
Delegated report Officer: Andrew Watson

Application ref. DMPA/2019/0857

Outline application (matters of appearance (in part) to be considered now with matters of access, layout, scale and landscaping reserved for later consideration) for the erection of three detached dwellings on Land to the rear of 180 Linton Heath, Linton, Swadlincote, DE12 6PE

Valid date: 29/07/2019

Consults expired: 10/09/2019

EIA development?

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

Planning application 9/2015/0583, for the erection of a single storey front extension, was granted on 4 August 2015. Planning application ref. 9/2015/0259, for the erection extensions, was refused on 18 May 2015 on grounds of impact on neighbouring properties.

The adjacent site has history relating to use of the land for gypsy pitches. Permission for two dwellings was refused in November 2016. A pending application (DMPA/2019/1020) seeks permission for the erection of 4 dwellings on that site.

Responses to consultations and publicity

Highway Authority – No objections subject to conditions covering width of the access, provision of two parking spaces per dwelling and any gates shall be 5m back from the highway boundary and open inwards only.

Environmental Health – No objections subject to recharge points for electric vehicles being provided.

Two letter of representation have been received making the following Points:

- The size of the three proposed dwellings would be considerably overpowering within close proximity of the adjacent properties
- There is no saturation of dwellings nearby.
- The proposal would generate a very busy and noisy area.
- Car currently park on the road causing traffic problems during peak times.
- The properties would block natural light.
- Overlooking and loss of privacy.
- Restricted visibility due to access and fences.
- Surely within the Green Belt and this is not appropriate development in the area.

Relevant policy, guidance and/or legislation

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Eater Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), INF2 (Sustainable Transport) and INF8 (The National Forest)

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in rural Areas)

National Guidance

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Local Guidance

- Design Guide Supplementary Planning Document (SPD)

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of Development;
- Impact on Neighbouring Properties; and
- Impact on Highway Safety.

Planning assessment

The application has been submitted in outline with the matter of appearance being considered at this stage, however no elevations showing the appearance have been submitted although site, with ground floor internal layout, plans have been provided and these indicate that the dwellings would be two storey. The application form indicates that the facing materials would consist of red brick under a brown roof tile. The other matters of access, landscaping, layout and scale have been reserved for future consideration yet the layout plan submitted provides some indication of how the site might be laid out and landscaped. In light of these observations, the description has been amended to specify that appearance is only being considered 'in part' given any reserved matters would need to develop this matter more firmly.

Principle of Development

Policy SDT1 sets out the settlement boundaries that define the built limits and the countryside. Linton Heath is mainly a ribbon of development leading east from the southern edge of the village towards the A444 and Castle Gresley to the north and east. The inclusion of land within the settlement boundary implies development would normally be acceptable in principle, though other technical considerations would still be assessed. Land outside of settlement boundaries is considered as part of the rural areas, or countryside. The site in question is located outside of the defined settlement boundary for Linton. Linton is classed as a key service village. Policy S6 seeks to locate development in the most sustainable locations and whilst the following discussion evidences concerns as to the environmental sustainability of the site, there is little concern as to its 'locational' sustainability.

With regard to the rural areas, Policy H1 states "*due to the lack of services and facilities and defined settlement boundaries only development of limited infill and conversions of existing building will be acceptable*". Policy H20 states in paragraph C that "*housing development would be expected to make the most efficient use of land whilst taking into account what is appropriate for the surrounding local built and natural environment*". Policy BNE5 states "*outside of settlement boundaries (as defined by policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:*

- allowed by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or*
- otherwise essential to a rural based activity;*

iii. *unavoidable outside settlement boundaries; or*
iv. *considered to be infilling that is in keeping with the character of the locality and represents the infilling of a small gap for not more than two dwellings, within small groups of housing; and*
v. *will not unduly impact on; landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets".*

Linton Heath consists of a number of properties that are set to both sides of and fronting the road, linear with it and with fields or woodland to the rear. The properties on the northern side of Linton Heath are mainly two storey semi-detached properties with hipped roofs covered in concrete tile or slate with red brick elevations with painted render to the upper floor. The properties are set back from the highway and all have their own private driveway with off-street parking. The properties to the southern side of the road mainly consist of two storey terraced properties that are tight up to the highway and constructed from red brick and painted render under a tile roof. There a number of single storey terraced properties that are finished in a painted render under a grey small clay tile hipped roof.

The existing two storey developments adjacent and leading up to 180 and 181 Linton Heath all have larger rear gardens. The existing development immediately on the opposite side of Linton Heath has a smaller rear garden, but the properties further to the east on Linton Heath also have large rear gardens. Ultimately, there is no tandem or 'backland' development.

Development to the rear of numbers 180 and 181 Linton Heath is not considered to amount to the limited infilling as it would infill a small gap - instead allowing encroachment to occur. The number of dwellings would also exceed the two normally allowed as infilling under policy BNE5, whilst it would fail to be *"in keeping with the character of the locality"* due to it introducing tandem development in an area where it does not currently exist. It is also considered that the current proposal does not respect policy Policy H20 for the same reasons.

The Council currently has a demonstrable 5 year supply of housing so the aforementioned policies can be afforded full weight, and there are no overriding or material circumstances to allow this site situated in the countryside to be developed. As such the proposal is contrary to Policy H1 and H20 of Part 1 of the Local Plan and Policies SDT1 and BNE5 of Part 2 of the Local Plan.

Impact on neighbouring properties

Policy SD1 states the council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed development. Policy BNE1 contains similar provisions. Both policies are expanded upon by way of the SPD and the separations standards therein.

The majority of neighbouring properties that surround the site (properties along Linton Heath) are positioned to the front and adjacent to the highway. Whilst the layout is indicative, it forms a good basis upon which to establish if the impacts from three new dwellings could be satisfactorily accommodated on site in compliance with SD1 and BNE1.

The properties to the front (facing Linton Heath) are situated between 18.8m and 24.4m away to the proposed dwellings. The middle property is 24m from the rear of 181 Linton Heath whilst the dwelling on the western boundary would have a garage between the rear elevation of the 181 Linton Heath and the front elevation of the proposed dwelling. This separation distance is 14m. The new dwelling on the eastern side is between some 18.8m and 19m away from the rear elevation of the existing property at 180 Linton Heath, which contains windows on the rear elevation that serve habitable rooms and directly overlook the proposed dwelling. The windows in the new dwelling would directly overlook the access which serves the existing dwelling a 180 Linton Heath and the three proposed dwellings.

There would be no windows in the side elevation of the proposed three dwellings to overlook neighbouring properties or each other and there are no properties affected to the rear of the proposed dwellings either. Planning permission for an additional two caravans on the adjoining site has been granted but they are yet to be placed on the site. The rear boundary to the curtilage of 180 Linton Heath consists of 2m timber fence with concrete panels and weatherboarding which would help to

screen the proposed properties from the caravans and toilet block on the gypsy site. Given that the caravans would be not much higher than the fence there would be no problem of overlooking as the layout plans submitted indicate there would be no windows in the side elevation. However, the siting of two storey dwellings could be dominant on the gypsy caravans, and below the 9m or 12m separation set out in the SPD.

The matters of scale and layout has been reserved for future consideration but site layout plans have been submitted with this application and these indicate that the required separation distance between the existing property known as 180 Linden Heath and proposed dwelling on the eastern does not meet the required separation distances contained in the South Derbyshire Design Guide. Furthermore, conventional two storey development is unlikely to be accommodated without conflicting with the SPD requirements for the caravans' occupiers. However, a condition could be applied to limit the scale for any reserved matters approval, ensuring 1.5 storey development at most to ensure acceptable impacts, but this may have an impact on the capacity for the site to hold three dwellings. Hence, whilst it is uncertain that the layout and scale could be changed to meet the required separation distances contained in the SPD whilst providing 3 dwellings; the scheme is presently in outline such that a change in the description to include 'up to 3 dwellings' could address this.

Overall, it would appear that 2, possibly 3, dwellings could comply with the standards outlined within the SPD, allowing compliance with policies SD1 and BNE1 of the Local Plan Part 1.

Impact on access and highway safety

Whilst in outline, the existing access that currently serves 180 Linton Heath is to be modified to serve both 180 Linton Heath and the three new dwellings.

Policy INF2 states, amongst others, that travel generated by development, including goods vehicle movement, should have no undue detrimental impact upon local amenity of transport infrastructure and the efficiency and availability of public transport services; and appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport and the private car.

The access considered to be appropriate for the development and the proposed dwellings. The drive is of a suitable width for cars and adequate parking provision capable of being made (noting the outline nature of the scheme). The scheme is also to the satisfaction of the Local Highway Authority.

The proposed dwelling and the required access are considered acceptable and in compliance with policy INF2.

Summary and conclusion

Whilst the plans indicate three dwellings can be accommodated on the site, it is not wholly clear that three dwellings could be accommodated without reducing the anticipated scale at the very least. It may require the subsequent developer to proceed with only two dwellings, if permission were to be forthcoming. However, this is not considered to be fatal to the determination of this application with it possible to apply conditions/changes to the description to reduce the scale and/or quantum of development. However, these are matters which would need to be addressed at any appeal or subsequent submission given the site is situated outside the boundary of a defined settlement where the existing development is exclusively linear in character along Linton Heath, and fronting it. As the proposal does not qualify as infilling and gains no particular support in principle, the erection of three dwellings would be contrary to Policy H1 and H20 of Part 1 of the Local Plan and Policies SDT1 and BNE5 of Part 2 of the Local Plan. In turn the proposal also offends policy S1 of the Local Plan.

Recommendation

Refuse

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	09/10/2019
Report agreed:	09/10/2019
Authorised officer:	Chris Nash
