

Appeal Decision

Site visit made on 7 September 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal Ref: APP/P1045/W/20/3254347

**Land at Nether Lane, Kirk Ireton, Ashbourne, Derbyshire Easting: 426911
Northings: 350100**

- 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 and Mrs Aled and Dominie Edwards against the decision of Derbyshire Dales District Council.
 - The application Ref 19/01326/FUL, dated 19 November 2019, was refused by notice dated 24 January 2020.
 - The development proposed is 2no. proposed 4-bed dwellings to infill land on the east side of Nether Lane, Kirk Ireton.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Aled and Dominie Edwards against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this case is whether the proposed development would preserve or enhance the character or appearance of the Kirk Ireton Conservation Area (KICA).

Reasons

4. The appeal site relates to a parcel of agricultural land located on the eastern fringe of the rural settlement of Kirk Ireton. The site lies between the dwellings of Hill View and Netherfield Cottage. Nether Lane like many other roads in Kirk Ireton is narrow and lined by residential development. Much of this is sited close to the roads. Dwellings on the western side of the lane take advantage of the elevated ground above the site and the long-range views east of the site into the Ecclesbourne Valley. The public right of way (PROW) behind these dwellings also affords similar views. Nether Lane also offers this experience, albeit the mature hedgerow along the southern portion of the site's boundary with the lane, to an extent, inhibits views down the valley. Ground levels fall from the lane through the site and to the east.
5. The KICA was originally designated in 1971 around the village core which comprises of buildings mainly from the 18th and 19th centuries, with later 20th century properties at its periphery. The KICA was extended in 1992 into its current form to include the rural setting afforded by the countryside that surrounds the village. This is characterised by rolling hills, open fields, trees and hedgerows, which are typical of the area's 'Woodland Slopes and Valleys'

landscape type. Narrow lanes enclosed by hedgerows provide 'secretive' approaches to the village which has retained a strong visual integrity due to construction methods and materials.

6. The open nature of the site and the surrounding countryside is influenced by topography, but there are also other areas in the village where the countryside leads straight into the village framework. So, while the site affords a rural edge to the settlement and the development would result in a change, this is not synonymous with harm. Having regard to Policy S2 of the Adopted Derbyshire Dales Local Plan (Local Plan), the proposal would infill an existing gap between existing dwellings and respond to the looser form of development found on the edge of the settlement. The proposal would also be commensurate with the scale and function of the settlement whilst the new dwellings would be read as part of Kirk Ireton when viewed from Hob Lane and along Nether Lane. The proposal would also, as a result of its infill nature, promote an effective use of land, and thus accord with Local Plan Policy HC1.
7. Proposals are, however, subject to all other policies in the Local Plan. The main parties dispute centres on the proposal's effect on the Principal View eastwards from the KICA into the Ecclesbourne Valley and across the attractive landscape. This is one of the most important and defining views from within the KICA and part of the special interest of the KICA stems from such views.
8. Nevertheless, the dispute does not centre on the design or form of the proposed dwellings, their relationship with neighbouring dwellings, use of materials or the detailing proposed. It is also clear that the appellants have sought to make full use of existing ground levels and to retain relatively wide spaces between the properties.
9. Spaces, as The Kirk Ireton Conservation Area Character Appraisal (CA) confirms, between the buildings are just as important as the buildings and should therefore be given a significant degree of consideration in proposals for development. Owing to the combination of local topography and the siting of each dwelling, views from Nether Lane, the PROW and dwellings on the western side of the lane, would remain between Hillview and site 1, between site's 1 and 2, and between site 2 and Netherfield Cottage. Although the Principal View would not be lost altogether, the two proposed dwellings would reduce, frame and alter the extent of the Principal View.
10. The orientation of the rear block on the dwelling proposed at site 1 would be parallel to the lane and result in an elongated form of development that would harm the Principal View away from the KICA and the contribution that it makes to its special interest. The effect would be also be experienced from dwellings on the western side of the lane and to a lesser extent the PROW due to its elevated position. The dwelling proposed at site 1 has been designed to respond to the site's ground levels, but it would not achieve the same degree of sensitivity required as the dwelling at site 2 would do in terms of responding to the site's ground levels whilst minimising the change to the Principal View.
11. The loss of the existing hedgerow would help make the most of the Principal View either side of the dwelling at site 2. However, it would not counter act the scale and siting of the dwelling at site 1 which would be higher than the existing hedge. Further hedgerow planting would not change my view as there would is no certainty or mechanism that could ensure its height would be kept in perpetuity and have the same effect as the dwelling on site 1 would do. A hedgerow may have once extended across site 1's frontage, but I have

- considered the proposal based on the circumstances as I have found them.
12. While the appeal scheme would allow for further landscaping of the site, this does not alter my view that the proposal would have a harmful effect on the character and appearance of the KICA. Having regard to paragraph 196 of the National Planning Policy Framework (the Framework) the proposal would lead to less than substantial harm. Even so, this is still a harmful impact which adversely affects the significance of the KICA as a heritage asset. This requires clear and convincing justification.
 13. Modest public benefits would stem from the new housing which would help sustain existing services and facilities in Kirk Ireton and provide jobs linked to their construction and spending in the supply chain. Matters relating to risk of contamination, highway safety, occupants living conditions and flooding are also modest public benefits. However, the harm to the KICA would, to which I attach considerable importance and great weight, in my view, clearly outweigh these modest public benefits.
 14. Although the proposal would accord with Local Plan Policies S2 and HC1 in respect of this issue, this is outweighed by my conclusion that the proposed development would not preserve or enhance the character or appearance of the KICA due to its effect on the Principal View. As such, the proposal would not accord with Local Plan Policies PD1, PD2 and PD5. These collectively seek, among other things, high quality design that conserves heritage assets in a manner appropriate to their significance, taking into account the scale, siting and views away from the heritage asset, with development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement being resisted. The proposal would also for these reasons conflict with Framework paragraphs 127 and 130, while the assessment of the appeal scheme's public benefits mean that the proposal would not accord with Framework paragraphs 194 and 196.
 15. I note the progress being made with The Kirk Ireton Neighbourhood Plan, and while it has not been relied on by the Council in refusing planning permission, conflict would arise with Policy P2, which attracts moderate weight, due to the scheme's effect on the view away from the village.

Conclusion

16. I have no reason to disagree with the appellants that the proposal would accord with Local Plan Policies S1, S4, S9, PD3, PD7, PD8, HC19 or HC21. However, I do not consider that the proposed development is in accordance with the development plan as a whole and there are no relevant considerations that indicate that I should take a different stance.
17. For the reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR