



Appeal Decision

Site visit made on 10 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/F2415/W/19/3238189

Stoney House, Dag Lane, North Kilworth, Lutterworth LE17 6HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Philip Lawrance against the decision of Harborough District Council.
 - The application Ref 19/00825/FUL, dated 22 May 2019, was refused by notice dated 5 July 2019.
 - The development proposed is described on the application form as the 'change of use from agricultural to residential (garden)'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agricultural to residential (garden) at Stoney House, Dag Lane, north Kilworth, Lutterworth LE17 6HD, in accordance with the terms of the application Ref 19/00825/FUL, dated 22 May 2019, subject to the conditions below.

Policy context

2. Proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan includes policies of the North Kilworth Neighbourhood Plan (supported at referendum on 20 July 2017, the 'NP') and of the Harborough Local Plan 2011-2031 (adopted 30 April 2019, the 'LP').
3. LP policy GD3 seeks to strike a balance between protecting the character of the countryside and supporting a thriving rural economy. It therefore seeks to restrict development in the countryside to certain categories. Category 'h' of potentially permissible development is 'minor extensions to existing dwellings and to other buildings that are subordinate in scale to the existing building'.
4. The appeal site abuts the settlement boundary for North Kilworth, identified as a 'selected rural village' in the LP.¹ LP policy GD3 applies, however, outside 'selected rural villages, and land adjoining them'. Therefore, on a plain reading policy GD3 does not apply to the appeal site nor to increasing the extent of residential land (but rather to extensions to buildings).
5. Nevertheless more broadly, and in line with paragraphs 127. c), 130 and 170 of the National Planning Policy Framework ('NPPF'), LP policies GD5 and GD8 seek

¹ As shown on inset map 27.

to ensure that development integrates appropriately landscape character, respects the setting of settlements, and maintains local distinctiveness including important views. NP section 7.6.5 sets out that there are many important views and vistas from, into, and within North Kilworth. The Village has a strongly rural setting, falling within the Laughton Hills Landscape Character Area defined in the 2007 Landscape Character Assessment ('LCA').

6. The Council's Supplementary Planning Guidance, Note 17 concerns 'garden extensions' (adopted in March 2003, the 'SPG'). Providing practical guidance as to how such proposals may be brought forward sensitively in their surrounding context, the SPG recommends in particular that 'garden extensions should not be of an excessive scale and size'.²

Main issue

7. Against the context above, the main issue is the effect of the development proposed on the character and appearance of the area and setting to North Kilworth.

Reasons

8. The appeal site is an irregular parcel of rough ground. It is immediately to the south of the existing garden to Stoney House, and also to that of Honey Cottage and garages associated with modern homes around Stoney Close (along which the settlement boundary is also drawn). The settlement boundary and extent of the North Kilworth Conservation Area ('NKCA') are broadly aligned in this particular location. However the latter also incorporates rear gardens of Stoney Close properties which project further southwards.³ I am told that, until around 2014, the appeal site was used for grazing sheep.
9. Incorporating the appeal site would represent a significant addition to the garden of Stoney House. Whilst there are no figures before me in that respect, on the plans it appears that the site area is double or more that of the existing garden. Gardens wrapping behind those of neighbouring properties are not commonplace here. At present, being natural and untended, the appeal site is broadly consistent with the landscape surrounding the Village. The LCA identifies medium-sized fields, used predominantly for grazing, as characteristics features of the Laughton Hills Landscape Character Area. The site abuts a larger field beyond it, also within the appellant's ownership.
10. I saw that the appeal site is within 'view b)' identified in NP policy NK16, i.e. from South Kilworth towards the Village.⁴ There are fleeting views of the site in front of the roofscape of the Village, including the spire of the Grade II* Listed Church of St. Andrew from South Kilworth Road across intervening paddocks. The appeal site is also partially visible from public Bridleway Y64 tracking south eastwards from the Village, which cuts through a Local Green Space identified in the NP close to Dag Lane. I accept that new boundary features, domestic or formal landscaping and planting, and residential paraphernalia may have a detrimental effect on the open and rugged character of the countryside. Albeit certain planting could be undertaken at the appeal site at present, in that

² Paragraphs 3.6-3.8

³ I understand reflecting the extent of the plot associated with a detached property dating from the 1930s demolished to make way for Stoney Close.

⁴ NP page 54.

context the proposal would likely result in an additional intensity of use, maintenance and therefore some degree of change.

11. However in my view there is a visual distinction between the appeal site and landscape to the south. The former is relatively modest and broadly level, the latter more sizeable and in large part ridge and furrow. The two are separated by a post and wire fence and field gate, which have evidently been in place for some time. Those features align, or continue rather than depart from, the planting and fences to the rear of properties around Stoney Close. No additional boundary features are proposed, and those amounting to development could be controlled via the imposition of a suitably-worded condition (as could outbuildings and hardsurfacing otherwise generally permitted development).
12. Moreover, I saw how the appeal site is a very small element of the setting to the Village as viewed from South Kilworth Road (and not part of other important views identified in the NP). South Kilworth Road and Bridleway Y64 are a significant distance away. The appellant cites a separation distance between the latter and the appeal site of around 85metres, with South Kilworth Road further away still. The LCA also identifies that the landscape here is cut by established hedgerows punctuated by trees, features which are present both between the appeal site and South Kilworth Road and the Bridleway (with relatively few sparser sections or breaks for access).
13. Whilst clearly valued by local residents, the landscape south and south-eastwards of Stoney House is not formally protected on account of its character.⁵ Along the Bridleway, the eye is naturally drawn to the expansive panoramic view towards the River Avon valley and beyond in the opposite direction to the appeal site. For those reasons, the extent of change resulting from the proposal to landscape character would, in my view, be barely perceptible. The appeal site forms part of the surroundings in which the NKCA is experienced. NPPF paragraph 200 sets out how proposals that preserve elements of the setting of a heritage asset, which make a positive contribution to it, should be treated favourably.⁶
14. However for the above reasons, the contribution of the appeal site to the setting of the NKCA is highly limited. Views towards the Church from the south are not consciously designed as such, effectively incidental rather than planned. The NKCA 'Record Details', a brief summary of the nature of the NKCA,⁷ focusses primarily on the area within the Conservation Area as opposed to the wider context in which it is set. Nevertheless the Record Details note that the variety of buildings and routes through the Village contribute towards its character and historic integrity, and that occasional large gardens are relatively common. In that varied context the proposal would have a neutral effect on the setting of heritage assets.

⁵ Such as an Area of Outstanding Natural Beauty designated pursuant to the Countryside and Rights of Way Act 2000 as amended.

⁶ Noting that the duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended applies to any buildings or other land in a Conservation Area.

⁷ Albeit neither apparently a Conservation Area Appraisal nor produced pursuant to section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

15. Given the particular nature of the appeal site and relationship to its surroundings, for the above reasons the proposal would integrate acceptably with the character and appearance of the area and setting to North Kilworth rather than representing an excessive or discordant change. No conflict therefore arises with the relevant provisions of the LP, NP or NPPF as referenced in paragraphs 5 and 13 above.

Other matters

16. The proposal would in all likelihood result in a greater intensity of use of the site than at present, and I accept individuals' perception of privacy may be affected even by relatively minor change. However there would, in my view, be sufficient separation between the site and neighbouring properties along with intervening features to avoid undue effects to privacy. I note the concerns of those nearby that the proposal may set an adverse precedent or presage further development here. However I have set out above how each proposal must be determined on its merits, and reasoned that it is the particular nature of the site and relationship to its surroundings that renders the scheme acceptable. As such no other matters are sufficient to alter my reasoning regarding the overall acceptability of the development proposed.

Conclusion

17. For the above reasons, having had regard to the development plan as a whole, the approach in the NPPF, and to all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out below.

Conditions

18. In addition to securing commencement within the relevant statutory period, I have imposed conditions specifying compliance with the supporting plan and requiring that no new boundary features, outbuildings, structures or hardsurfacing are to be created. Those conditions are necessary for certainty, to ensure that the proposal is implemented as assessed above, and that the scheme integrates appropriately with local character and appearance. In imposing conditions I have had regard to the tests in NPPF paragraph 55, the approach in the Planning Practice Guidance, and to relevant statute.⁸ Accordingly I have modified the wording of certain conditions proposed by the Council without altering their aims.

Thomas Bristow
INSPECTOR

⁸ Including with regard to Planning Practice Guidance Reference ID: 21a-017-20190723, as on account of my reasoning in paragraph 11 of this decision there is clear justification for the withdrawal of such in this instance.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan entitled 'Location plans' dated 25 April 2019.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other order amending, or revoking and re-enacting that order with or without modifications) or otherwise, no buildings, structures, gates, walls, fences or other means of enclosure, nor any hard-surfacing shall be erected or installed within the land edged orange, annotated as 'paddock', on the approved plans.