

Appeal Decision

Site visit made on 25 April 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 26 May 2017

Appeal Ref: APP/G2713/W/17/3167490

land to rear of Wainford Cottage, Main Street, Kilburn

- 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 & Mrs JW Paterson against the decision of Hambleton District Council.
 - The application Ref 16/02022/FUL, dated 8 September 2016, was refused by notice dated 21 December 2016.
 - The development proposed is a proposed detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposed development, having regard to national and local planning policy, is consistent with the principles of sustainable development; and
 - The effect of the proposed development on the character and appearance of the surrounding area, including the Kilburn Conservation Area, the setting of the grade II* listed Kilburn and the setting of the North Yorkshire Moors National Park.

Reasons

3. The development plan consists of the Hambleton Local Development Framework Core Strategy 2007 (CS) and the Hambleton Local Development Framework Development Policies 2008 (DP). The Council also produced an Interim Policy Guidance note (IPG) in 2015 as a supplement to policies in the development plan in order to reflect the provisions of the National Planning Policy Framework (the Framework). The IPG sets out the Council's approach to housing development beyond Development Limits, introduces the concept of "cluster villages" to reflect elements of paragraph 55 of the Framework and updates the settlement hierarchy set out in CS policy CP4.

Sustainable Development

4. The Council have adopted an Interim Policy Guidance Note (2015) (IPG) whereby small scale housing development would be supported in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of a number of criteria. Whilst I accept that the policy does not have the status of
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adopted development plan policy, the document was intended to reflect the National Planning Policy Framework (the Framework) as CS policy CP4 does not allow market housing in settlements which are outside the settlement hierarchy.

5. Kilburn is referred to as an 'other settlement' within the IPG's settlement hierarchy. The IPG provides that in order for an 'other settlement' to be classed as sustainable, it must either be clustered with a 'service' or 'secondary village' or with sufficient 'other settlements' to achieve a good collective level of shared service provision. It also states that significant distances (approximately 2km) or barriers (such as rivers) between settlements would preclude those villages from forming such a cluster.
6. The Council argue that the distance of Kilburn from any other settlement precludes the village from forming part of a cluster and is therefore in conflict with Policy CP4 and the IPG. The IPG also states that development within villages with no or few services will not be considered sustainable. I accept that 'other settlements' are not specifically excluded from development and that there is no definition of what constitutes 'no or few services' within the supporting text. However, whilst the village has some services, they are limited and those that would be more likely to require everyday access such as shops and wider employment opportunities can only be accessed further afield. I am advised that there is a bus service that links the village to, amongst other settlements, Thirsk although I have not been provided with a detailed timetable of that service. A neighbour has however indicated that it operates on Mondays and Fridays as a single return journey each day.
7. Whilst a public transport service may well therefore exist, it appears to be limited in both its destinations and schedule. Furthermore, the roads leading to and from Kilburn did not appear to me to be conducive to walking to access services or facilities in other villages, nor has my attention been drawn to any convenient local footpaths to access the nearest villages. In any event, I am satisfied that these villages are suitably distant in absolute terms so as to render them realistically accessible only by private vehicle.
8. Access to services is therefore likely to be heavily reliant on private transport and, once that is the case, it may well be that larger settlements are chosen over the closer smaller settlements. I cannot therefore be certain that the proposed development would help support the limited services in Kilburn, or those in villages further afield, sufficient to satisfy the criteria of the IPG with regard to cluster villages. This would therefore also be at odds with CS policy CP2 and the aim of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in locations which are, or can be made sustainable.
9. Therefore, whilst the development plan, supplemented by the IPG, and the Framework seek to promote sustainable development in rural areas by encouraging housing to be located where it will enhance or maintain the vitality of local communities, it has not been demonstrated that the proposal would support services in this village, or indeed other villages. Although the appeal site is not isolated in a physical sense and is reasonably closely situated to Kilburn itself, this does not mean that the proposal is a sustainable form of development in the parlance of the Framework.

10. The appellant argues that the proposal would help them to manage their business, land and livestock, avoiding the need to travel from Dalton to Kilburn a number of times each day. However, limited evidence has been put forward to demonstrate that there is an essential need for a rural worker to live permanently at or near their place of work or why such to-ing and fro-ing is required in connection with the appellant's business. Whilst these factors are noted, I do not consider them sufficient to constitute compelling reasons that would lead me to conclude that the proposal is consistent with the principles of sustainable development. Any economic or social benefits would be correspondingly limited and proportionate to a single dwelling and would not outweigh the harm to the environmental dimension of sustainable development set out in the Framework.
11. I therefore conclude that the proposal would fail to provide a suitable location having regard to access to everyday services and facilities. I therefore find conflict with CS policies CP1, CP2 and CP4 and DP policy DP9 of the CS and guidance within the IPG. These seek, amongst other things, to ensure that development is sustainable, to minimise the need to travel by private car by directing development to suitable locations. The proposal would also fail to achieve the sustainable form of development sought by the Framework.

Character and Appearance

12. The appeal site is located towards the southern end of the small village of Kilburn, the lower part of which (Low Kilburn) is broadly linear in its development pattern and is set on either side of the banks of the Twattleton Beck. The appeal site is set back from the main road through the village and behind Wainford Cottage, and is accessed by an unsurfaced track and right of way that runs due west from the main road.
13. To the immediate north of the site, beyond the track is an open paddock that slopes gently down to the east towards the beck and the main road. The appeal site is visible in longer views from the north across the paddock and provides a visual breathing space between Wainford Cottage and a range of modern agricultural and other buildings to the west of the site further up the gently rising slope.
14. The proposal is for a modest, two-bedroomed bungalow that would be constructed, it is stated, of materials to match the local vernacular. In isolation, I consider the proposed dwelling to be inoffensive enough, if somewhat suburban in its overall appearance and character. However, the site lies within the Kilburn Conservation Area. Not only that, but the boundary for the North Yorkshire Moors National Park (NYMNP) runs along the eastern side of the main road through the village, whilst there are a number of listed buildings and other non-designated heritage assets within the village, including the grade II* listed Kilburn Hall immediately opposite junction with the track leading to the site and Wainford Cottage, respectively.
15. Although not located directly on the main street, the site nonetheless has a visible presence when viewed from it. The open paddock to the north, across which the gap of the appeal site may be viewed, contributes significantly to the inherently rural character and nature of Kilburn. Views towards the open countryside beyond the village, tantalisingly just beyond the crest of the gently rising slope that the paddock lies on, become more evident along the unmade track beyond the appeal site whilst also providing a pleasant, elevated view

back towards the village. I saw that the appeal provides a pleasing visual breathing space in views from the village, and a gentle transition from village to countryside that I found to contribute significantly to the character and appearance of the Conservation Area.

16. The proposed dwelling would be situated close to the existing field hedge and the front of the site, the projecting peaked gable a dominant feature at odds with the site's existing role and character. The dwelling as a whole would also have a notable visual presence across the paddock and would remove the visual gap and erode the transition from village to countryside that is currently experienced along this track.
17. I acknowledge that the two storey gable elevation of Wainford Cottage, which is positioned closer to the lane than the proposed dwelling, also has a significant presence. However, the proposed dwelling would have a comparatively much wider elevational presence, whilst the additional elevation gained by virtue of its position higher up the valley side would add to its visual presence above Wainford Cottage, as well as further blurring the transition from village to countryside that I have already found contributes greatly to the character and appearance of the Conservation Area.
18. Thus, I conclude that the proposal would cause harm to the character and appearance of the Kilburn Conservation Area, thereby failing to preserve or enhance its character or appearance. I note that the Council concluded likewise, and also that the proposal would cause harm to the setting of the NYMNP. However, I see no indication that the degree of harm caused to the Conservation Area was assessed to determine whether it was considered to be substantial or less than substantial. However, the Framework¹ states that any harm or loss should require clear and convincing justification, whilst the statutory test² requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.
19. From my observation of the site and its surroundings, whilst the proposal would cause harm, I am satisfied that that harm would be less than substantial. As required by the Framework³ however that harm should be weighed against the public benefits of the proposal.
20. The proposal would provide an additional dwelling, thereby boosting housing supply within the District. It is also stated that the proposed dwelling would reduce the travelling undertaken by the appellant between their home and workplace, thereby assisting in the supervision of livestock on land at Kilburn and as an attempt to ward off thefts and tampering which it is alleged have been suffered on the adjoining land and buildings. Whilst these do amount to public benefits, they are limited and, I conclude, insufficient to outweigh the less than substantial harm to the character and appearance of the Conservation Area that I have identified above and to which I am statutorily required³ to give special attention.
21. Thus, in this respect I conclude that the proposal would be in conflict with CS policies CP1, CP4, CP16 and CP17 and DP policies DP10, DP28 and DP32 which

¹ Paragraph 132

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

³ Paragraph 134

together seek to ensure design of the highest quality that respects, preserves and enhances local character and distinctiveness, both natural and man-made. In failing to achieve these requirements, the proposal would also fail to accord with the IPG(3) in that development must not have a detrimental impact on the natural, built or historic environment and would be at odds with the Framework.

22. It is noted that whilst the Council acknowledge the presence of listed buildings, particularly Kilburn Hall and other non-designated heritage assets, particularly the adjacent Wainford Cottage, no conclusion is drawn as to whether the proposal would cause harm and, if so, whether that harm would be substantial or less than substantial. Nonetheless, I am statutorily required⁴ to do so.
23. The Council refer collectively to listed buildings and non-designated heritage assets as contributing to the character and built form of the village. Kilburn Hall, the closest listed building and grade II* listed, is located directly opposite the entrance to the track that leads to the appeal site. In the same manner that I conclude that the appeal site contributes to the character and appearance of the Conservation Area, so too it contributes to the setting of the listed building, which looks out over the paddock towards the appeal site. Thus, the same qualities that I identified in the appeal site and its contribution to the character and appearance of the Conservation Area apply in respect of the setting of the listed Kilburn Hall. Such public benefits as exist are insufficient to outweigh this harm and so I conclude that the proposal would be contrary CS policies CP1, CP4, CP16 and CP17 and DP policies DP10, DP28 and DP32, and the Framework, in this respect.

Other Matters

24. The Council refer to a Written Ministerial Statement (WMS) from 2015⁵ on Intentional Unauthorised Development, which states that such matters may be material considerations, in relation to car repairs, maintenance and other matters it is alleged are being undertaken on the application site. However, at the time of my site visit, which was undertaken on an unaccompanied basis, I saw no evidence of these matters. As I am dismissing the appeal in respect of the main issues for the reasons set out above, I have not considered this matter further.

Conclusion

25. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

⁴ In the case of development affecting the setting of a listed building - Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁵ Letter from Steve Quartermain (then Chief Planner) to Local Authority Chief Planning Officers, dated 31 August 2015 – laid before Parliament as a WMS on 17 December 2015