
Appeal Decision

Site visit made on 15 November 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 16 March 2017

Appeal Ref: APP/W1850/16/3151981

Land at Lowlands, Castle Hill, Kington, Herefordshire HR5 3AH

- 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 S Player against the decision of Herefordshire Council.
 - The application Ref 153077, dated 13 October 2015, was refused by notice dated 8 December 2015.
 - The development proposed is detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. References in this decision to Castle Hill are to the road which serves the appeal site.

Main Issues

3. These are (i) whether the proposals would preserve or enhance the character or appearance of the Kington Conservation Area; (ii) the effect of the proposals on the setting of the Scheduled Monument; and (iii) whether the proposals provide sufficient information to address the effects of the proposal on non-designated heritage assets.

Reasons

Development Plan Policy

4. The development plan for the area comprises the Herefordshire Local Plan Core Strategy 2011- 2031, adopted in October 2015 (CS). The Council's initial report indicates there is an adequate supply of housing land and refers to the recent adoption date of the CS. The appellant draws attention to a more recent appeal decision where the Inspector concluded, on the basis of the evidence before her, that the Council could not demonstrate a five year supply of land for housing¹. The Council's statement does not contradict the appellant's evidence in relation to housing land supply. Therefore, based on the limited evidence before me, I proceed on the basis the Council cannot demonstrate a five year supply of housing land at the present time.
5. Paragraph 49 of the National Planning Policy Framework (Framework) advises that housing applications should be considered in the context of the

¹ Appeal Ref APP/W1850/W/15/3009456 Outline application for up to 321 dwellings. Allowed 3 June 2016

presumption in favour of sustainable development and that relevant policies for the supply of housing should be not be considered up to date if the Council cannot demonstrate an adequate supply of land for housing.

6. The Council's reasons for refusing the proposal include conflict with some nine policies of the CS. Policy SS1 sets out the presumption in favour of sustainable development where proposals accord with the policies in the CS. Policy SS2 sets out the settlement strategy and identifies Kington as a town suitable for additional development. Policy SS4 is concerned with movement and transportation. As the Council refer in their report to the site being within Kington, I find that there would be no conflict, in principle, with Policies SS2 and SS4. Policy RA2 addresses housing outside Hereford and the market towns and is therefore not relevant. Policy LD2 relates to biodiversity and geodiversity and the evidence does not indicate conflict with this policy.
7. CS policies relevant to this proposal are therefore SD1 relating to sustainable design, SS6 which is concerned with environmental quality and local distinctiveness, LD1 relating to landscape and townscape, and LD4 concerned with the historic environment and heritage assets. I consider that these are not policies related the supply of housing and I give them full weight.

Conservation Area

8. The appeal site lies within the north-western edge of the conservation area. The designated area extends to cover the historic core of Kington, extending north-westward as far as Castle Hill and the church. Notwithstanding the annotation in respect of the appeal site location which the Council have added to the plan showing the boundaries of the conservation area, my assessment is that the house known as Lowlands lies outside the designated area whilst the appeal site, which forms a large part of the garden of Lowlands, lies within the conservation area.
9. I am not provided with any formal appraisal by the Council of the conservation area. The Council refer to the immediate area as being characterised by its open, hillside position and the strong visual elements of stone boundary walls and mature gardens. From what I observed, I consider this north-western part of the conservation area has a spacious and open character, with significant distances between many of the buildings. This is distinct from the more urban and less open form of the historic town centre.
10. The appellant's design and access statement (DAS) indicates that the proposed dwelling has been designed to blend with Lowlands and the surrounding area, and is of a scale that would not dominate Lowlands. There is little in the DAS or the subsequent Heritage Impact Assessment (HIA) which identifies the character or appearance of the conservation area or assesses the impact of the proposal on the conservation area. The DAS refers to dormer windows breaking up the roofline of the proposed house. Whilst dormer windows are not a significant feature in many of the buildings in the immediate area, no dormer windows are shown in the proposed dwelling. There are brick buildings in the vicinity, including the majority of more recent buildings. From what I saw within the wider conservation area, the older buildings are predominantly of stone but there is considerable use of brick as well as painted and rendered finishes. Roofing materials are predominantly slate or plain tiles such that the concrete pantiles for the roof of the proposed dwelling would appear incongruous.

11. Whilst materials could be controlled by conditions, the overall design and massing of the proposal does not appear to draw on any particular design cues from buildings within the conservation area. The almost square plan form of the proposed building, with an attached flat roofed garage and glazed balustrade to facilitate use as a terrace, contribute to the somewhat suburban appearance of the proposed dwelling.
12. The dwelling, although shown to be partially cut into the existing ground levels, would be set back from the road and would be readily visible from the roadside. Rather than adding positively to the character or appearance of the conservation area, the proposal would detract from it. Accordingly, the development would fail to preserve and therefore would not enhance the character or appearance of the conservation area.
13. The proposal would therefore fail to comply with Policy LD4 which requires proposals to protect, conserve and where possible enhance heritage assets, and be of sympathetic design, contributing to character and local distinctiveness, especially within conservation areas. The proposal would fail to comply with Policy SD1 to the extent that it would not maintain local distinctiveness through including local architectural detailing and materials including respecting the scale proportions and massing of surrounding development and would not make a positive contribution to architectural diversity. It would also fail to comply with Policies SS6 and LD1 which require that the character of landscape and townscape should positively influence design, including the protection and enhancement of designated areas.

Setting of Scheduled Monument

14. Some 60 metres to the west of the appeal site is a monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979 (SM). It is named in the schedule description as "Mound 150 yards (140m) N of church and described as a motte castle situated on a ridge on the southern valley side of the Back Brook". It was founded towards the end of 11C and is now known locally as Kington Castle. The description refers to the SM surviving as an irregularly shaped and artificially steepened knoll surrounded by a wide shallow ditch re-used as a path. It is stated that despite some land slippage in the vicinity and tree growth, the motte castle survives comparatively well and will contain archaeological and environmental evidence, including evidence relating to, amongst other matters, its overall landscape context.
15. The SM does not have a planned setting and the extent of a setting may change over time. I note that the SM lies outside the boundary of the conservation area. The Council and Historic England (HE) consider the appeal site to be within the setting of the SM. Taking into account the definition within the Framework that setting comprises the surroundings in which a heritage asset is experienced, and from what I observed during my site visit, I am satisfied that the appeal site does lie within the setting of the SM. The tree covered castle mound is readily apparent in views from Castle Hill in the immediate vicinity of the appeal site. Lowlands is clearly visible within the foreground in these views.
16. Paragraph 128 of the Framework sets out that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and not more than is sufficient to

understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

17. The appellant's HIA is largely focused on the potential visual impact of the proposal on the setting of the SM. It is stated that the roof of the proposed dwelling would be considerably lower than boundary wall on Castle Hill such that the proposal would not be visible. However, taking into account the proposed finished floor level and the height of the pitched roof two storey dwelling, I consider that the dwelling would be clearly visible in the foreground of views of the SM from Castle Hill in the vicinity of the appeal site. The introduction of another dwelling into this view, taking into account my findings in relation to the first main issue above, would cause harm to the setting of the SM and diminish the significance of the SM, notwithstanding the presence of existing dwellings within the setting. This harm to the setting of the SM also brings the proposal into conflict with CS policies SS6 and LD4.
18. There are significant changes in level between the appeal site and the footpath which runs on the south side of the brook. This, together with the vegetation on the slope, makes assessment of the impact of the proposal from this low level path difficult. Given the limited available evidence it is not clear whether there would be a harmful impact in visual terms on the setting of the SM in views from this direction.

Non-designated heritage assets

19. The consultation response from HE advises that the proposals could have an impact on undesignated heritage assets. HE state that the advice of the Council's Historic Environment staff should be sought and implemented in full regarding non-designated heritage assets which may be affected by the proposal, in particular the archaeological potential of the appeal site.
20. The Framework makes clear that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation. There is no evidence of the Council formally requiring such assessment following the submission of the application. However, the Council refers to there being a previously withdrawn proposal for the site and to pre-application correspondence. Although I am not provided with copies of this correspondence the Council confirms that their archaeological advisor raised concerns and that the appellant was advised that archaeological assessment would be required prior to the proposal being determined.
21. The HIA submitted with the appeal, whilst it refers to the Historic Environment Record, does not make reference to any specialist archaeological advice having been sought, nor does it make any detailed response to the comments of HE in respect of non-designated heritage assets. I find that the potential archaeological interest of the appeal site is not adequately addressed by the evidence and consequently I am unable to determine the effect of the proposals upon any non-designated heritage assets.

Conclusions

22. The proposal would fail to preserve and therefore would not enhance the character of the conservation area, the desirability of which is clearly anticipated in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The setting of designated heritage assets is addressed by the Framework and I have found the proposal would harm the setting of the SM.
23. The proposal would provide an additional dwelling within a settlement which the development plan states is suitable in principle for additional housing. The proposal would result in economic and social benefits commensurate with the provision of a single dwelling. These are matters to which I attach significant weight.
24. In the context of paragraphs 133 and 134 of the Framework, I find that the proposals would amount to less than substantial harm to designated heritage assets. However, the public benefits of one additional dwelling would not outweigh the harm to designated heritage assets I have identified and to which I accord great weight. The Framework aims to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
25. The environmental harm arising from the proposals would significantly and demonstrably outweigh the social and economic benefits and the presumption in favour of sustainable development does not apply in this case. The proposal would not accord with Policy SS1 of the CS as it conflicts with other CS policies as referred to above. On this basis, the proposal would not comply with the development plan as a whole.
26. I have insufficient information to determine the effect of the proposal on non-designated heritage assets.
27. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

J E Tempest

INSPECTOR