation to the New Homes Bonus and Council Tax revenue.
14. New public open space and recreational facilities would be provided on a site which is not currently publically accessible and the recreational value of the site would be increased. Contributions for the enhancement of off site public open space would also be forthcoming. New community facilities centred around the hub building would be created and contributions towards improved health care and education facilities would be made.
15. The appellant has submitted a signed Section 106 agreement to secure these matters. Thus the proposal would meet the economic and social dimensions to sustainability. Additionally, these factors are benefits of the scheme and cumulatively add some considerable weight in favour of the proposal.
16. Turning to the environmental role of sustainability, the site is a field on the edge of the village. It is bounded by hedgerows and a wall along part of its frontage to Main Street. The site is contained to the north by a tree belt and is separated from the wider landscape to the north by this and the A516. The existing built edge to Etwall at Primrose Bank adjoins the site to the west and is a clear and rather abrupt boundary to the edge of the settlement. On approach from the north/east the site is seen against the backdrop of existing development in Etwall. As such, the site relates to some extent to the built up area and is contained by roads and significant planting. The appellant also refers to other urban features nearby including a wind turbine and a communications mast along with traffic noise on the A516.
17. Even so, despite these factors the site relates closely to the wider rural landscape to the north, east and south and is characteristic of the pastoral landscape of rolling countryside found within the Needwood and South Derbyshire Claylands landscape character area within which the site is located. The site's hedgerow structure has been intensively managed and includes gaps

- with an absence of trees and field margins that are absent or narrow. Whilst not a rare or unspoilt example, the field is nevertheless representative of the wider area of the settled farmlands character area identified in the Council's Landscape Character of Derbyshire document.
18. The site is not subject to a formal landscape designation, or within an Area of Outstanding Natural Beauty or a National Park. The site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA) as potentially suitable for development without mention of any landscape issues. I also note the appellant's view that it was not initially identified by the Council as being a valued rural landscape and I understand that it was agreed that a full Landscape and Visual Impact Assessment was not required to support the planning application. There are no public rights of way across the site and it is not used for recreation.
  19. However, as a relatively large area of undeveloped agricultural land in a gateway location, the site plays an important role at the approach to the village from the north. Although Main Street lies below the site and there is an existing wall and hedgerow, views of the open nature of the site are readily evident travelling in both directions along Main Street. In conjunction with the adjoining fields and with those on the south side of Main Street, the appeal site is part of a rural landscape which contributes to the character and appearance of the area.
  20. The Etwall Conservation Area covers the historic core of the village and is around 60 metres south of the appeal site beyond Burnaston Lane. The Conservation Area Character Statement (CA Statement) considers the approach to the village from the roundabout on the A516. It advises that the road follows a rural landscape of arable fields lined by hedgerows until the ground rises up in a continuous gradual slope to the village. This northern approach best illustrates the topography as the settlement can be seen perched on a hill with a backdrop of trees, which distinguishes the village from the surrounding countryside.
  21. Although it is not adjacent to the Conservation Area's boundary and is separated from it by Primrose Bank, the appeal site plays a key role in this rural landscape and helps to define the rural character of the village. Thus in my opinion the countryside nature of the appeal site is a characteristic of the setting of Etwall and its Conservation Area. That the site is not identified as lying within any identified principal views or open spaces in the CA Statement does not alter my view. Paragraph 132 of the Framework indicates that the significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
  22. The buildings would be arranged to provide an attractive development with a strong sense of place to respond to the site constraints. The indicative layout avoids a continuous built form along Main Street and provides a more feathered frontage inspired by the village character with a limited number of buildings some of which are single storey. A landscape buffer to screen the development from the road is also proposed. Substantial planting and soft landscaping (including new trees and hedgerows) is intended along the site's boundaries and could be secured through the Council's consideration of the reserved matters. As a result the proposal would increase tree cover and enhance field boundaries, whilst maintaining the field pattern and topography.

23. This planting would to some extent soften the appearance of the proposed development and provide a more gradual visual transition (or flow of development) between urban and rural than currently exists. The CA Statement recognises that whilst its boundary has been drawn tightly to exclude properties on the northern edge of the village, the cluster of 20<sup>th</sup> Century houses seen on the Derby approach road is built on raised land and still has an impact on the setting and northern approach to the Conservation Area.
24. Nevertheless, the introduction of development on to this prominent site would expand the extent of Etwall significantly northwards from the current built up limit of the village (which is clearly demarked by the edge of Primrose Bank). This would represent a substantial encroachment of development into currently open land that is defined as countryside and would result in the loss of what is an important area of countryside on the main approach to the village. Given the scale of the development proposed I am not convinced that the existing planting or proposed landscaping would disguise the consequent loss of openness or screen the proposal to the extent that it would lessen its visual impact to any significant degree. Despite the changes in levels, the resultant considerable intrusion of built development would be appreciated in views from Main Street where the development would be likely to be seen in an elevated position.
25. Thus, even against the backdrop of the houses in Primrose Bank and the village, the proposal would unduly detract from the rural character of the adjoining land and the appearance of the surrounding countryside. It would appear intrusive in this context, at odds with the surrounding rural landscape of arable fields and would unacceptably undermine the attractive open character of the approach to the village. For these reasons I consider that the proposal would harm the overall character and appearance of the area.
26. The historic core of Etwall is surrounded by more modern development, including by twentieth century housing on the approach from the south and west. Similarly the houses at Primrose Bank provide a buffer between the Conservation Area and the countryside on the approach from the north. The proposal would not affect key views into or out of the Conservation Area including of the historic core or the trees there. Nor would it obscure views of the elevated village on approach from the north. Be that as it may, as an unacceptable intrusion into the rural surround to the village, it would in my view have a negative impact on the countryside setting of the village and thus on the setting of the Conservation Area as well.
27. The retention and enhancement of the hedgerows on the site, along with tree planting and the creation of a pond, meadow, wetland and orchard as part of the proposed open space would result in gains to biodiversity. A sustainable urban drainage strategy would be employed. Additionally the buildings would be built to a high standard of sustainable construction to meet building regulations. However, for the reasons set out above, the proposal would have an adverse visual impact on the character and appearance of the surrounding area including the setting of the Conservation Area and so overall would fail to protect or enhance the natural environment. Consequently, it would not accord with the environmental dimension of sustainable development.

28. Bringing matters together, paragraph 8 of the Framework is clear that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously. The proposal would result in the considerable economic and social gains considered above and would play a role in building a strong responsive and competitive economy and supporting a strong, vibrant and healthy community. There would also be some environmental gains in terms of the scheme's contribution to helping to improve biodiversity, minimise waste and pollution and adapt to climate change. However, for the reasons given, the scheme would fail to result in positive improvements in the quality of the built, natural and historic environment anticipated by paragraph 9 of the Framework. As such when considering the scheme as a whole, environmental gains would not be realised. As a result, the proposal does not amount to sustainable development.
29. I confirm in any event, that the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. With paragraph 134 of the Framework in mind, I also confirm that although the harm that would be caused to the significance of the setting of the Etwall Conservation Area would be less than substantial, it would nevertheless be material, and would not be outweighed by the public benefits of the proposal as outlined. Whilst I note the appellant's view that the scheme did not give rise to a high number of objections, that is not a reason to allow development I have found to be harmful.
30. I therefore conclude on this issue that the proposal would not be a sustainable form of development and would fail provide a suitable site for development having regard to policies which seek to protect the open countryside, it would also have a harmful effect on the character and appearance of the area and would fail to respect the character and appearance of the area and the setting of the Etwall Conservation Area and would undermine the significance of this heritage asset.
31. This would be contrary to Environment Policy 1 of the Local Plan, criterion (iii) of which seeks to safeguard and protect the character of the countryside, the landscape quality, and wildlife and historic features. In so far as it seeks to ensure that new development outside settlements protects the character of the countryside and landscape quality, I am satisfied that this criterion aligns with the core planning principle of the Framework to recognise the intrinsic character and beauty of the countryside. The Council also refers to Policy BNE1 of the emerging Local Plan Part 1 which relates to design excellence. However, since this plan remains subject to Examination and has not yet been adopted this policy is of only limited weight. The proposal would also fail to support paragraph 109 of the Framework which seeks to protect and enhance valued landscapes. Additionally it would be at odds with the core planning principles of the Framework of conserving and enhancing the natural environment and conserving heritage assets.

*Other matters*

32. The appellant has submitted a signed Section 106 agreement in relation to public open space (on site and off site contribution), along with contributions for affordable housing, health care and education. It also covers matters of waste management capacity and drainage and the occupation of the specialist

dwellings and self build units. However, since the appeal is unacceptable for other reasons and is to be dismissed on its substantive merits, it has not been necessary for me to consider the submitted obligation in the light of the tests out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework.

**Conclusion**

33. For the reasons set out above, I conclude that the appeal should be dismissed.

*Elaine Worthington*

INSPECTOR