



Applicant:
Central England Co-operative

Ref. No. DMPA/2019/1285
Made valid on: 4 March 2020

DECISION NOTICE

Description and location of proposal: Outline application considering the matter of access and the matters of layout and scale (in part) (matters of appearance and landscaping reserved for later consideration) for the development of up to 25 dwellings with associated open space and infrastructure at Land south of Castle Way, Willington, Derby, DE65 6BT

Decision made: In exercise of its powers as the Local Planning Authority under the Town and Country Planning Act 1990 and related subordinate legislation, South Derbyshire District Council hereby gives notice that permission/consent for the proposal as described above is hereby **Refused for the following reason(s):**

1. Despite the applicant's claim, the Council can demonstrate a five-year housing land supply and, as such, the relevant development plan policies are considered up to date and the presumption in favour of sustainable development as set out in paragraph 11(d) of the National Planning Policy Framework (NPPF) and policy S2 of the Local Plan Part 1 (LP1) are not engaged. The development would result in the erection of dwellings outside of and not adjacent to a defined settlement boundary within a rural area, thus not representing plan-led and sustainable development. The development is therefore contrary to policies S1, S2 and H1 of the LP1, and policies SDT1 and BNE5 of the Local Plan Part 2 (LP2).
2. The development would not reflect the character, density, scale or layout of built development on the approach into Willington which, as a result, would detrimentally impact its rural, green, open and agricultural setting on this approach. The proposal is therefore contrary to policies S1, H20, BNE1 and BNE4 of the LP1, policy BNE5 of the LP2 and the Design Guidance Supplementary Planning Document (SPD) 2017.
3. The development would result in harm to the setting of the designated heritage asset of the Trent and Mersey Canal Conservation Area due to the sense of enclosure created through the development by way of its density, scale and depth of built form and provision of landscape screening in close proximity to the asset that would erode the open, agricultural and green character of its setting. No public benefits have been identified which justify the identified harm. The development is therefore contrary to policies S1 and BNE2 of the LP1, policy BNE10 of the LP2 and the heritage policies and guidance of the NPPF and Planning Practice Guidance (PPG).
4. The development would result in the loss of and be detrimentally harmful to the open and rural site comprising pastoral grassland, which is highlighted as a key characteristic of the Derbyshire Trent Valley Washlands Lowlands Village Farmlands Landscape Character Type as a result of new built development, with moderate to severe harm to landscape and visual receptors. It is considered that the suggested mitigatory landscaping measures including screening would not overcome the defined harm and also results in further harm as this would not reflect the characteristics of the

Chris Nash

Authorised Officer of the Council

Date: 25 September 2020

landscape character area. The harm arising from the development is not outweighed by a lack of a five-year housing land supply. The proposal is therefore contrary to policies S1, H20 and BNE4 of the LP1 and policy BNE5 of the LP2.

You are advised of the following matters:

- a. For the avoidance of doubt, the documents subject to this refusal are plans/drawings ref.
 - Location Plan 3447-01;
 - Proposed Masterplan 3447-06 Rev C;
 - Proposed Indicative Levels and Heights 3447-08;
 - Development Layout - RCV Tracking SK03 Rev A; and
 - Development Layout - Visibility SK04 Rev A.

In dealing with the application, and further to pre-application advice where that has been given, the Local Planning Authority has positively sought to determine the application in a timely fashion and so promote the delivery of sustainable development in the District. Where practicable, feasible and necessary, and irrespective of the above decision, officers have made proactive attempts to find solutions to identified issues or to improve the quality of the development through negotiation with applicants and/or their nominated representatives, in order to foster the delivery of sustainable development and objectives of the Development Plan.

Right of appeal to the Secretary of State: if you are aggrieved by the decision of the Local Planning Authority to refuse permission or consent for your proposal or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990, subject to the following:

- if this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, any appeal must be made within 28 days of the date of this notice;
- if an enforcement notice is subsequently served relating to the same or substantially the same land and development as in your planning application, any appeal must be made within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal, the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015) of the date of this notice, whichever period expires earlier;
- if this is a decision on an application for consent to cut down, top, lop, uproot or otherwise destroy a tree or trees protected by a tree preservation order, or for a decision on a lawful development certificate for proposed works to a listed building, any appeal must be made within 28 days of the date of this notice;
- if this is a decision on an application for advertisement consent, any appeal must be made within 8 weeks of the date of this notice;
- if this is a decision on an application for householder or minor commercial development (the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015), any appeal must be made within 12 weeks of the date of this notice;
- in all other cases, except for a decision on a lawful development certificate for an existing or proposed use or development, any appeal must be made within 6 months of the date of this notice.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Appeals must be made using a form which you can get online at www.gov.uk/planning-inspectorate or from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. The Secretary of State need not consider an appeal if it seems to them that the Local Planning Authority could not have granted planning permission or consent for the proposal or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found online at www.gov.uk/planning-inspectorate.

Purchase Notices: if permission is refused or granted subject to an unacceptable condition, and the owner of the property claims that the property has consequently become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development/work which has been or would be permitted, the owner may serve on the Council a purchase notice requiring that Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Enquiries: Any correspondence or enquiries concerning this decision should be sent to planning@southderbyshire.gov.uk quoting the above reference number.