



Appeal Decision

Site visit made on 3 January 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 23 January 2018

Appeal Ref: APP/C1625/W/17/3179198

Middleyard Farm, Charfield Road, Kingswood GL12 8SL

- 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 Mrs Victoria Lavery against the decision of Stroud District Council.
 - The application Ref S.16/2642/FUL, dated 21 November 2016, was refused by notice dated 16 January 2017.
 - The development proposed is erection of 3 no. dwellings in the garden of Middleyard Farm.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the application was determined, The Kingswood Neighbourhood Plan (2017) (NP) has been adopted under the relevant provisions of the Planning and Compulsory Purchase Act 2004 and thus forms part of the statutory development plan. The Council has referred to a number of NP policies within its appeal statement, which it considers to be relevant and on the basis of the available evidence, I have no reason to take an alternative view. Those NP policies are SL2: Sustainable Development Characteristics; CA1: Kingswood Conservation Areas (CA); CA2: Listed Buildings and Non-Designated Heritage Assets; and LA1: Landscape Character and Locally Important Views. The appellant has had the opportunity to comment on this evidence at final comments stage in the appeal process. I am therefore satisfied that in taking the NP policies into account in my decision, there will be no prejudice to the appellant's case.

Main Issues

3. The main issues in this appeal are (i) the effect of the proposal on the character and appearance of the area (ii) whether it would preserve or enhance the character or appearance of the Kingswood CA; (ii) its effect on the living conditions of neighbouring occupiers in Chestnut Park with regard to privacy; and (iii) its effects on highway safety.

Reasons

Character and appearance

4. The appeal site is located within the grounds of Middleyard Farm. It is currently surrounded by security fencing and has a somewhat run-down appearance. There is a copse of trees to the north-west of the site that sit in front of the development in Tyndale View. Recent development has taken place to the south-west, immediately behind the main house and within what is now Chestnut Park. The appeal site, the copse, the space between the Middleyard Farm buildings and the small open area next to the existing access all combine with the areas of open land opposite to create a sense of spaciousness to this part of Charfield Road.
5. I acknowledge the more tightly packed development within Chestnut Park and Tyndale View and that the proposal would be of broadly similar density. However, the Chestnut Park development is of a distinct character and sits on higher land to the south-west. In contrast, the lower lying site shares more of an affinity with the looser arrangement of buildings within the Middleyard Farm site and is an intrinsic component in the openness of the surrounding area.
6. Although the appeal site lies within the grounds of Middleyard Farm, it nonetheless, forms an open area close to the edge of the settlement where I consider there to be a blurring of the edge between the built environment and the surrounding countryside. The site therefore contributes to the sense of there being a transition between these areas.
7. I agree that the layout of the appeal scheme would maintain some semblance of a courtyard arrangement around Middleyard Farm. However, it would nevertheless introduce a pocket of tightly packed dwellings into this area, which would appear incongruous in the much more open context and disrupt the transition that currently exists between the built-up area and the open countryside.
8. For the above reasons, the appeal scheme would have a significant harmful effect on the area's character and appearance thereby running counter to policy HC1 of the Stroud District Local Plan (2015) (LP), which supports residential development or redevelopment within defined settlement limits providing it is compatible with the character and appearance of the locality. It would also run counter to LP policy CP14, which includes similar objectives in seeking to conserve and enhance the built and natural environment.
9. NP policy SL2 includes a number of requirements that development should meet including reinforcing local distinctiveness and character. For the reasons already given, the proposal would run counter to NP policy SL2 and also with NP policy LA1, which seeks to conserve and enhance the local environment including a requirement to maintain and enhance existing relationships at landscape transitions between the built environment and the surrounding countryside. This objective is similar to that also found in LP policy HC1.
10. In addition to the above mentioned LP policies, within the reasons for refusal, the Council has cited policies KBE3 and KBE5 of the adopted Kingswood Village Design Statement (2014) (KVDS). KVDS Policy KBE3 is concerned with the protection of the significance of heritage assets including the Kingswood CA. I am not persuaded of its relevance in relation to a straightforward consideration

of the effect of the proposal on the area's character and appearance. I have, however, considered the effects on the setting of the CA in light of this policy.

11. Furthermore, the primary role of KVDS policy KBE5 is to support wildlife through green infrastructure in developments including gardens. Despite the Council having expressed concerns over the size of the proposed gardens, it is clear from the available evidence that such concerns relate to amenity matters. The Council has not explicitly objected to the proposal with regard to any absence of green infrastructure insofar as it relates to supporting wildlife. Accordingly, I am not persuaded of the relevance of KVDS policy KBE5 to the proposal before me.
12. Nevertheless, KVDS policy KCA1 is relevant as it states that new buildings or infilling should be in sympathy with the character of the area. The proposal conflicts with this policy.

Kingswood CA

13. The appeal site lies outside of but immediately next to the CA boundary. The appellant argues that the site cannot be readily seen from within the CA. However, it is clearly visible from within the grounds of Middleyard Farm, from around the access on Charfield Road and from opposite that access, all of which are within the CA. Notwithstanding this, consideration of the effects of a proposed development on the setting of a designated heritage asset does not solely hinge on visual matters. As I have already established, the openness of the site makes a positive functional contribution to this area of Kingswood and, by extension, to the CA. Given that the CA boundary lies immediately next to the north, east and south-east, the proposal would detract from the setting of the CA through the introduction of a substantive mass of built form and thus it would result in harm to its significance.
14. Whilst this would not reach the high hurdle of substantial harm for the purposes of paragraph 133 of the National Planning Policy Framework (the Framework), it would result in less than substantial harm that requires clear and convincing justification. Framework paragraph 134 says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the scheme, including securing its optimum viable use.
15. I acknowledge that the proposal would provide additional housing which carries some weight as a public benefit. However, the contribution of three dwellings in an area where there is no evidence of a pressing need for more housing, carries only limited weight. This is insufficient to outweigh the clear identified harm to the significance of the designated heritage asset.
16. The proposed dwellings would be of a notably different design to those nearby and whilst I note that the main building at Middleyard Farm dates from the 1980s, its overall design is in general harmony with the agricultural appearance of the surrounding development. However, in my view, it neither detracts from nor makes a meaningful contribution to the significance of the CA. Its effect is therefore neutral. Moreover, it has no statutorily designated status. I do not therefore share the Council's view that Middleyard Farm house is of historical significance and the effects on the setting of the farm house in isolation would not materially count against the appeal scheme.

17. Nevertheless, I find that the proposal would fail to preserve or enhance the character or appearance of the Kingswood CA, thereby running counter to the Framework and statutory legislation and also with policy ES10, which sets out a series of principles for preserving, protecting or enhancing the District's historic environment. It would also conflict with LP policy CP14, which requires development to respect the surroundings including heritage.
18. The Council has referred to KVDS policies KCA1 and KCA2 in the reasons for refusal in relation to heritage matters. I have already found the proposal to be in conflict with the former in relation to the first main issue and do not consider that its provisions bear on my consideration of heritage effects. Policy KCA2 refers to replacement buildings in the CA. Given that the proposal does not comprise a replacement building and the site is not within the CA, I do not consider KVDS policy KCA2 to be relevant to my determination of the appeal. KVDS policy KBE3, on the other hand seeks to ensure development does not affect the significance of or people's experience of a heritage asset, particularly the Kingswood CA and the proposal therefore conflicts with this policy. NP policy SL2 also includes a requirement for development to respect the setting of the CA and the proposal also conflicts with this policy.

Living conditions

19. The Appeal site sits at a lower level than the dwellings forming nos. 38-44 Chestnut Park. These properties have very modestly sized rear gardens which provide the only outdoor amenity space for their occupants.
20. At my site visit, I observed the site from the patio close to the rear elevation no. 40. It was evident that despite the presence of coniferous hedging next to the boundary fences of some properties in the row, there would be clear views of the first floor windows in the proposed dwellings. Furthermore, from the first floor rear facing windows of the neighbouring properties, the entire rear elevations of the new dwellings would be visible. The separation distance between the rear elevations of existing and proposed dwellings would be insufficient to provide an acceptable relationship between them and prevent harm by way of overlooking.
21. I note that the appellant has suggested the conditioning of the windows to comprise obscure glazing or their relocation. However, it would be unreasonable for future occupiers of the dwellings to live in conditions where a substantial number of the rear windows were obscurely glazed. In terms of relocation, it is difficult to see how this could be achieved to create an acceptable situation for the occupiers of neighbouring properties without substantial alteration of the dwellings' design. This is not therefore a matter that could be addressed by condition, having regard to Planning Practice Guidance¹.
22. I have considered whether an appropriate planting scheme could be used to address matters of privacy. However, in practicality, given the modest garden depths of the proposed gardens, this would need to take place next to the boundary with the neighbouring properties in Chestnut Park. It would also take a number of years to grow to the point where it became effective. Moreover, it would result in the unacceptable enclosure of the neighbouring small gardens, which would be detrimental to the outlook of the neighbours and adversely

¹ Paragraph: 012 Reference ID: 21a-012-20140306

affect the reasonable enjoyment of their outdoor amenity space. Such a course of action would not there be a satisfactory way of preventing the harm I have found in relation to this second main issue.

23. For the above reasons, the proposal would harm the living conditions of the neighbouring occupiers in Chestnut Park with regard to privacy thereby running counter to LP policy ES3(1) of the Stroud District Local Plan (2015), which, seeks to resist development that would be likely to lead to, or result in an unacceptable level of loss of privacy. In addition, it would conflict with policy CP14(7), which says that development will be supported where there would be no unacceptable adverse effect on the amenities of neighbouring occupants. Policy SL2 of the NP has similar objectives and the proposal would also therefore conflict with it.

Highway safety

24. The highway authority is satisfied that there would be no unacceptable effects in relation to pedestrians and passing vehicles within the Middleyard Farm site and that refuse vehicles would not need to enter the site. I have no reason to take an alternative view and agree that a suitably worded condition could be imposed if permission were to be granted to ensure adequate refuse storage facilities. In addition, there is no dispute in relation to vehicle tracking with regard to the proposed parking spaces. I note the references in the evidence to a hedge along the access road but at my site visit, it was clear that the hedge no longer exists and any issues regarding its effects on visibility have therefore been removed.
25. However, the highway authority has maintained its concerns regarding forward and emerging visibility splays based on the requirements of Manual for Streets (MfS) and Manual for Gloucestershire Streets (4th Edition) (2016). It is clear from the proposed plans that the achievable visibility splays fall well below the MfS requirements of 16m emerging and 18m forward. I am therefore satisfied that the proposed accesses would be substandard thereby resulting in potential vehicular conflict.
26. I have considered whether this matter could be addressed by condition. However, in order to provide the necessary visibility splays, it appears to me that the proposed layout would need to be amended, which would result in a different scheme to the one before me. Consequently, it would not be appropriate to impose such a condition. The proposal would have an unacceptable effect on highway safety.
27. Paragraph 35 of the Framework states amongst other things, that development should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic, cyclists and pedestrians. The proposal would be in conflict with this objective of the Framework.
28. Furthermore, the proposal would conflict with LP policy HC1(9), which requires development to have appropriate access. It would conflict with LP policy CP14(13), which seeks to ensure the provision of safe and convenient access and with LP policy ES3(5), which states that development should not result in a detrimental impact on highway safety.
29. Policy EI12 reflects the Framework and its supporting text sets out that the policy refers to major proposals or those likely to have a significant impact on

the local transport network. Neither of these situations apply to the appeal scheme and it cannot therefore be in conflict with LP policy EI13.

Conclusion

30. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector