



Appeal Decision

Site visit made on 23 July 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2019

Appeal Ref: APP/C2708/W/19/3229324

Low Lane, Embsay, Skipton, North Yorkshire BD23 6SD

- 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 Martin Brewster against the decision of Craven District Council.
 - The application Ref 2018/19995/OUT, dated 3 December 2018, was refused by notice dated 13 March 2019.
 - The development proposed is the construction of 2 No. detached bungalows and private driveway off Low Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application is submitted in outline. Matters relating to access, layout and scale form part of the application with matters relating to appearance and landscaping reserved for future approval. I have considered the appeal on the basis that the plans submitted with the application show full details of the siting of the proposed bungalows and access arrangements, whilst the drawings showing the design of the buildings and landscaping are indicative.
3. The appellant has drawn attention to incorrect references in the site notice to a Public Right of Way (PROW). The Council has accepted that the PROW would not be detrimentally affected by the proposed development and I agree.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including the setting of the Embsay Conservation Area (CA).

Reasons

5. The appeal site is located on part of a field on the edge of Embsay. The field is outside of the CA but bounded on two sides by it. The CA is characterised by narrow lanes and traditional stone cottages which are generally set close to the road, some behind short front gardens. On the other side of Low Lane from the site is an estate of modern bungalows which does not form part of the CA.

6. The field is currently used for grazing animals. It is set slightly higher than Low Lane, behind a stone wall, and rises gently away from the village towards the hills beyond. The field is bounded to the west by Kirk Lane which is undeveloped along much of its length apart from a group of cottages close to the junction with Low Lane/Main Street. Further along Kirk Lane, travelling away from Embsay, is the parish church which has a small car park located at the far end of the field from the site. There is a thick hedge along much of the boundary between Kirk Lane and the field which obscures views into the site. However, the site is visible from the car park and from sections of the lane where the hedge is absent.
7. Along the Low Lane frontage of the appeal site are a number of large mature trees which are the subject of a Tree Preservation Order, reflecting their positive contribution to the appearance of the area. The proposed development would be accessed from a new driveway joining the access for the appellant's property and would be set back from the road frontage to allow these trees to be retained.
8. The siting of the proposed development has clearly been carefully considered to minimise its visual impact from Low Lane and Kirk Lane. However, the proposed development would protrude into the undeveloped part of the field and would appear as a marked intrusion into it, altering its character even if the remainder of the field remains in agricultural use. Furthermore, the existing development appears largely on the opposite side of Low Lane and the proposal would appear distinct and separate from it. As a consequence, it would not relate well to the established form of development in the area.
9. The field in which the appeal site is located forms part of the transition between the village and its countryside surroundings and plays a positive role in enhancing the setting of both the CA and the village more generally. This is recognised in the proposed designation of the site, known as 'Fields adjacent to Kirk Lane Embsay', as Local Green Space (LGS) in Policy ENV10 of the emerging Craven Local Plan (CLP). Despite the retention of the trees along the Low Lane frontage, the development of two bungalows and associated access would have an urbanising impact on this currently open land and would be visible from both lanes, causing harm to the character of the area. The raised level of the field above Low Lane would exacerbate this effect.
10. I conclude that the proposed development would cause harm to the setting of the CA. With regard to paragraph 196 of the National Planning Policy Framework (the Framework), this harm would be less than substantial. Even so this still amounts to a harmful impact which would adversely affect the significance of the designated heritage asset. Paragraph 193 of the Framework requires that great weight should be given to an asset's conservation, irrespective of the level of harm.
11. The Framework requires that harm to the CA should be weighed against the public benefits of the proposal. In this case, public benefits include the proposed undergrounding of a section of overhead power lines and additional tree and hedge planting. I agree that these measures would have a positive impact on the area, however the visual benefit would be offset by the additional harm caused by the proposed development which I have described

above. The provision of two additional dwellings which would be suitable for older people is another public benefit. Whilst I do not dispute the general need for this type of accommodation, these relatively modest benefits would not outweigh the harm to the designated heritage asset.

12. The appeal site falls outside of the Embsay development limits as defined in saved policy ENV1 in the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999. Policy ENV1 seeks to protect the character and quality of the open countryside and sets out criteria which must be met if development in the open countryside is to be acceptable. Whilst this policy is now some years old, I consider that its objective of recognising and protecting the character and quality of the countryside remains broadly compatible with section 15 of the Framework, concerning conserving and enhancing the natural environment.
13. Whilst it is not yet adopted, the CLP is at an advanced stage of preparation. I note that the Local Plan has been subject to examination, with Main Modifications and Further Main Modifications having been consulted on. The appellant objected to the proposed designation of the fields adjacent to Kirk Lane as LGS in Policy ENV10 of the draft CLP. Whilst the Main Modifications and Further Main Modifications do include changes to Policy ENV10, the inclusion of the fields adjacent to Kirk Lane remains. It therefore seems likely that the site will be designated as LGS in the CLP once it is adopted. Taking account of the advanced stage of plan preparation and its consistency with the Framework, significant weight can be afforded to the designation of the site as LGS in Policy ENV10.
14. As set out in Policy ENV10 and the Framework, LGS designation affords a high level of protection against development. This is the case even where the proposed development would only affect part of the space. The proposed development would not accord with the level of protection afforded. I note the appellant's comment about lack of public access to the space other than from the PROW, but this is not a necessary condition for the designation of LGS.
15. The proposal would also not accord with the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework. This is because the application of policies in the Framework that protect areas or assets of particular importance, related to designated heritage assets, namely the setting of the conservation area, provides a clear reason for refusing the development proposed. The 'tilted balance' does not, therefore, apply.

Conclusion

16. I conclude that for the reasons given above the proposed development would cause harm to the character and appearance of the area, including the setting of the CA. The proposal would be contrary to saved Policy ENV1 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999 and Policy ENV10 of the emerging Craven Local Plan. Furthermore, the proposal would conflict with Framework sections 15 and 16 which relate to conserving and enhancing the natural and historic environment.

17. For the reasons set out above the appeal should be dismissed.

Rosie Morgan

INSPECTOR