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## Appeal Decision

Hearing held on 10 May 2016

Site visit made on 11 May 2016

**by Geoff Underwood BA(Hons) PGDip(UrbCons) MRTPI IHBC**

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

**Decision date: 10 August 2016**

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**Appeal Ref: APP/F1040/W/15/3139116**

**Land at Jawbone Lane, Melbourne, Derby, Derbyshire DE73 8HN**

- 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 Mr Barry Maynard, Linden Homes Midlands against the decision of South Derbyshire District Council.
  - The application Ref 9/2014/1145, dated 28 November 2014, was refused by notice dated 8 October 2015.
  - The development proposed is outline planning application for up to 60 dwellings, all matters reserved.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as being illustrative.
  3. During the course of the planning application the proposed scheme was amended to reduce the size of the site and consequently reduce the number of dwellings from up to 120 to up to 60. Consultation was carried out on this revised scheme and this was the scheme upon which the Council made its decision. I have considered the appeal on the same basis and have therefore used the revised description used by the Council and by the appellant on his appeal form in the heading above.
  4. In addition to the site visit which took place as part of the hearing I made an unaccompanied visit to the site's surroundings and other locations in the vicinity.
  5. Since the Hearing was held, the South Derbyshire Local Plan – Part 1 (Local Plan – Part 1) was adopted on 13 June 2016. Along with some remaining saved policies of the South Derbyshire Local Plan, 1998 (SDLP), this now forms the development plan for the District. The appeal must be determined on the basis of the development plan as it exists at the time of my decision. Both main parties have been given the opportunity comment on the implications of the adoption of Local Plan – Part 1 and I have taken these into consideration in reaching my decision.
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## **Main Issues**

6. The main issues raised by this appeal are: i) whether the proposed development would provide a suitable site for housing, having regard to national and local policies relating to development within the countryside, and; ii) the effect the proposed development would have on the character and appearance of the area, including its effect on the significance of heritage assets, in particular the setting of Kings Newton Conservation Area, and its effect on the area's landscape.

## **Reasons**

7. The site comprises two parcels of land, both sloping gently to the south east; one roughly triangular situated between Station Road and Jawbone Lane and one on the opposite side of, and bounded by, Jawbone Lane. The latter site is an irregular shaped part of a field bounded to the east and west by properties known as Blakefield House and Bond Elm. Both main parties agreed<sup>1</sup> that the planning issues are related to that part of the site which lies to the north side of Jawbone Lane, a position that was re-iterated at the Hearing. However, the post Hearing adoption of the Local Plan – Part 1 means that there are development plan policies regarding the location of housing which affect the entirety of the appeal site which now need to be considered.

### *Development within the countryside*

8. The Housing Strategy in Local Plan – Part 1 Policy S4 sets out the Council's approach of allocating strategic sites (greater than 99 dwellings) within the Plan and that 600 dwellings will be allocated on non-strategic sites of fewer than 100 dwellings in the draft South Derbyshire Local Plan – Part 2 (Local Plan – Part 2) which is at consultation stage. The site does not feature in the list of non-strategic Housing Allocations in Local Plan – Part 2 Policy H23, although I note that two sites on Station Road, Melbourne are included.
9. The settlement hierarchy in Local Plan – Part 1 Policy H1 sets out the Council's approach to the distribution of new development sites which are outside the allocations made within the plan. This identifies Melbourne as a Key Service Village where development within settlement boundaries is appropriate with sites adjacent to the boundaries only acceptable if they are exception (which in the absence of further detail I have taken to mean Rural Exception Sites for affordable housing as defined in the Framework) or cross subsidy sites of less than 25 dwellings. Although the appeal site is adjacent to Settlement Boundary of Melbourne (both that in the SDLP and that proposed in the Local Plan – Part 2), the appeal proposal would not fall into either of those categories.
10. Saved SDLP Housing Policy 5 (HP 5) restricts new housing development to within the village confines of Melbourne/Kings Newton amongst other settlements. Saved SDLP Environment (EV) Policy 1 only permits development outside settlements where it is essential to a rural based activity or unavoidable in the countryside. Although the National Planning Policy Framework<sup>2</sup> (the Framework) provides for wider range of special circumstances where development in the countryside is acceptable than saved SDLP Policy EV 1 does, it is nevertheless broadly in accordance with the Framework.

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<sup>1</sup> Signed Statement of Common Ground, 29 April 2016.

<sup>2</sup> Paragraph 55.

11. At the time of the Hearing it was not a matter of dispute between the main parties that a deliverable five year housing land supply (HLS) could not be identified, circumstances where the Framework<sup>3</sup> states that relevant policies for housing development should not be considered up to date. However, the Council consider that this position has changed with the adoption of the Local Plan – Part 1 and that they can now demonstrate a HLS of 5.33 years.
12. Although the appellant considers that this figure is marginal and could be adversely affected by delays in delivery, he nevertheless accepts that paragraph 49 of the Framework would not be engaged. The Council have drawn my attention to a recent appeal decision<sup>4</sup> in the District. In that case the Inspector concluded that such a supply existed and therefore that policies relevant to housing supply in both the SDLP and the Local Plan – Part 1 were up to date, a conclusion with which I have no reason to disagree.
13. Saved SDLP Policies HP 5 and EV 1 can therefore be afforded appropriate weight. The Council considered that the pre-Local Plan – Part 1 HLS position could have led to the ‘unavoidable’ exception to development in the countryside provided for in saved SDLP Policy EV 1. However in light of the HLS position these can no longer be considered circumstances to trigger such an exception. The appellant points out that the HLS is reliant not only on allocated sites but also those in the draft Local Plan – Part 2. I agree that given the early stage that the Local Plan – Part 2 is at that only very limited weight can be given to Policy H23, particularly with regard to those housing sites listed which do not have the benefit of planning permission.
14. However, there is little evidence to support the appellant’s view that the Council will have to rely on additional residential development over and above existing and emerging allocations to achieve its housing requirements. Accepting that these are general estimates and that they could change as the plan preparation advances, the figures provided for sites listed in Local Plan – Part 2 Policy H23 would exceed the 600 dwellings that Local Plan – Part 1 Policy S4 identifies will need to be allocated on non-strategic sites. Even in the event that Local Plan – Part 2, when ultimately adopted, did not allocate sufficient housing to meet the Council’s target for housing delivery on non-strategic sites, given the provisions of Local Plan – Part 1 Policy H1 it cannot be concluded that the appeal site would be an acceptable one for housing.
15. In considering the evidence in light of the up to date development plan policies I am led to conclude that the proposal would not be acceptable development in the countryside and would be contrary to Local Plan – Part 1 Policy H1 and SDLP Policies HP 5 and EV 1. This is despite little suggestion from the Council’s evidence at the Hearing that there was a policy objection to the proposal in light of the then imminent adoption of the Local Plan – Part 1 and that the planning application was refused solely on character and appearance grounds.

#### *Significance of heritage assets*

16. The designated heritage asset of Kings Newton Conservation Area (the Conservation Area) lies to the north west of the appeal site in a slightly elevated position. It has a distinct historic character and appearance and includes attractive and largely historic buildings predominantly lining Main

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<sup>3</sup> Paragraph 49.

<sup>4</sup> APP/F1040/W/15/3132831.

Street as well as the historic parkland associated with Kings Newton Hall extending to the north. Its character, and accordingly its significance, is also derived from the well preserved relationship of principal and out buildings along Main Street extending back towards associated agricultural land beyond.

17. Glimpses of buildings within the Conservation Area are afforded through gaps in the hedge along the north side of Jawbone Lane, with more expansive views from the field gate which leads into the site. These views of the roofs, gables, chimneys, and in some cases rear elevations, of buildings on, and set back from, Main Street, interspersed with mature trees, are revealed further when viewed from the north part of the appeal site. Many of these are features of separately designated heritage assets; the Hardinge Arms, Four Gables, Kings Newton Hall, Chantry House, 54 and 56 Main Street, 58 Main Street, Church House and Kings Newton House and outbuildings, all of which are listed.
18. The Framework<sup>5</sup> recognises that significance can also be derived from an asset's setting, which includes the surroundings in which it is experienced, and that such significance can be harmed through development within that setting. The Conservation Area's setting includes the countryside to the south, of which the appeal site is part.
19. The Conservation Area also gains some of its significance from being to a large degree historically, physically and perceptually separate from Melbourne. The disposition of surrounding countryside in relation to existing built areas within the Conservation Area plays a role in this aspect of its significance. This extensive countryside setting makes a positive contribution to the asset's significance primarily through providing an open countryside landscape which the Conservation Area is set within and can be experienced from.
20. In particular the Character Statement<sup>6</sup> identifies the sharp contrast between the tight-knit form of development on Main Street and the open character of fields beyond as well as a 'principal view' affording long vistas to the south (including the appeal site) as far as Breedon-on-the-Hill Church.
21. There are also two undesignated heritage assets in the vicinity of the appeal site; Melbourne Cemetery (which includes a listed chapel) and Charnwood, a stone cottage on Jawbone Lane, situated on the other side of Blakefield House from the appeal site.
22. The existing hedges and buildings along the north west side of Jawbone Lane mean that only glimpses of Kings Newton are afforded, except where there is a gate opening, from that part of Jawbone Lane running alongside the appeal site. However those through the hedges would be more apparent when they are not in leaf. Due to the intervening topography and hedgerows, the view is generally of the roofscape and skyline of Main Street. Nevertheless, there is a visual relationship between Jawbone Lane and the Conservation Area. This includes both those views of buildings within the Conservation Area and the feeling or experience of travelling through a predominantly countryside setting on the approach to Kings Newton along Jawbone Lane.
23. The effect of the appeal proposal would be to significantly reduce glimpses of Kings Newton from that part of Jawbone Lane which runs alongside it and to change the character of that part of Jawbone Lane from one flanked by open

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<sup>5</sup> Annex 2: Glossary and paragraph 132.

<sup>6</sup> Kings Newton Conservation Area Character Statement, South Derbyshire District Council, 2011

- countryside to one bounded by housing development. Whilst the indicative layout indicates that some glimpsed views may remain, any gaps between buildings in the subsequent development could be easily reduced and blocked through boundary treatments, maturing planting or domestic paraphernalia.
24. Whilst views of Kings Newton would be afforded from the access road and locations within the development itself, these would be different from those currently experienced along Jawbone Lane, although the visual aspect is only part of the character of the setting of the Conservation Area.
  25. However, these effects would be limited ones when considered in the wider setting of the Conservation Area and where it would be experienced from. The experience of approaching Kings Newton on surrounding footpaths would remain unchanged to the north of the appeal site. Whilst Jawbone Lane allows for other users in cars or on bicycles to enjoy the existing passing views, their loss from this particular part of Jawbone Lane would be very limited in terms of the overall experience of appreciating and understanding the Conservation Area from its wider setting. This effect is more significant in views from Jawbone Lane towards the Conservation Area than those afforded from the south edge of Conservation Area towards the appeal site where any views of the new development would be set within the wider landscape views of the countryside.
  26. In terms of views from Kings Newton, as a result of its distance from the village and how it would sit within the topography of the area, which slopes down to the south east, the development of the appeal site would not significantly encroach into the open character which lies to the south of the village or the views afforded from it. The roofscape (and parts of elevations) of the new development would be a feature in such views. However, provided that their heights are restricted (which could be reasonably controlled by way of a condition) its effect would be limited by its scale, degree of intrusion, the remaining surrounding landscape which would be visible and also its relationship to existing buildings. Whilst in the main existing buildings within such views currently appear as more isolated buildings in the landscape and the appeal proposal would be of a more intensive character, this effect would also be limited.
  27. The physical and visual separation between the Conservation Area and the appeal site would remain legible. The development would not diminish the amount of open land which would remain between existing built up areas in Melbourne (including that stretching east along Station Road) to such an extent that Kings Newton would lose either its appearance or character of separateness given the amount, and character, of intervening open countryside which would remain.
  28. Notwithstanding their earlier objection, Historic England's subsequent position on the current scheme could be summarised as one of effectively delegating to the Council the task of weighing the less than substantial harm to the significance of heritage assets that they found against any public benefits of the proposal.
  29. The Council's Conservation Officer<sup>7</sup> considers the impact of the proposal on the significance of listed buildings to be negligible or absent and that the effect on

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<sup>7</sup> Consultation response 7 August 2015.

- the Conservation Area would be acceptable, subject to landscape and design mitigation. In particular the Officer considers that the resulting gap between the proposed development and the Conservation Area would allow the medieval character of Kings Newton to be appreciated, reducing the detrimental impact of the initial scheme, and concludes overall that harm to the significance of heritage assets would be largely neutral or minor.
30. Bearing in mind the Framework's requirement to take account of available evidence and necessary expertise in considering the impact of a proposal on a heritage asset<sup>8</sup> these are views to which I have given considerable weight. Notwithstanding that subsequent evidence in the form of the Council's Statement of Case: Heritage Issues (SCHI) takes a different view on the effect on the listed buildings' and Conservation Area's setting, I note that this concludes with reference to earlier comments of the Conservation Officer<sup>9</sup>.
  31. There is limited substantive evidence as to how the setting of the listed buildings on Main Street (as distinct from the Conservation Area of which they are components) would be harmed and this does not alter my view that the settings of the listed buildings are more limited and would not be adversely affected by the proposal.
  32. It is likely that much of the surrounding agricultural and market garden land will have had a functional relationship with nearby settlements, including Kings Newton. The appeal site's role in respect of the significance of heritage assets would appear to be more one of a visual and spatial relationship as part of the wider landscape setting of the Conservation Area and associated heritage assets. However, there is limited evidence to conclusively demonstrate that the appeal site has any intrinsic historic value or is 'historically associated open space' of a degree significance whose development would harm the setting or significance of the Conservation Area.
  33. Notwithstanding that in practice most views from Jawbone Lane through the proposed development may be difficult to maintain in the long term, I consider that their loss would not have such a harmful effect on the significance of the setting of the Conservation Area as to warrant withholding consent for this reason alone. Any detriment to views through the growth of vegetation over time would in all likelihood be compensated for in that vegetation's effect in assisting the new development to better assimilate into its countryside setting.
  34. Domestic paraphernalia in gardens would be difficult to control and may consequently affect some of the glimpsed views anticipated on the appellant's Masterplan. There is little reason to doubt that any layout submitted in respect of reserved matters would not include an access road which would enable some views from Jawbone Lane. These would not be over domestic gardens and therefore uninterrupted by any such intrusions. In any event, given the limited level of harm which would arise from the loss of, or adverse effect on, such views, this would not be sufficient in itself reason to withhold consent in light of my findings above.
  35. The effect on views of Breedon-on-the-Hill Church would one be of introducing more roofs in the middle ground. It would not block the view but a limited part of the view currently occupied by vegetation would instead be occupied by the

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<sup>8</sup> Paragraph 129.

<sup>9</sup> SCHI states as 23 February 2015.

- roofscape of the proposed development. However, this effect would occupy a very limited part of that view. It would not diminish it to any significant degree and I consider that this particular view would in effect be preserved. The effect on longer distance views of the Conservation Area, such as that from Blackwell/Wilson Lane, would similarly not be harmed.
36. There is little substantive evidence that there would be any harm to the setting of the non-designated heritage assets of Melbourne Cemetery or Charnwood. The SCHI is contradictory with regards to Charnwood, acknowledging at 5.4 that its setting would be unharmed but agreeing with the appellant at 7.13 that there would be less than substantial harm.
37. However, given the separation between Charnwood and the appeal site and the unaffected nature of its immediate surroundings I consider that the setting of Charnwood would be preserved. Melbourne Cemetery is well screened by existing vegetation and there is little intervisibility between it and that part of Jawbone Lane which would be affected by the proposed development. The proposal would not, therefore, have a harmful effect on the Cemetery's setting or that of the listed buildings within it.
38. I have paid special regard and attention to the desirability of preserving the assets' significance that they derive through their settings. Whilst the settings of listed buildings and non-designated heritage assets would be preserved as a result of the development, there would be a limited degree of harm to the setting of the Conservation Area.
39. This harmful effect would be less than substantial given the very limited effect it would have on its setting. However, notwithstanding the limited nature of the harm it is something to which I have given considerable importance and weight to and the Framework requires such less than substantial harm to be weighed against the public benefits of the proposal. I will return to this balance later in my overall conclusions.
40. By preserving important views from the conservation area, the proposal would comply with criterion B. (ii) of saved SDLP Policy EV 12. However, even though the degree of harm is minor, it would not comply with criterion A. of that policy which does not permit development which would have an adverse effect on the character of conservation areas. However, this part of the policy does not fully accord with the Framework's<sup>10</sup> approach in differentiating between circumstances where there is substantial and less than substantial harm, and the balancing required in the case of the latter. This reduces the weight I can give it.
41. Criterion C. of saved SDLP Policy EV 13 requires regard be paid to the need to preserve the setting of listed buildings, but having done so I consider that the proposal is not in conflict with that policy. Although other criteria are considerably less so, that part of saved SDLP Policy EV13 is broadly consistent with the approach of the Framework and I can give it material weight.
42. In finding that there is harm, albeit limited, the proposal would not comply with criterion A of Local Plan – Part 1 Policy BNE2 which expects development to protect, conserve and enhance assets' settings. In respecting important

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<sup>10</sup> Paragraphs 123-134.

landscape, townscape and historic views and vistas the proposal would not conflict with Local Plan – Part 1 Policy BNE1.

*Landscape character*

43. As well as being an integral part of the setting of the heritage asset, of which the site forms a component, the recognition of the intrinsic character and beauty of the countryside is one of the Framework's core planning principles<sup>11</sup>.
44. Notwithstanding the concerns of the Council and interested parties in respect of the reduction of area of separation between Kings Newton and Melbourne, the open countryside which would remain between even the closest part of the proposed development to Kings Newton would be such that any reduction in actual or perceived separation would be limited in its effect.
45. The proposed development to the north of Jawbone Lane would be set between existing complexes of buildings at Bond Elm and Blakefield House so lessening the sense of an intrusion of new development into a previously undeveloped area of land. Existing hedges would also lessen its effect, albeit to a more limited degree. When viewed from Kings Newton, its visual effect on the countryside would be limited, in part as a result of the topography of the site. Therefore, proposed mitigation in the form of limiting the height of buildings and the potential for the reserved matters landscaping scheme to assist in assimilating the development into its surroundings to a degree, would assist in limiting its impact.
46. In support of their cases both the appellant and the Council have drawn my attention to the 'Stroud'<sup>12</sup> judgement. I am in no doubt that many local residents and civic groups consider the appeal site to be valuable in itself, because of its contribution to retaining a rural feel to Jawbone Lane, in its role in avoiding the coalescence of Kings Newton and Melbourne and the views it affords of the Conservation Area. However, in light of the evidence before me the appeal site does not contain any particular physical attributes or landscape features that would take it out of the ordinary as an area of landscape.
47. Similarly, I cannot therefore agree with the Council's position in their Statement of Case: Landscape Issues report that finding that the site has 'medium' value under two of the Guidelines for Landscape and Visual Impact assessment (3<sup>rd</sup> Edition) criteria would equate to a 'valued landscape' in the Framework's terms.
48. These interests relate to its role within the setting of the Conservation Area and its recreational value in terms of the site's contribution to rural views as part of wider landscape from surrounding footpaths including Jawbone Lane, but its recreational value is not one which includes the use of the site itself.
49. On balance therefore, and notwithstanding of the popularity of the site, I do not consider that the site can be considered as a 'valued landscape' which the Framework seeks to protect<sup>13</sup>.
50. The proposed development would have a relatively limited effect on the views and experience of using the network of footpaths and informal routes in the

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<sup>11</sup> Paragraph 17.

<sup>12</sup> Stroud DC v SSCLG and Gladman Developments [2015] EWHC 488 (Admin).

<sup>13</sup> Paragraph 109.

vicinity of the site as a result of their situation, relationship to the site and in some cases, such as much of footpath FP14, intervening planting largely obscuring views of the site.

51. Whilst the change would be more marked when experienced from Jawbone Lane, I do not consider that the site's development for housing would change the recreational experience of users in a manner which would be significantly detrimental to users' enjoyment of the countryside to an extent which would justify withholding consent for that reason.
52. Although interested parties have referred to Derbyshire County Council's strategic planning comments<sup>14</sup> which raise concerns over the effect of the proposal on landscape character and coalescence, I note that these comments were made on the initial, larger scheme, the effects of which would have been materially different to that which is before me.
53. There would be a some tension between the aims of maturing landscaping on the appeal site partly screening development and assisting it to assimilate within the wider landscape, and the retention of views through the site from Jawbone Lane. However, given my findings that the reduction or loss of existing views through the site over time would not greatly harm the setting of heritage assets, considered by itself on balance the ability of any landscaping (which would be considered through approval of reserved matters) to mature would be a positive element of the scheme in mitigating its effect on the surrounding landscape and views from within the Conservation Area.
54. Overall, I conclude that any adverse effects on the character and appearance of the landscape would be limited. However in reaching this conclusion I am conscious that this is distinct from the harm caused by the principle of development encroaching into the countryside. Whilst the site may be of ordinary character in itself it nevertheless forms part of the wider countryside setting of Melbourne which development plan policies aims to protect by directing housing development to within settlements and allocated sites.

### **Other Matters**

55. Local residents have started work on a Neighbourhood Plan for the Melbourne area and representations from interested parties at the Hearing suggested that it would not include the allocation of the appeal site for housing. However, the Plan is evidently in the very early stages of preparation with no evidence that a draft plan has been published. Accordingly I can only give this very limited weight.
56. A signed agreement between the main parties under section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. However the provisions of the agreement would on the whole mitigate the effects the development would have and it therefore weighs neutrally in the planning balance. In any event, as the appeal is to be dismissed on other substantive issues, it is not necessary to look at it in detail, given that the proposal is unacceptable for other reasons.

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<sup>14</sup> 27 February 2015.

## Overall Assessment and Planning Balance

57. The public benefits of the scheme include a significant contribution to the provision of housing, a considerable proportion of which would be affordable. Notwithstanding that interested parties have questioned the need for, and accessibility to, the type of affordable housing likely to be delivered, it would nevertheless be a benefit of the scheme in meeting an identified need and support the Framework's<sup>15</sup> aim to boost significantly the supply of housing.
58. The proposal would have economic and social benefits through occupiers of new dwellings supporting businesses and community facilities in Melbourne and there would be some, time limited, economic benefits through the construction phase of the development. Together, these public benefits are something to which I have given material weight.
59. These benefits are also positive components of sustainable development. The location of the new houses is such that they would be in close proximity to commercial, community and education facilities in Melbourne which would play a role in limiting private car journeys which would be an environmental benefit. Furthermore the Framework<sup>16</sup> identifies that pursuing sustainable development includes seeking improvements which include widening the choice of high quality homes.
60. In support of their position the Council have directed me to the 'Barnwell Manor'<sup>17</sup> and 'Forge Field'<sup>18</sup> judgements. However even attaching considerable weight to the desirability of preserving the relevant heritage assets' significance, as required by the Act and paragraph 132 of the Framework, I have found that in this case such harm is very limited. In subsequently applying the test at paragraph 134 of the Framework, I nevertheless consider that in this instance such less than substantial harm the proposed development would cause to the significance of the Conservation Area even with considerable importance and weight attached, is in itself outweighed by the public benefits of the appeal proposal.
61. However, whilst such benefits may be sufficient to outweigh the less than substantial harm to the heritage asset's significance considered by itself they are not so extensive that they would outweigh the strong objections to the proposal in light of up to date development plan policies aimed at limiting development in the open countryside. The benefits of increasing housing (including affordable housing) are tempered by the Council being able to demonstrate a deliverable HLS in excess of five years and there is little evidence to suggest that this could not be achieved through the development of allocated housing sites or within settlements.
62. I am mindful, too, of the Minister of State's comments<sup>19</sup> relating to the importance of the environmental dimension of sustainable development and the importance the Framework attaches to protecting the countryside. Whilst the development of the site would have relatively little adverse effect on landscape character it would nevertheless result in the loss of an area of

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<sup>15</sup> Paragraph 47.

<sup>16</sup> Paragraph 9.

<sup>17</sup> Barnwell Manor Wind Energy Ltd v East Northamptonshire and others [2014] EWCA Civ 137, 18 February 2014

<sup>18</sup> R (on the application of The Forge Field Society and others) v Sevenoaks District Council [2014] EWHC 1895 (Admin), 12 June 2014

<sup>19</sup> Letter from Brandon Lewis to Simon Ridley, 27 March 2015.

countryside outside the settlement limits of Melbourne, a significant negative factor in the environmental dimension of sustainable development and contrary to development plan policies.

63. Notwithstanding the factors which weigh in favour of sustainable development, considered as a whole I consider that the proposal would not constitute sustainable development in terms of the three strands set out in the Framework<sup>20</sup>. The considerations in favour of the proposal are not such that they outweigh the significant harm of developing in the countryside considered against the up to date the development plan policies aimed at preventing such encroachment together with the less than substantial harm to the heritage asset. In considering the planning balance it is clear that permission should not be granted.

### **Conclusion**

64. For the above reasons, and having considered all other matters raised, the appeal is dismissed.

*Geoff Underwood*

INSPECTOR

### **APPEARANCES**

#### FOR THE APPELLANT:

Peter Brady  
Peter Wilkinson BA MCD MA CPP MPIA FCMI FRTP  
Brian Denney  
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Barry Maynard

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#### FOR THE LOCAL PLANNING AUTHORITY:

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South Derbyshire District Council

#### INTERESTED PERSONS:

Paul Grimley  
Ian Turner  
Jane Carroll  
Margaret Gildea

Jessica Long  
Councillor Jim Hewlett

Councillor John Harrison

Melbourne Civic Society  
Melbourne Civic Society  
Melbourne Parish Council  
Melbourne and Kings Newton Action  
Group  
Kings Newton Residents' Association  
Melbourne Ward, South Derbyshire  
District Council  
Melbourne Ward, South Derbyshire  
District Council

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<sup>20</sup> Paragraph 7.

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Speaking notes of Ian Turner.
2. Extract from Schedule of Proposed Minor and Main Modifications to South Derbyshire Pre-Submission Local Plan Part 1: Policy H1, pages 21-24.
3. Extract from Schedule of Proposed Minor and Main Modifications to South Derbyshire Pre-Submission Local Plan Part 1: Policies S4 and H1, pages 8-10, 18-24.
4. Extract from South Derbyshire Pre-Submission Local Plan Part 1: Policies S4, H1, BNE1, BNE2, BNE3 and BNE4 with modifications as tracked changes, pages 23-26, 42-45, 132-144.

### **DOCUMENTS SUBMITTED AFTER THE HEARING**

5. E-mails from Chris Nash, South Derbyshire District Council, dated 20 June, 29 June 2016 and 5 July 2016.
6. Letter from Philip Rowland, Landmark Planning, dated 1 July 2016.
7. Extracts from South Derbyshire Local Plan - Part 1: Policies S4, H1, SD1, SD2, BNE1, BNE2, BNE3, BNE4, INF1, INF2, INF3, INF9 and INF10.
8. Extracts from draft South Derbyshire Local Plan - Part 2: Policies SDT1, H23, H24, BNE5, BNE6 and BNE11.
9. Extract from draft South Derbyshire Local Plan - Part 2, Appendix A Settlement Boundary Maps.
10. Appeal decision letter Ref: APP/F1040/W/15/3132831.