



Appeal Decision

Site visit made on 28 May 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 June 2019

Appeal Ref: APP/H0928/W/19/3224668

Land adjacent to 'Kiln House', Keld Lane, Keld, Shap

- 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 Messrs Simpson and Fishwick against the decision of Eden District Council.
 - The application Ref 18/0251, dated 26 March 2018, was refused by notice dated 16 November 2018.
 - The development proposed is the erection of two detached local occupancy dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development proposal was submitted in outline form, with the proposed access and layout for consideration at this stage but all other matters reserved. The proposed access arrangements were revised during the course of the application and there is no objection to these from the local highway authority or any other party.

Main Issue

3. The main issue arising in the appeal is the effect of the proposed development on the character and appearance of the hamlet of Keld and the surrounding landscape.

Reasons

4. The recently-adopted Eden Local Plan of 2014–2032 supports the provision of housing in the 'Smaller Villages and Hamlets', including Keld, subject to compliance with several criteria. Policy HS2 supports development of an appropriate scale, which reflects the built form of adjoining and neighbouring development to the site and the service function of the settlement, where a dwelling would be limited in floorspace, be restricted by legal mechanism to occupation by persons meeting local connection criteria, and be either 'infilling' or 'rounding off' development in accordance with Policy LS1. Policy LS1 sets out the district's locational housing strategy, permitting development in the Smaller Villages and Hamlets that is of a high quality design and is restricted to infilling, rounding off, or re-use of existing buildings.

5. The Smaller Villages and Hamlets to which policy LS1 is applicable are those listed in the policy, consisting of at least 10 well-related dwellings in close proximity to each other. Policy ENV2 permits new development only where it conserves and enhances distinctive elements of landscape character and function, and which should account for the distribution and form of settlements and building within their landscape setting. Policy DEV5 requires new development to be appropriate to form and character and to reflect the existing street scene.
6. The parties consider that a local occupancy restriction may be obtained by the imposition of a planning condition, and, although 'scale' is a reserved matter, the parties to the appeal are agreed that the floorspace of the proposed new dwellings could be appropriately restricted by a planning condition. These elements of policy HS2 could therefore be satisfied. It is common ground that the proposed development would not amount to 'infilling', but the parties disagree on whether it would constitute 'rounding off'.
7. Policy LS1 refers to "rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary" and, although it is not explicit that this is an exhaustive definition, the Council's case is that "rounding off" is so defined (Appeal Statement paragraph 7.9).
8. Keld is a rural hamlet consisting of some 21 dwellings lying close to the boundary of the Lake District National Park, which is a World Heritage Site and thus a designated heritage asset for the purposes of Chapter 16 of the National Planning Policy Framework, and about a mile (by road) south west of the village of Shap, where shops, services and facilities are to be found. Keld lies in a bowl at around 240m AOD with generally rising land on all sides, most notably to the fells of the Lake District to the south, and otherwise to well-defined agricultural fields bounded by drystone walls. Keld Lane descends to the hamlet from Shap. The River Lowther flows to the west.
9. The appeal proposal is to erect two detached dwellings to the (approximately) northern side of Keld Lane as it leaves the hamlet to the north east, on an existing area of undeveloped pasture. These dwellings would be bounded to Keld Lane to their (approximately) southern front, to the 'Miller's Way' public footpath to the west, to 'Roughley Lane' to the east, and by a new drystone wall to their northern rear. Beyond those immediate boundaries, the dwellings would lie alongside agricultural fields to three sides, and the curtilage of the south westernmost dwelling would lie adjacent to the existing 'Kiln House' to its south west.
10. 'Kiln House' and its south western neighbour 'Rivendell' are relatively recent additions to the hamlet. Like other more modern dwellings to the other, south western, end of the hamlet, also on the same northern side of the road, they are set back from the road frontage with some land to their sides. The historic core of the hamlet, in between, is more compact and clustered, with buildings more immediately abutting the road and lying in very close proximity to each other.
11. The present eastern boundary of the hamlet is the 'Miller's Way' public footpath that passes through the eastern side garden of Kiln House. It is marked by a finger post pointing to Shap Abbey, and otherwise by a drystone wall to its eastern side. As a public footpath recorded on the Definitive Map, it is a very durable boundary although not particularly discernible physically. Roughley

Lane, by contrast, is a well-defined physical feature that, although not appearing to have the status of a highway, has appeared on maps for over 120 years and the permanence of it is not questioned by either party. It would be a defensible boundary. I also accept the appellants' contention that the existing development pattern of the hamlet could serve to restrict development to the rear of the site, although the particular rear site boundary chosen by the appeal proposals is not set as far back from the road as those of some other properties in the hamlet, including the adjoining Kiln House whose rear curtilage extends to around the same depth from the road as the point where Roughley Lane bends 90° to the north east.

12. Nevertheless, although defensible, the proposed eastern boundary of Roughley Lane would neither be logical nor result in a modest extension to the settlement. Additionally, the proposed development would not accord with the requirements of policies HS2, DEV5 and ENV1 to reflect the distribution of settlements within their landscape setting and the built form of adjoining and neighbouring developments.
13. An additional 2 dwellings, amounting to around a 10% increase, would not of themselves necessarily be an immodest extension. The hamlet currently has no apparent service function beyond the attraction of the National Trust Chapel, reliant as it is on the settlements at Shap and beyond, and this would not change as a result of the proposed development. However, the development of the appeal site would not represent a modest extension of the settlement but rather a substantial incursion into the countryside. The frontage of the appeal site is approximately 70m wide, which would represent a substantial linear extension to this small hamlet of the order of around 20%. The adjoining houses, Kiln House and Rivendell, have site frontages of around 25m each, which are themselves more substantial than those generally found in the historic core of the settlement. The proposed significantly more generous curtilage frontages here would not relate well to the existing close-knit settlement pattern, but would be rather disparate.
14. Kiln House and the 'Miller's Way' footpath lie almost opposite Thornship Lane, and the settlement is largely clustered below this road junction at present. The first building on the opposite side of the road lies below Thornship Lane, to the south west. Thornship Lane leads to another small hamlet and, like the road out of Keld to the west, connects into the public footpath network at its end. At present the hamlet is enclosed by the Miller's Way and by Thornship Lane to its eastern end. The provision of houses on the appeal site, lying well above the road junction and on rising ground away from the 'bowl' of the settlement, would not relate well to the existing settlement, but would be perceived as a rather incongruous and prominent addition rather than as a modest extension. Roughley Lane provides the gateway to a number of field entrances, and has no obvious direct connection with the hamlet itself. Rather, it is a farm track that happens to be located fairly close to the hamlet. Building up to it would not provide a logical boundary to the settlement.
15. The hamlet and the surrounding countryside, although lying close to the Lake District National Park, are not the subject of any particular landscape designations, and I do not consider that the proposed development would result in harm to the designated heritage asset. Nevertheless policy ENV2 requires new development proposals to complement the distribution and form of settlements, and local styles of buildings within settlements. Impacts are to

be assessed against the Cumbrian Landscape Assessment Toolkit. The site lies within Type 12, "Higher Limestone". The Toolkit describes the local building vernacular as a mixture of discrete nucleated villages and dispersed farms, and identifies small traditional villages as sensitive to expansion. Its guidelines include protecting settlement fringes from unsympathetic development, and ensuring new development respects the scale, form and distinctive character of villages.

16. Although, again, scale is a reserved matter, the application drawings show the proposed dwellings to be single-storey, and the appellants have indicated that a planning condition restricting the ridge height of the dwellings to no higher than that of Kiln House (suggested by the indicative road frontage drawing to mean the AOD height) would be acceptable, in the interests of visual amenity and out of respect for the appearance and character of the settlement, referring to policy DEV5. However, although limiting the height of the dwellings would limit the prominence of their appearance in the landscape, single-storey dwellings in the proposed rather spacious plots would not reflect the existing built form or character of the settlement, whose existing houses consist of 2 or 3 storeys in closer proximity to each other. The proposed layout would be unsympathetic to the settlement fringe and would be inappropriate to the existing form of the hamlet.
17. For these reasons the proposed development would not amount to "rounding off" the settlement, and the layout would preclude a high quality design in this context, so conflicting overall with policy LS1. Because the development would not reflect the adjoining built form, it would also conflict with policy HS2. By failing to account adequately for the distribution and form of the settlement and the buildings within its landscape setting, or to be appropriate to the existing form and character of the hamlet, the proposed development would also conflict with policies ENV2 and DEV5.
18. There are no insurmountable matters arising in respect of highway safety, flooding or neighbouring amenity concerns, subject to the imposition of appropriate conditions, and the provision of housing that is restricted to those meeting local occupancy criteria would be an undoubted benefit of the development. Nevertheless I have been provided with no evidence of any pressing need for the development that might outweigh the harm I have identified, or justify overriding the provisions of the recently-adopted development plan. Overall the appeal proposals conflict with the provisions of the development plan for the area, and so the appeal is dismissed.

Laura Renaudon

INSPECTOR