The Planning Inspectorate

Appeal Decision

Site visit made on 15 July 2014

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 14 August 2014

Appeal Ref: APP/H1033/A/14/2217948
At the rear of Meadow Lodge, Tunstead Milton, SK23 7ER

- 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 Brian Hunt against High Peak Borough Council.
- The application Ref HPK/2013/0705, is dated 19 December 2013.
- The development proposed is described as a "proposed bungalow for use by Mr & Mrs B Hunt at rear of Meadows Lodge".

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The application was submitted in outline, with all detailed matters reserved for future approval. I have therefore dealt with the appeal on this basis.

3. The Council have indicated in their grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission for reasons relating to (1) the sustainability of the location, (2) the effect of the proposal on the character and appearance of the area, and (3) the effect on the living conditions of future occupiers and nearby residents.

Main Issues

4. The main issues in this appeal are:

   (i) Whether or not the proposal would provide a suitable site for housing having regard to its location, the character and appearance of the area and the principles of sustainable development.

   (ii) Whether the proposal would provide acceptable living conditions for future occupiers and the effect of the proposal on the living conditions of the residents of nearby dwellings.

Reasons

Character and appearance

5. The appeal site comprises part of a large open grassed area of land, to the rear of Meadow Lodge and a neighbouring detached bungalow. It is accessed via a private hard surfaced track off Manchester Road and in between Meadow Lodge and Milton Meadow. There is a linear street pattern along the northern side of

Manchester Road; however the overall character of the area is dominated by open fields and agricultural land.

6. The appeal site is located outside of the built up area boundary as defined in the proposals map of the High Peak Local Plan 2005 (Local Plan). For the purpose of the Local Plan the appeal site is therefore located within a designated area of 'open countryside'.

7. In such areas Local Plan Policy OC1 only permits development that is an integral part of the rural economy and which can only be carried out in the countryside. The proposal is for an open market dwelling and is therefore not a development that is integral to the rural economy and which can only be located in the Countryside. As such it does not comply with Local Plan Policy OC1.

8. Nonetheless, the Council accepts that it does not have an identifiable five-year housing land supply. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate such a supply. In this case I consider that Local Plan Policy OC1 should be regarded as not up-to-date.

9. However the Framework also advises that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless the harm would demonstrably outweigh the benefits, or, specific policies within the Framework indicate that development should be restricted.

10. To this end, paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances. These include the re-use of redundant or disused buildings, exceptional design, essential need for rural workers, or the optimal viable use of a heritage asset. None of these circumstances apply in this case.

11. Furthermore, one of the Framework's core planning principles (paragraph 17) states that planning should, amongst other things, take account of the different roles and character of different areas and recognise the intrinsic beauty of the countryside and support thriving rural communities within it. Local Plan Policy GD4 also implies that planning permission will be granted for development where amongst other things its siting, layout, density and form are sympathetic to the character of the area and where there will not be an undue detrimental effect on the visual qualities of the locality or wider landscape. I consider this policy to be consistent with the Framework.

12. I appreciate that the proposed layout plan is only indicative; however the introduction of a bungalow, a hardsurfaced driveway and a large curtilage area onto this piece of land, beyond the settlement edge, would introduce an isolated built development that would appear obtrusive and encroach into the unspoilt countryside. This change would clearly have an adverse impact on the open rural landscape and character of this area.

13. Whilst I also saw on my site visit that the appeal site is within walking distance of two bus stops, I could not locate any important local services or facilities such as schools, shops, or health centres within the vicinity and I have not been provided with any details of these. In the absence of any evidence to the

contrary, I am therefore unable to conclude that there would be a sufficient provision of local services and community facilities to meet the everyday needs of future local residents. There would also be a strong likelihood that most future occupiers would be dependent on the private car for the majority of trips to access local services further afield. As such I do not consider this to be a sustainable location.

14. By reason of the proposal's encroachment into an isolated untouched countryside location, and its limited accessibility to local shops and services, I conclude that the proposal would not be a suitable site for housing having regard to the character and appearance of the surrounding area and the principles of sustainable development. As such it would conflict with the aims of Local Plan Policy GD4 and similar objectives in paragraphs 17 and 55 of the Framework.

Living conditions

15. The Council have raised concerns regarding the close proximity and relationship between the proposal and the habitable windows of the nearest detached bungalow to the south. Nonetheless, the submitted plan is indicative and the application was submitted in outline, with all matter reserved. Given the extensive size of the curtilage the proposed bungalow could be sited in other parts of the site where it would be likely to avoid adverse consequences for the living conditions of those nearby.

16. Whilst I also appreciate that the first floor rear windows of the neighbouring property known as "Rydale" would overlook part of of the appeal site, this would be at an oblique angle and not dissimilar to relationships that are commonly found between properties in residential areas. Therefore, although there would be limited overlooking of the appeal site, it would be within acceptable limits.

17. I conclude that the proposal would provide acceptable living conditions for future occupiers and that it would not have a harmful effect on the living conditions of the residents of nearby dwellings. Consequently it would not conflict with the aims of Local Plan Policies GD5 and H11, which collectively seek, amongst other things, to ensure that development would not create unacceptable loss of, nor suffer from unacceptable levels of, privacy and amenity.

Other matters

18. With regard to flooding, the Environment Agency has confirmed that as the site is below 1 hectare and falls within flood zone 2 it would not result in a high risk to the environment. I also note that the Council, further to seeking advice from Derbyshire County Council, are now satisfied that any potential flood risk could be dealt with by conditions. I have no reason to disagree with this, and have therefore not considered this to be a main issue for consideration.

19. A photocopy of a prescription, an appointment card for The Christie NHS Foundation Trust and an appointment confirmation letter from Salford Royal Hospital have been submitted to substantiate the circumstances of the appellant's household and I have no reason to question this. Nonetheless, although I have considerable sympathy for the appellant's household, personal circumstances will seldom outweigh more general planning considerations,

particularly where development would be permanent. As such this factor does not outweigh or overcome the concerns outlined above.

20. I have been referred to other similar developments in the area such as 'Rydale', 'Orchard Cottage', three cottages at a nearby lay-by, and a development comprising 375 homes, a 70-bed retirement complex and a retail park. However I do not have the full details of the circumstances that led to all these developments being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined the appeal on its own merits.

21. I have also been made aware of pre-application discussions that took place between the two main parties; a request that was made for the land to be included within the SHLAA, concerns regarding the validation of the application, and the appellant's preference for the application to have been determined by members of the planning committee. However, the Council argue that the land was considered as a part of the SHLAA exercise but has been identified as being non-developable and will not be taken forward into the emerging plan. This point has not been contested by the appellant and I have no reason to question it. The remainder of these matters relate to general advice on alternative schemes for the whole 3 acre area of land, and the Council's processing of the application rather than the specific planning issues of this appeal.

22. A newspaper article outlining the Secretary of State's thoughts on releasing land for older people has been submitted with the appeal, and I recognise that the Council's Highways Section have no objections to the proposal. The appellant also states that no trees will be lost as a result of the proposed development and that planted trees within the proposed garden area would increase habitat. Furthermore, I have had regard to the contribution, albeit modest, that the proposal would make to tackling the undersupply of housing land in the borough. Nonetheless, all of these factors do not overcome or outweigh the harm that I have found this development would cause.

Conclusion

23. The proposed development due to the outline nature of the appeal would not conflict with the intentions of the Local Plan concerning its effect on the living conditions of nearby residents or future occupiers. This factor, however, does not outweigh the significant harm that would be caused to the character and appearance of the surrounding area and its failure to achieve the principles of sustainable development. Therefore, my overall conclusion is that the appeal should be dismissed.

Mark Caine

INSPECTOR