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# Appeal Decision

Site visit made on 8 June 2015

**by Y Wright BSc (Hons) DipTP MSc DMS MRTPI**

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

**Decision date: 24 June 2015**

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**Appeal Ref: APP/K2420/W/15/3005171**  
**Pear Tree House, Watling Street, Burbage**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Richard Coley against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 14/00771/FUL, dated 1 October 2014, was refused by notice dated 1 December 2014.
  - The development proposed is erection of replacement Pear Tree House.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The Council has served a notice under Section 330 of the Town and Country Planning Act 1990 in relation to the existing property. However, this is a separate matter that does not form part of the appeal and I therefore only consider the planning merits of the case.

## Main Issues

3. The main issues raised by the proposal are:
  - Whether the development would be a replacement dwelling in the countryside;
  - The effect on the character and appearance of the surrounding area; and
  - The effect on highway safety.

## Reasons

### *Replacement dwelling in the countryside*

4. The development proposed is for a replacement dwelling in the countryside. Policy RES10 of the Hinckley & Bosworth Local Plan 2001 (LP) requires special justification for the replacement of an existing dwelling within the countryside, to ensure that more substantial properties are not erected and that rural and visual amenity is protected. Although the LP does not define what is meant by an existing 'dwelling', it is necessary for me to consider whether the structure that exists on the site can reasonably be regarded as one.

5. It is undisputed that the building used to be a residential property. However the building has also not been used for around 40 years and I saw at my site visit that it is in a derelict state with no roof or windows and the walls are being held upright by substantial shoring and building ties. The appellant's building survey report (July 2014) concludes that the building is now only a shell, is in a very poor state of repair and is not recoverable as a dwelling house and thus should be demolished and reconstructed. In addition the site is extensively overgrown such that during my site visit it was mainly inaccessible, though the front elevation is clearly visible from the main road.
6. I note that the appellant considers that the structure is still recognisable as a house, that they have always intended to re-use the building as a dwelling and that the building has not been used for any other purpose. However, taking all the above into account, particularly the extensive period of time that the building has been unused and its current derelict state, I am not persuaded on the basis of the evidence before me that in terms of LP Policy RES10, the existing structure is a dwelling and thus can be replaced under the terms of the policy. As the building is not within an urban or rural settlement boundary, I therefore find that the development would constitute a new dwelling in the open countryside. However my conclusion on this matter does not preclude the appellant from applying for a lawful development certificate.
7. The Framework advises in paragraph 55 that new isolated homes within the countryside should be avoided unless there are special circumstances. I have no evidence before me that any of the special circumstances listed in paragraph 55 are relevant to this development. I note that the appellant refers to limiting use of the development to agricultural occupancy, but during the application process it was agreed that the description would be changed to avoid the need for an agricultural appraisal and justification. Without this I cannot determine whether such a proposal would comply with policy and that a condition to that effect would be appropriate.
8. Therefore taking the above into account I conclude that the proposal would be a new isolated dwelling in the countryside contrary to the Framework. As such it would also conflict with LP Policy NE5 which seeks to protect the countryside from development in order to safeguard its appearance, amenity and the contribution it makes to nature conservation; and LP Policy RES5 which seeks only to allow residential development on unallocated sites if it is within an urban or rural settlement boundary and accords with other relevant LP policies including design.
9. The appellant has drawn attention to other developments within the Borough, to support their assertion that the Council has been inconsistent in applying their LP policies in the countryside. I do not have full details of these developments and do not know the circumstances that applied at the time of their consideration by the Council. In addition both developments appear to be different to the appeal before me, as they relate to a renovated former farmhouse and the conversion of a barn to a single dwelling. I have determined this appeal on its own individual merits.

#### *Character and appearance*

10. The appeal site is partly screened to the sides and rear by hedgerows, trees and overgrown vegetation and contains the former dwelling and derelict outbuildings to the side and rear. It forms part of an agricultural holding in the

countryside and is surrounded by open fields. Although small amounts of development are scattered along Watling Street, including a couple of residential properties and a recycling centre located further along the main road from the appeal site, the predominant character of the area is rural open countryside.

11. The National Planning Policy Framework (the Framework) places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment. I appreciate that the appellant proposes to erect a house to the same design as the former dwelling and that it would be located further back from the main road. However, based on the evidence before me and from what I saw during my visit, I have already concluded that the site now forms part of the open rural countryside. Therefore the introduction of a new residential structure and the use this implies would have an unacceptably harmful effect on the character and appearance of the area.
12. Consequently, taking the above into account, I conclude that the development would not accord with the Framework, as it would result in material harm to the character and appearance of the surrounding area. It would conflict with LP Policy BE1 and the New Residential Development Supplementary Guidance 2000, both of which, amongst other things, seek development of good design that safeguards and enhances the existing environment.

#### *Highway safety*

13. Access to the development is proposed to be directly off Watling Street which forms part of the busy A5 trunk road which has a 60 mph speed limit. I note that a plan showing proposed highway improvements has been submitted by the appellant and that they are willing to enter into a Section 278 Agreement. The Highway Agency states that the information provided is insufficient for them to determine whether adequate access, drainage and boundary treatments could be provided without impacting on highway safety. I note that the appellant states that they could use the existing access which directly abuts the highway, without carrying out any highway improvements.
14. Whilst I note the highway concerns, at my site visit I saw that there is the potential for good visibility in either direction and I do not consider the principle of an access here would compromise highway safety, subject to the details of an access being submitted for approval through an appropriate condition. The development would also be beneficial by providing an upgraded access to and from the site. Consequently I conclude that the development would not adversely affect highway safety. However although I find a lack of harm on this issue, it is not sufficient to outweigh the considerations that led to my conclusions on the other main issues.

#### **Conclusion**

15. For the reasons given above I conclude that the appeal should be dismissed.

*Y Wright*

INSPECTOR