
Appeal Decision

Inquiry held on 14-17 and 21-24 August 2018

Site visit made on 24 August 2018

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2018

Appeal Ref: APP/R1038/W/17/3192255

Land at Deerlands Road, Wingerworth

- 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 Ripon Homes Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 17/00268/OL, dated 3 March 2017, was refused by notice dated 14 December 2017.
 - The development proposed is a residential development of up to 180 dwellings, public open space, landscaping, highway and drainage works and associated infrastructure.
-

Procedural matters

1. The application was submitted in outline, with only access and scale to be decided along with the principle of the development. I have dealt with the appeal in this manner.
2. A Planning Obligation (31 July 2018) was submitted before the Inquiry opened, and I have considered its content below.
3. As anticipated at the Inquiry, amendments to Planning Practice Guidance (PPG) and updated household projection figures were published after the Inquiry. The views of the main parties were sought on these matters and the responses have been considered in this decision.
4. In October 2018 a consultation paper was issued regarding possible updates to national planning policy and guidance, including the standard method of assessing local housing need. This paper was raised by the Council on 31 October. The appellant was given the opportunity to comment on this matter, which they did on 7 November. This correspondence has been taken into account.

Application for costs

5. At the Inquiry an application for costs was made by Ripon Homes Ltd against North East Derbyshire District Council. This application will be the subject of a separate Decision.

Decision

6. The appeal is allowed and planning permission is granted for a residential development of up to 180 dwellings, public open space, landscaping, highway

and drainage works and associated infrastructure on land at Deerlands Road, Wingerworth in accordance with the terms of the application, Ref 17/00268/OL, dated 3 March 2017, subject to the conditions appended to this decision.

Main issues

7. The application was recommended for approval by officers but was refused by the Council on 14 December 2017. There were five reasons for refusal, three of which are no longer being defended by the authority. These related to the adequacy of the sewerage system, the need for social infrastructure and the effect on highway safety.
8. There are two main issues in this case, which reflect the Council's two remaining reasons for refusal:
 - The effect of the proposal on the character and appearance of the area
 - Whether the proposed development would be accessibly related to the settlement of Wingerworth

Reasons

The site and the proposal

9. The appeal site is an area of rough grazing land around 7 hectares in extent located northeast of Deerlands Road and east of Hockley Lane. There are trees and hedgerows along many of the site boundaries. The land rises up to the north from Redleadmill Brook at the south of the site towards Hockley Farm and other properties, including Wingerworth Hall Gardens. To the east of the site are further fields and large areas of woodlands.
10. To the south of the site, beyond the brook, is a recent housing development which was allowed on appeal (51 units) in August 2013¹. The planning history of this site (along with the previous history of the appeal site) is summarised in the Statement of Common Ground². This development is known as Spindle Drive.
11. The main built up area of Wingerworth lies to the west of the site, and in this area is typified by predominantly 1960's houses and bungalows. Wingerworth is a very large village (with a population of over 6,000) and is the largest second tier settlement in the District.
12. The proposal, as set out in the bullet points at the top of this decision, is in outline along with scale and access. The entrance would be taken from Deerlands Road by way of Spindle Drive and over Redleadmill Brook on a new bridge. The proposal, as judged by the submitted plans and the illustrative material, would include up to 180 homes with 40% affordable units (secured by the Planning Obligation), open space, and on-site storm water attenuation.

Planning policy background and weight

13. The development plan includes the North East Derbyshire Local Plan (LP) (2005) which was intended to operate until 2011. The site is outside the Settlement Development Limit (SDL) of Wingerworth, which is on the opposite

¹ APP/RR1038/A/13/2192646

² Section 2

side of Deerlands Road. For planning purposes the site is therefore agreed to be classified as open countryside.

14. Leaving aside the matters which are no longer being pursued by the Council, the remaining policies in the reasons for refusal are:
 - LP policies GS1, GS6 and H3. These deal with SDLs and development in the countryside.
 - LP policies GS1, H12 and T2. These deal with accessibility to local facilities.
15. The Wingerworth Neighbourhood Plan (NP) was made in June 2018, and is part of the development plan. This plan does not allocate any housing sites, and I will return to the role of the NP below.
16. The draft Local Plan (DLP) has been submitted for examination, and has attracted representations on a wide range of issues, including policies related to housing requirement and supply, settlement development limits and the overall development strategy. The Council did not place any reliance on the DLP at the Inquiry³ and, given the stage which it has reached and the existence of numerous representations, only limited weight could have been placed on it in any event.
17. Returning to the development plan, the parties are agreed that the proposal does not conform to the relevant spatial policies of the LP, most particularly in that the appeal site is outside the Wingerworth SDL and is open countryside in policy terms. In the context of the age of the LP, it is unsurprising that the question of whether the LP is out of date was raised in evidence and debated at length at the Inquiry.
18. The simple fact that the LP period was until 2011 does not mean that, as it is time expired, it should be disregarded. Nor does the fact that progress on the replacement DLP has been slow, emphasised by the Secretary of State's correspondence with the Council regarding possible local plan intervention⁴, mean that the LP is out of date. The important question is the extent to which the policies in the LP are consistent with the National Planning Policy Framework (the Framework).
19. The Wingerworth SDL, as set out in the LP, was stated in the officers' report to be out of date as it did not address the District's housing needs. This is clearly the case, and is unrelated to whether the Council can demonstrate a five year housing land supply – a matter to which I return below – as what matters in this instance is whether the saved policies still have a function in relation to housing need.
20. The SDLs were intended to address development needs up to 2011 and have little to do with the present position. The housing targets set out in the LP are out of date and this was confirmed in the Statement of Common Ground. The SDL and the related policies are inextricably interlinked, in that policies relating to the location of development and the delivery of housing lose much of their meaning if their spatial location is not set out and, conversely, the SDL is meaningless unless there are policies related to it.

³ Other than to note that the SDL for Wingerworth is not proposed to be changed

⁴ CD E38

21. In the Council's written evidence it was stated that the LP as a whole was up to date, but this position appeared to change at the Inquiry and it was accepted by the Council's witness that the plan was out of date. The Council's position in the closing submission was that the relevant policies were "mainly consistent" or have "some consistency" with the Framework. This confusing position is not helpful, but I prefer the clear evidence given by the Council's witness.
22. In addition, it was accepted by the Council that the authority has allowed developments which are inconsistent with the LP. Furthermore, the approach of my fellow Inspector in the Spindle Drive decision was that policy should be accorded limited weight as it was more restrictive than the (then) Framework. Although this decision was some time ago, nothing in the intervening period suggests that more weight should be given to the same policies.
23. In any event, as accepted by the Council at the Inquiry, the wording of LP policy GS1 is incompatible with the Framework as it includes an "overriding exceptional circumstances" test for development in the countryside. This is not, and has never been, part of national policy outside Green Belts or Areas of Outstanding Natural Beauty. Additionally LP policy GS6 gives the countryside a level of blanket protection which is inconsistent with national policy. All these additional matters clearly point to the LP being out of date.
24. I appreciate the Council's argument that the DLP does not propose a change to the Wingerworth SDL. However the emerging plan is of limited weight and there are apparently numerous representations to the spatial and housing policies. The emerging position regarding SDLs is therefore of very limited assistance.
25. Before concluding on the weight to be accorded to the LP, mention needs to be made of the recently-made NP. This plan makes no allocations and is therefore silent on housing needs. As was explained to me at the Inquiry, the original intention was for the NP to update the existing SDL. But, following discussions with the District Council, it was decided that the SDL should not be revised through the NP and this was left to the DLP. Overall, the NP does not address housing development needs, as this is reserved to the DLP. The Council accepted at the Inquiry that, if the NP were seen to be restrictive in its own right, then the NP itself would be out of date. I do not consider that to be the case and, in view of the perfectly proper relationship between the NP and the LP/DLP, I do not consider the NP to add anything of substance to the relevant policy base.
26. Overall the proposal does not conform to the relevant spatial policies of the LP, as the site is outside the SDL and is in the open countryside in policy terms. However, for reasons given above, the LP policies which are most important in determining the appeal are out-of-date. This does not mean that they can be ignored, but they have significantly reduced weight.

The character and appearance of the area

27. Part of the Council's composite first reason for refusal alleged negative environmental impacts in relation to visual prominence and the wider landscape/local topography.
28. In considering this matter, I am conscious that the Council did not call any landscape or design evidence to defend this aspect of the reason for refusal,

although it was briefly addressed by the planning witness. This is in contrast to the appellant, who produced a full Landscape and Visual Impact Assessment (LVIA) and who called landscape evidence.

29. The site falls within National Character Area 38 – the Nottinghamshire, Derbyshire and Yorkshire Coalfield. Regionally it is with the Wooded Slopes and Valleys Landscape Character Type. At the most detailed level it is within the Wooded Farmlands Landscape Character Type, which is typified by scattered ancient woodlands and hedgerow trees, dense tree cover along streams, small to medium irregular fields enclosed by mixed species hedgerows, curving lanes with irregular verges, scattered sandstone farmsteads and occasional hamlets.
30. Even allowing for the presence of Wingerworth, the last categorisation is a good description of elements of the appeal site, which is generally well enclosed by hedgerows and trees. There is no reason to doubt the appellant's statement that the majority of these would be retained in the detailed scheme design.
31. The Council suggested that the site is prominent, but this was persuasively contradicted by the appellant's detailed landscape evidence and by what I saw from the agreed viewpoints on my site visit. Although the site is visible at close range, when I visited the more distant locations, it was difficult in many cases to pick out the appeal site – so any future development thereon would have comparatively little effect. Subject to a height limitation applying to development on the upper part of the site, the proposal would not be unduly prominent or out of place.
32. The appellant's LVIA assessed the landscape and visual impact of the proposal and there is no dispute as to the methodology employed. In terms of the effects on landscape character, obviously the proposed replacement of fields by housing would introduce built form onto currently undeveloped land. However so would any built development on a greenfield site, and this would be set in the context of existing development to the south and west and, to a lesser extent, to the north. This limits the sensitivity, remoteness and tranquillity of the site.
33. The site is not in a valued landscape in terms of the Framework. The introduction of built form into the countryside beyond the settlement edge would have a minor adverse change to the landscape – but this would be appreciated only in localised views. The extent of this change is agreed between the main parties.
34. The parties debated the meaning of the appeal decision at Spindle Drive in relation to any consideration of the current appeal site. However this is not a particularly worthwhile exercise as, quite naturally, that Inspector was considering the site before him at that time, and it is not clear what evidence was presented to him in relation to the current appeal site.
35. For the above reasons the proposal would cause limited harm to the character and appearance of the area, and would thereby conflict with the relevant development plan policies (to which I attach significantly reduced weight) summarised above.

Relationship with Wingerworth

36. Wingerworth is a large village with a number of local amenities, including primary schools, public houses, places of worship, convenience stores and a number of other shops. There are several formal and informal public open spaces. The extent of the facilities is agreed between the main parties⁵.
37. Whilst I accept that, due to the proximity of Chesterfield and the good transport links to that town, Wingerworth functions to an extent as a dormitory for Chesterfield and beyond. Nevertheless it has a reasonable range of services and facilities.
38. The issue therefore revolves around how the appeal site relates to Wingerworth and the facilities beyond.
39. Dealing first with bus transport, there are bus stops around one minute's walk from the entrance to the site. I appreciate that it would take some while to walk from the furthest part of the site to the bus stop, but the distance is not such as would be likely to put many people off using the bus. Once at the stop, there are two services, providing around three services an hour, to Wingerworth, Chesterfield and Clay Cross. Interchange facilities to other destinations and other modes of transport are present especially in Chesterfield.
40. Turning to walking and cycling, I note that only three amenities fall within a 1 km walk, but the great majority of the remainder are within 2 kms. I agree with the Council's argument that accessibility must be considered against the situation on the ground, including gradient, as opposed to two dimensional plan form. From what I saw on site some of the routes are sufficiently steep or poorly surfaced as to put some people off walking or cycling. In particular the route north up Hockley Lane is potentially unattractive in inclement weather, or for those with children, or the infirm. However alternative routes exist the shortest of which is only around 150m longer, and offer easier walking or cycling routes.
41. In dealing with this issue, I am mindful of the conclusion of my fellow Inspector dealing with the Spindle Road appeal. The access point to that development and the current appeal site are all intents and purposes the same – although I accept that the distance across the current appeal site is greater than which he was considering. I have no reason to disagree with his conclusion which was that, having regard to the location of the site and the accessibility to local facilities and services, the development was satisfactorily related to the settlement of Wingerworth. Nothing has been put before me to suggest that matters have significantly changed on the ground since that time.
42. Development should be focussed on locations which are sustainable and which offer genuine choices of transport modes. I find that the proposed development would offer a choice of transport modes – including walking, cycling and public transport. It would comply with the LP policies summarised above.

Other matters – housing land supply

43. As accepted by the appellant, the presence or absence of a five year housing land supply is not the determinative factor in this appeal. However the

⁵ Statement of Common Ground Paragraph 3.6

absence of such a supply would be an important additional material consideration in favour of the proposal.

44. National policy, as set out in the Framework, is that the supply of homes should be significantly boosted and it is important that a sufficient amount and variety of land can come forward where it is needed. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. The use of the standard method is now enshrined in the Framework, and the PPG has been amended to explain its application.
45. The most important difference between the parties relates to whether the standard method should be employed. The Council's position is that it can demonstrate a five year supply of housing land, with an OAN based on the standard methodology. The Council is content to rely on 266 dpa, which is the minimum figure derived from the new methodology and the 2014 household projection figures. This approach captures any under-delivery⁶. On the basis of the Standard Method, on any view of the details of the supply and other matters⁷, it is agreed that a five year housing land supply exists.
46. However the appellant's approach is that the standard method should not be used. Their requirement position, using the approach which existed before the standard method emerged, leads to a shortfall in housing land supply, as clearly demonstrated in their evidence.
47. The parties agreed at the Inquiry that, when the new standard methodology for assessing housing need was introduced, it was for the purpose of simplifying the process and making it more transparent. A number of matters have been put forward as potential exceptional circumstances which, it is contended, lead to the conclusion that the standard method should not be used in this case.
48. The appellant has suggested that the new household projections cast doubt on the standard methodology. It is clear that the recently produced 2016 projections may have a potentially significant effect on the national picture. However for North East Derbyshire the impact appears to be less pronounced. The methodology and the data underpinning it may well be changed, as was flagged up when the Framework and the revised PPG were published and as is illustrated by the recent consultation on draft changes to planning policy and guidance (including the standard method of assessing local housing need). However the fact that the government intends to review the methodology in the light of the 2016 population data is not a good reason for departing from the standard approach at this time. This position was clearly appreciated when the new methodology was introduced. As matters stand the national policy position is clear.
49. The transitional provisions in the Framework allow for emerging plans submitted up to January 2019 to be examined in accordance with the approach set out in the former Framework. That is the case in North East Derbyshire, and the Council is relying on a different OAN (330 dpa) at that examination to

⁶ Based on the new projections the Council states that the figure would be 234 dpa.

⁷ Appellant's supplementary statement Table 3.1

that which was put forward in relation to this appeal. However the DLP figure using the methodology of the previous Framework is as yet untested.

50. The appellant's concern is that this could lead to a perverse position in that this appeal decision and the DLP examination will occur at around the same time, and the results could be founded on different approaches. However the Framework is clear that that the transitional provisions apply to local plan examinations and not to s78 appeals, where the new Framework is immediately applicable. Whilst appreciating the argument, this eventuality will doubtless have been foreseen when the new Framework and revisions to PPG were produced.
51. Overall, the standard methodology was introduced to provide clarity and consistency, and with this background circumstances to justify departing from the new methodology would have to be truly exceptional. It is highly unlikely that this is the only instance where the determination of an appeal will occur around the time of a local plan examination, which will be considering the wider picture on a different basis. This does not represent a circumstance so exceptional as to justify a departure from the standard methodology.
52. There remain other matters in dispute between the parties, including the use of blended Experian and OBR or solely OBR figures, affordable housing uplift, and details of the supply. However, given my conclusion on the applicability of the standard methodology, it is not necessary to pursue these matters further as it is agreed that a five year housing land supply exists using the standard method approach.
53. Therefore the housing land position does not trigger the 'tilted balance' arising from paragraph 11 of the Framework. However it is important to note that the presence of a five year supply of housing land is not a ceiling and the provision of general needs housing is a significant material consideration in light of national policy to significantly boost the supply of homes.
54. In addition, the need for affordable housing is agreed by the parties to be acute and significant. The Council criticised some of the details of the appellant's approach towards consideration of affordable housing at the Inquiry, but it is clear that there is a very significant need for affordable housing in the District, and that there is very considerable doubt as to delivery. Even if one accepts the Council's position that there is a pipeline of affordable housing coming forward in Wingerworth - which is far from clear - the provision of 40% affordable housing in the appeal scheme is a benefit. This is a very significant material consideration weighing in favour of the appeal scheme.

Other matters – traffic, flooding/sewage, ecology, ownership

55. Residents are very concerned at the impact of construction traffic on highway safety, based on experiences with the Spindle Road development. I fully understand these concerns but, given the possibility of a condition related to a Construction Method Statement, I am confident that these issues can be significantly ameliorated.
56. Residents graphically explained the problems experienced in the area in relation to sewage issues. Whilst I sympathise with the concerns of local people, there is no technical evidence to support their fear that the proposal would worsen the existing position. Surface water would eventually drain to

the watercourse and only foul water flows would enter the sewer – but this would be downstream of the location of the majority of issues reported by residents.

57. In terms of ecology, I have nothing which persuades me to depart from the agreement between the main parties that there would be no detrimental impact, and that the proposal could provide a net gain in biodiversity.
58. There was a specific concern raised related to the ownership of a dry stone wall to the north of the site. However this is a land ownership issue and is not a matter on which this appeal should turn.
59. All these matters and others are agreed between the main parties, as set out in the Statement of Common Ground⁸. I have no substantial evidence to depart from that position.

Conditions and planning obligation

60. I have considered the conditions put forward, without prejudice, by the parties in the light of PPG.
61. Along with the submission of reserved matters, a number of other details (surface and foul water, levels, planting, play area, climate change, coal mining and biodiversity) need to be submitted prior to the development commencing, to ensure a satisfactory standard of development (1, 2, 12, 20, 21, 22, 23, 24, 25, 32, 33, 35). For the avoidance of doubt, a condition specifying the approved plans is necessary, as is a condition limiting the number of dwellings (3 and 4).
62. For heritage reasons, a condition relating to archaeology is necessary (5).
63. In the interests of the health of future occupiers, a series of conditions addressing potential contamination is necessary (6 – 11).
64. For ecological reasons, external lighting and the timing of the development needs to be controlled. A Construction Environmental Management Plan and a Landscape and Ecological Mitigation and Management Plan need to be approved and implemented (26, 27, 28, 31).
65. To encourage local construction employment, a condition is needed to require a scheme for local recruitment (34).
66. Various highway matters need to be approved and implemented in the interests of highway safety (13, 14, 15, 17). For this reason and in relation to the amenity of nearby residents a Construction Method Statement needs to be prepared and implemented and the hours of construction controlled (28, 29, 30).
67. In the interests of encouraging sustainable modes of transport a Travel Plan needs to be submitted to and approved by the Council, and subsequently implemented (16).
68. As discussed above, a condition is necessary to limit the height of the development in the most prominent part of the site, in the interests of the appearance of the scheme (18).

⁸ Section 8

69. A condition was put forward which would require the provision of public art as part of the development (19). Although no specific justification was provided, there is some policy support for this matter and it is agreed that this should be the subject of a condition.
70. A suggested condition regarding Biodiversity Metric Calculations is unnecessary as this should form part of the application for approval of details.
71. As noted above a Planning Obligation has been submitted. This provides:
- 40% affordable housing in accordance with LP policy H6 and the guidance in the Affordable Housing SPD.
 - A public art contribution in line with LP policy BE5.
 - Public open space and a Locally Equipped Area of Play (LEAP) in accordance with LP policy R5 and the Council's Recreational and Open Space SPD. The Obligation deals with provision and future maintenance. The proposal includes around 1.76 hectares of public open space, as well as the LEAP.
 - An education contribution. Evidence to justify the contribution has been provided by the County Council, including detailed information on the ability of local schools to accommodate the additional children arising from the development. Confirmation has been given that the number of contributions has not exceeded the CIL Pooling Regulations
 - Highways contributions related to improvements along the A61 corridor. Evidence has been submitted regarding the need for the contribution and its relationship with the proposal, along with confirmation that the number of contributions has not exceeded the CIL Pooling Regulations.
 - Healthcare contributions. This would be directed to the Wingerworth Medical Centre, and evidence has been provided to explain the amount of the contribution.
 - Travel Plan. A monitored Travel Plan is required in relation to LP policy T4.
72. The CIL Compliance Statement and other evidence demonstrate that the provisions of the Obligation are directly related to the proposed development and are necessary to make the scheme acceptable in planning terms. Therefore the Obligation meets the policy in paragraph 56 of the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Some of the provisions are designed to mitigate the impact of the proposal and these elements therefore do not provide benefits in favour of the appeal. However other matters, most notably the provision of affordable housing, weigh in favour of the appeal.

Planning balance and conclusion

73. In conclusion the proposal does not conform to the relevant spatial policies of the LP, as the site is outside the SDL and is in the open countryside in policy terms. It would cause limited harm to the character and appearance of the area, as would any built development on a greenfield site. However the LP policies which are most important in determining the appeal are out-of-date and are afforded significantly reduced weight.

74. The location is sustainable and the proposal offers genuine choices of transport modes and complies with the relevant policies.
75. Although I have concluded that there is a five year housing land supply in the District, based on the standard methodology, this is not a ceiling and the provision of general needs housing is a significant material consideration in the light of national policy. In addition the provision of 40% affordable housing is a very significant material consideration weighing in favour of the appeal scheme.
76. There would also be some limited benefits arising from construction employment, indirect economic benefits, and increased local spend.
77. As explained above, the housing land supply position does not trigger the so called 'tilted balance' in paragraph 11 of the Framework. However, as accepted by the Council, this is triggered by the fact that the spatial strategy and settlement boundaries are out of date. Permission should therefore be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. In this case the adverse impacts do not come close to outweighing the benefits.
78. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

As a result, there is no need to identify further sites in this Sub-Area.

Chesterfield Sub-Area

5.20 The Urban Capacity Study identifies potential development sites to accommodate approximately 353 dwellings in this Sub-Area. Those sites with a capacity for 10 or more dwellings form allocations, accommodating a total of approximately 209 dwellings. The remainder of the identified small site capacity forms a windfall allowance of approximately 144 dwellings.

5.21 The Joint Structure Plan housing requirement for the Chesterfield Sub-Area has been met through completions, commitments and the identification of urban capacity sites. However, to assist in the Council's regeneration strategy for the former coalfield area, additional previously developed sites are identified for residential development in this area. Policy [H1](#) and Table 5.2 provide a summary of how the housing requirement for the period 1991-2011 will be met.

H1 Sites for Residential Development

Planning permission will be granted for residential development on the sites identified below:

Northern Parishes Sub-Area:

(a) Former Dronfield School, Carr Lane, Dronfield

Chesterfield Sub-Area:

(b) Depot off Stretton Road, Clay Cross

(c) Land off Penncroft Lane, Clay Cross

(d) Land off Curbar Close, North Wingfield

(e) Land off Grange Road, Pilsley

Hectares Capacity

2.7 81

Hectares Capacity

1.9 57

2.3 69

3.7 111

1.16 27

An allowance has also been made for an element of housing provision on the former Biwaters Site in Clay Cross (about 200 dwellings in this Plan period) and the Avenue Site in Wingerworth (about 90 dwellings in this Plan period) which are identified as mixed use sites under Policies [E4](#) and [E5](#). Since the housing element forms part of wider proposals for redevelopment, these sites are not formally allocated as housing sites under Policy [H1](#).

Table 5.2 Housing Provision 1991 – 2011

	Alfreton Sub-Area	Chesterfield Sub-Area	Northern Parishes Sub-Area	District
Structure Plan requirement	200	3000	1100	4300
Dwellings completed 1991-2005	185	2151	926	3262
Dwellings with planning permission at 31 March 2005	34	648	343	1025
Brownfield Urban Capacity Allocations	0	209	0	209
Other Brownfield Allocations	0	57	0	57
Urban Capacity Small Sites/Windfalls	0	144	0	144
Biwaters/Avenue Mixed Use Sites	0	290	0	290
Total	219	3499	1269	4987

Housing Development on Other Sites Within Settlement Development Limits

5.22 In addition to development on those sites allocated in Policy H1, a number of smaller previously developed sites with a capacity of fewer than 10 dwellings have been identified through the Urban Capacity Study. These are sites which, because of their small size, can not be specifically allocated, but are listed in the Urban Capacity Study and form a windfall allowance. They all lie within the defined Settlement Development Limits, and offer the potential to encourage sustainable patterns of development. The numbers identified for the next 10 years are slightly below those that have been achieved in the previous 10 years.

5.23 The comprehensive nature of the Urban Capacity Study means that the majority of sources of capacity, traditionally calculated as a windfall figure, have been taken into account. However, unpredictable opportunities can always arise and it is still necessary and appropriate to make provision for previously developed sites which come forward unexpectedly for development within the defined Settlement Development Limits. These could include the conversion or re-use of existing dwellings, the change of use of buildings or land in other uses or new build development on previously developed land. The Council also encourages the re-use of vacant rooms over shops for residential use, in accordance with the Government's Living Over The Shop Scheme (LOTS).

5.24 The re-use of redundant or unused employment land and buildings for housing or mixed use development will be permitted unless it would lead to a qualitative or quantitative deficiency of supply of employment land and unless it can be demonstrated that there is a realistic prospect of the land/buildings being taken up for its stated use in the Plan period. Its redevelopment for housing should also not undermine regional or local regeneration strategies.

5.25 Sufficient previously developed sites are identified to meet the housing requirement. Therefore, planning permission will only be granted for residential development on greenfield sites if, through the Plan period, monitoring indicates that allocated sites are not coming forward at the necessary rate and there will be a clear shortfall of available housing land to meet the Structure Plan requirements, and this shortfall cannot be met through the development of other previously developed sites that come forward in sustainable locations. In this respect, the availability of previously developed sites in neighbouring authorities will be taken in to account.

H2 Housing Development on Other Sites Within the Settlement Development Limits

Within the Settlement Development Limits, planning permission will be granted for residential development on the smaller previously developed sites identified through the Urban Capacity Study, or on other previously developed sites provided that the site is not identified, required or protected for other purposes.

Should annual monitoring indicate that a shortfall of land for housing would occur; a Development Plan Document will be prepared in order to identify alternative sites. This would be carried out in accordance with the sequential approach to site selection.

Monitoring Housing Provision

5.26 In accordance with the plan, monitor and manage approach to the delivery of housing, as set out in PPG3, annual monitoring of residential development will be carried out. Sufficient sites have been identified in the Local Plan to meet the Structure Plan housing requirements. However, further previously developed sites may come forward through Policy [H2](#). The contribution of these additional sites will be monitored carefully to ensure that their development would not lead to significant over provision of housing in the Plan period. The development of large, as yet unidentified, previously developed sites which come forward and which would lead to significant over provision will only be permitted if they would help to achieve the wider objectives of the Plan. Should the results of annual monitoring indicate that sites are not being developed at the necessary rate to achieve the agreed housing requirements, the Council will identify new sites through the preparation of a Development Plan Document under the provisions of the Planning and Compulsory Purchase Act 2004. This would be carried out in accordance with the sequential approach to the identification and allocation of sites for residential development, with previously developed sites in neighbouring authorities being a consideration.

5.27 The former Biwaters site in Clay Cross and, to a lesser extent, the Avenue site at Wingerworth, have capacity to provide development beyond this Plan period. These sites will, therefore, be subject to phasing to ensure that the Structure Plan requirement for the current Plan period is not significantly exceeded.

Housing Outside Settlement Development Limits

5.28 In the rural areas outside the defined Settlement Development Limits, restrictive policies will apply, both within and outside the North East Derbyshire Green Belt in order to prevent intrusive development in the countryside. New development should be directed away from the countryside to sites within existing settlements to encourage sustainable patterns of development. Within the Special Landscape Areas, the requirement to protect the essential character of the high quality landscape from damage arising from development, imposes further restrictions.

5.29 There are, however, some limited circumstances in which proposals for housing development may be permitted in countryside locations such as the change of use of buildings to housing from other uses subject to the provisions of Policy [GS7](#). However, employment or tourism uses can often have a more beneficial impact upon the local economy than a purely residential use. The applicant should, therefore, be able to demonstrate that every reasonable attempt has been made to secure employment or tourism uses.

5.30 New build development in the countryside is limited to proposals that can be shown to be necessary for the operation of a rural based activity, and where a countryside location is essential. The need for a dwelling will be based on the functional and financial tests set out in Annex A of PPS7. Where the need for a dwelling is established, careful consideration will be given to details of location, size, design and materials of construction to reduce the impact on the surroundings. In cases where planning permission is granted for a new dwelling in the countryside, the Council will seek to negotiate a Section 106 Obligation to limit the occupation of the dwelling to a person solely working in the locality in agriculture or forestry and to any resident dependants.

5.31 Proposals for replacement dwellings in the countryside will be permitted only if the number of dwellings would not be increased, the resulting dwelling would not be materially larger than that which it replaces and it would not have a greater impact upon its setting than the original dwelling.

5.32 Affordable housing may be permitted on rural exception sites in areas where there is a proven identified need for such housing. This allows Councils to grant planning permission for local needs housing on sites where residential development would not normally be allowed. (See Policy [H9](#)).

5.33 Where planning permission is granted for housing outside Settlement Development Limits, conditions may be imposed, where considered necessary and appropriate, to bring within control all future extensions and/or alterations to the building and other activities within the curtilage of the site which would otherwise be permitted without express consent by virtue of the Town and Country Planning (General Permitted Development) Order, but which might be harmful to the character of the area.

H3 New Housing Outside Settlement Development Limits

Planning permission will only be granted for housing development outside the defined Settlement Development Limits if the proposal falls within one or more of the following categories:

- (a) The change of use of existing buildings to housing provided that the building or buildings is/are of a permanent and substantial construction, of a form, bulk and design in keeping with their surroundings and would be capable of being converted without the need for major repair, alteration, extension or reconstruction. The applicant should also be able to demonstrate that every reasonable attempt has been made to secure employment or tourism uses.**
- (b) New build development in the countryside which can be shown to be necessary for the operation of an agricultural or other use appropriate to a rural location, and where a countryside location is essential. The Council will seek to negotiate a Section 106 Obligation which will ensure that the dwelling is permanently tied to the holding which justified its erection.**
- (c) Replacement dwellings, provided that the number of dwellings would not be increased and any resulting dwelling would not be materially larger than that which it replaces or have a greater impact upon its setting.**
- (d) Affordable housing on rural exception sites in areas where there is a proven identified need for such housing.**

Renewal of Planning Permissions

5.34 Applications for renewal of planning permission for residential development will not be granted automatically. All applications will be reconsidered in light of current planning policy guidance, and will take account of the need to give priority to the development of previously developed land in sustainable locations, the requirement for higher quality and higher density development and any other material change in circumstances.

H4 Renewal of Planning Permissions

Proposals for the renewal of planning permission for residential development will be considered against the site assessment criteria set out in PPG3 and should also satisfy all the criteria in Policy [H12](#).

Domestic Extensions

5.35 Extensions to homes to provide improved living conditions are likely to be acceptable, provided that they do not have a detrimental effect upon the privacy and amenity of neighbouring properties and also on highway safety. In addition, domestic extensions should be of a good design that respects the character and appearance of the property and locality.

Ancillary Accommodation

5.36 Sometimes additional accommodation is required for a dependant person to enable them to live alongside a carer who is often a relative. This can take the form of an extension to the carer's dwelling, the conversion of a suitable outbuilding or the erection of a separate self-contained unit of accommodation. All the normal policy provisions will apply to all applications for ancillary accommodation as relate to proposals for extensions, conversions or new build dwellings within settlements or rural areas. However, standards of privacy and amenity may be relaxed in relation to the main dwelling, but not in relation to neighbouring properties. In such circumstances the occupation of the accommodation will be tied by condition to the occupation of the main dwelling.

H5 Domestic Extensions

Where planning permission is required, all extensions to dwellings should be in keeping with the property and street scene in terms of their style, proportion and materials and should avoid significant loss of privacy and amenity for the residents of neighbouring properties. In addition, highway safety should not be compromised.

Outside Settlement Development Limits, proposals which either individually or cumulatively involve a significant change in the scale and character of the original dwelling will be assessed as a proposal for a new dwelling.

GS1 Sustainable Development

All development proposals will be required to have regard to the need to maintain or improve the quality of life of our communities, maintain economic growth and preserve or enhance the environment of North East Derbyshire and contribute towards achieving a sustainable pattern of development.

Unless otherwise indicated in the Local Plan, all development proposals will:

- (a) be located within the defined Settlement Development Limits, unless the development is acceptable in the countryside, or overriding exceptional circumstances can be demonstrated;
- (b) make full use of previously developed land before greenfield sites;
- (c) be well related to existing, or capable of providing, public transport networks, other services and facilities, and be accessible on foot and by cycle; and
- (d) protect and conserve the quality of the areas natural and cultural assets (and their settings), improve the quality of the built environment and minimise pollution.

GS6 New Development in the Countryside

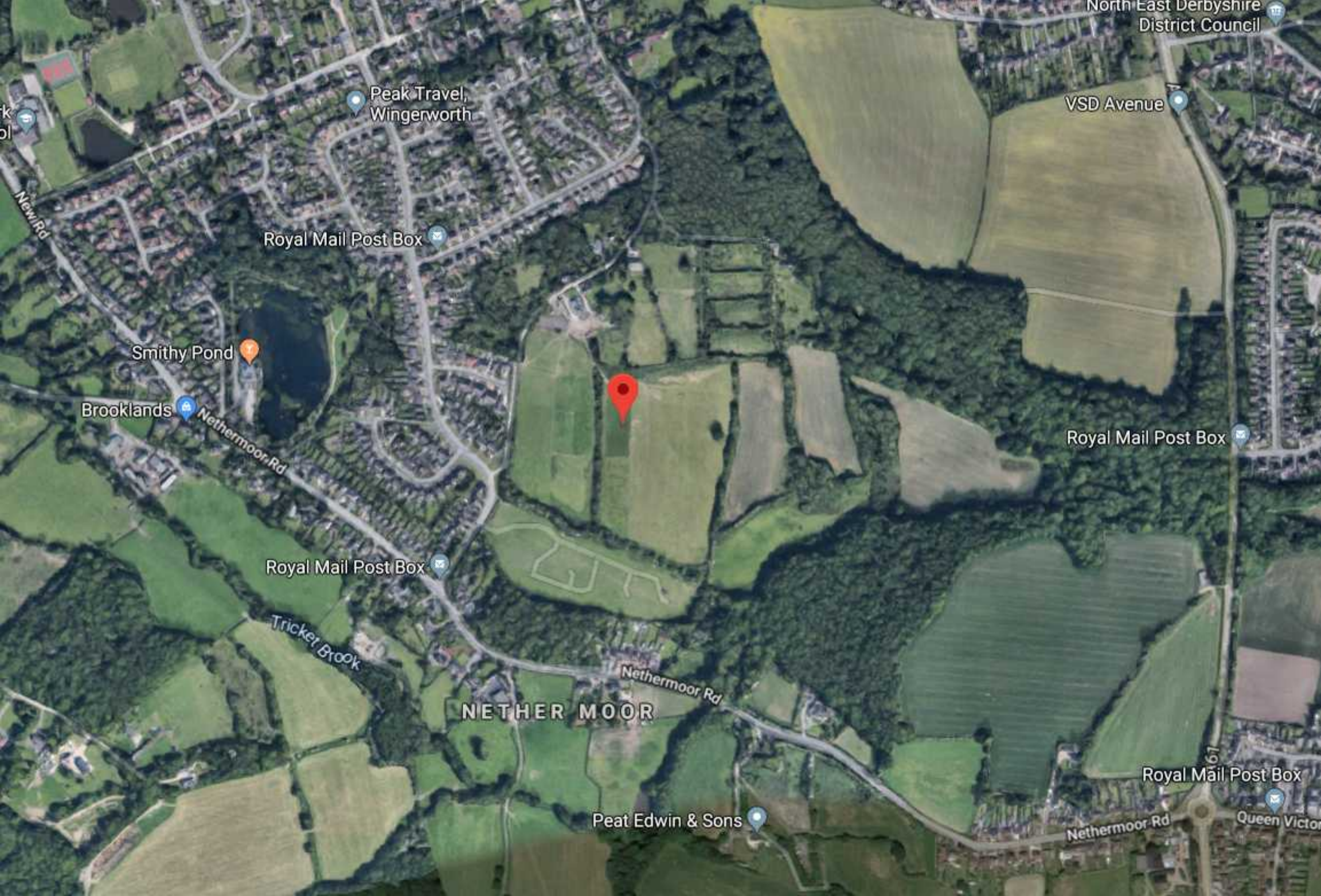
In the countryside, new development will only be permitted where:

- (a) the development is for the operation of a use appropriate to such a location;
- (b) it is in keeping with the character of the countryside;
- (c) it causes minimal disturbance to farming and minimises the loss of agricultural land, particularly that of the best and most versatile quality;
- (d) it does not require major new or improved infrastructure provision;
- (e) it causes minimal problems of noise, disturbance and pollution and other environmental impact; and
- (f) it does not represent a prominent intrusion into the countryside.

H3 New Housing Outside Settlement Development Limits

Planning permission will only be granted for housing development outside the defined Settlement Development Limits if the proposal falls within one or more of the following categories:

- (a) The change of use of existing buildings to housing provided that the building or buildings is/are of a permanent and substantial construction, of a form, bulk and design in keeping with their surroundings and would be capable of being converted without the need for major repair, alteration, extension or reconstruction. The applicant should also be able to demonstrate that every reasonable attempt has been made to secure employment or tourism uses.
- (b) New build development in the countryside which can be shown to be necessary for the operation of an agricultural or other use appropriate to a rural location, and where a countryside location is essential. The Council will seek to negotiate a Section 106 Obligation which will ensure that the dwelling is permanently tied to the holding which justified its erection.
- (c) Replacement dwellings, provided that the number of dwellings would not be increased and any resulting dwelling would not be materially larger than that which it replaces or have a greater impact upon its setting.
- (d) Affordable housing on rural exception sites in areas where there is a proven identified need for such housing.



Peak Travel,
Wingerworth

VSD Avenue

Royal Mail Post Box

Smithy Pond

Brooklands

Nethermoor Rd

Royal Mail Post Box

Royal Mail Post Box

Tricker Brook

Nethermoor Rd

NETHER MOOR

Peat Edwin & Sons

Royal Mail Post Box

Nethermoor Rd

Queen Victoria

