



Appeal Decision

Site visit made on 16 June 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2020

Appeal Ref: APP/A4710/W/20/3246354

Land off Lower Finkil Street, Hove Edge, Brighouse HD6 2LP

- 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 Robert Hall against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref: 17/00395/OUT, dated 24 March 2017, was refused by notice dated 18 October 2019.
 - The development proposed is described as: Residential development.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal proposal was submitted in outline with all matters, except for access, reserved for future approval. Drawings have been submitted with the proposal showing a potential layout and elevations of the proposed dwellings. As layout, appearance, scale, and landscaping are reserved for future approval, I have had regard to these drawings in so far as they illustrate how the site could be developed, but I have treated them as indicative only.
3. The planning application form describes the proposal as 'Residential development' and sets out in Section 17 of the form that five units are proposed. It is clear from the evidence, including the Council Officer's report, that during the Council's consideration of the planning application, the proposal was reduced to four dwellings. Both parties appeal submissions refer to the proposal being for the erection of four dwellings and the most recent iteration of the indicative drawings, which is cited on the Decision Notice, also shows four dwellings. Consequently, whilst it is not specified in the description of the proposed development given on the planning application form, I have considered the appeal on the basis that planning permission was sought for the erection of up to four dwellings.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the setting of the neighbouring Grade II* listed building (Giles House).

Reasons

5. The appeal site is an area of land extending to approximately 0.37 hectares. It is presently largely open and is described on the planning application form as a paddock. At the north west end of the site there is a group of small buildings and structures in use as stables. The site is bounded by a low stone wall to three sides and contains a large number of trees, many of which are well established. The trees on the site frontage to Lower Finkil Street and part way along the track adjacent to the south west boundary of the site, marked on the drawings as St Giles Road, are subject to a tree preservation order.
6. Immediately to the north of the appeal site, Giles House is a Grade II* listed building. It is common ground between the parties that the appeal site forms part of the setting of Giles House. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
7. Neither party has submitted substantive evidence in respect of the significance of the listed building, or its setting, and both rely on advice provided by Historic England on the proposal. This advice sets out that, historically, Giles House was surrounded by agricultural land which remained undeveloped until the twentieth century. It continues that the rural nature of the site contributes strongly to the understanding of agricultural past of the house and surrounding area. It is noted that the setting of the listed building has been compromised to some degree by the construction of housing, particularly to the south and east but that, despite this, the appeal site retains its rural character, providing an historic setting which contributes to the significance of Giles House. Given the loss of setting elsewhere, this remnant is particularly important and provides an historic context and visual connection between Giles House and Lower Green House, a Grade II listed building located immediately to the south of the appeal site on the opposite side of St Giles Road. It is also noted that glimpses of the principal elevation of Giles House are possible across the appeal site from Lower Finkil Street and St Giles Road. The advice concludes that the landscape character of the application site positively contributes to the significance of Giles House by illustrating and providing a sense of its historic setting and also the contribution the site makes to the appearance of the area that has developed around the listed building.
8. The significance of the setting is therefore, in so far as it relates to this appeal, that it provides an historical context for Giles House. It is a surviving remnant of the earlier rural, agrarian, surroundings of the listed building that is important for the understanding and appreciation of the historic rural setting of the house, and the subsequent development of the surrounding area over time, which has resulted in the current appearance of the area.
9. I have noted that Historic England state that they are supportive of the principal of some housing in the location. Nevertheless, this support is qualified by the conclusion that the initial iteration of the scheme would cause harm to the setting of the listed building and that, whilst the revised scheme for four dwellings would reduce the level of harm, the revised scheme would

result in harm to the setting of the listed building, albeit, in terms of the National Planning Policy Framework (the Framework) this would be less than substantial harm.

10. The Council's position, as set out in the reason for refusal is that the proposed development would cause less than substantial harm to the setting of the Grade II* listed building, which reflects the advice from Historic England and with which I concur. In his appeal submissions, the appellant does not seek to argue that the proposal would not cause harm to the setting of the listed building. The appellant's evidence is confined to setting out the benefits of the proposal with respect to the requirements of paragraph 196 of the Framework. It is, therefore, not in dispute between the parties that the proposed development would cause less than substantial harm to the setting of the listed building. The principal disputed matter is the amount of weight to be attributed to the benefits of the proposal which have been identified by the appellant.
11. Although there is not a detailed design for the proposals before me, the development of four dwellings, with their associated residential curtilages, car parking and access, on the appeal site would further erode the open, rural, character of the site. It would bring built development closer to the listed building, particularly through the extent of the engineered access road that is shown on the illustrative drawings. Any development scenario on this site, regardless of layout, would require an access road to be provided from Lower Finkil Street. Although I saw when I visited the site that there is recent development, at St Giles Close, in proximity to the appeal site and the listed building, the long, very straight, track known as St Giles Road forms a strong linear boundary between this new development and the more open land on the opposite side. Development beyond this linear feature would diminish the open character of the appeal site and further reduce the surviving context of Giles House, which has previously been much reduced by progressive development in the vicinity. Development on the site would also reduce the scope for views across the appeal site to Giles House from St Giles Road.
12. I therefore conclude that the proposed development would cause harm to the setting of the listed building and be harmful to its significance. The Planning Practice Guidance sets out that substantial harm is a high test that may not arise in many cases. The appeal proposal would harm the significance of the setting of the listed building through the increased urbanisation of what is essentially the last undeveloped or unaltered area of land surrounding the listed building which allows an appreciation of its historic rural setting. However, this would not result in a total loss of its significance. Consequently, I would consider that the harm would be less than substantial.
13. To the south of the appeal site, on the opposite side of St Giles Road, Lower Green House is a Grade II listed building. No evidence has been submitted in respect of this building and the Council has not raised the effect on it as part of the reason for refusal. Historic England has not raised any concerns in its comments in respect of this building or its setting. Lower Green House is a large two storey, stone built, dwelling that is set within a large garden and fronts onto the junction between Lower Finkil Street and Green Lane. Due to the smaller scale of this building, the lack of any evidence of a historical connection with the appeal site, and the degree of separation from the part of the appeal site where the proposed dwellings are indicated on the submitted

drawings, I find that the effect of the proposed development on the setting of this building would be a neutral one.

14. The Framework requires that where a development proposal will 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 proposal.
15. The appellant identifies that the proposal would provide four new dwellings, which have to be viewed in the light of the Council currently only being able to demonstrate a two year supply of housing land and that low numbers of houses are being delivered in the authority's area. The Framework seeks to significantly boost the supply of housing and, in the context of the Council's housing land and housing delivery position, the addition of four new dwellings to the housing stock is a matter that can be given great weight.
16. The appellant has also identified that there would be some economic benefits associated with the development in terms of: direct and indirect jobs during the construction period; spending within the construction industry supply chain and spending by future residents in local shops; as well as benefits from council tax payments and the New Homes Bonus. It is also pointed out that there would be environmental benefits as a result of the proximity of the site to local services and reducing the need to travel. Additionally, there would be some social benefits from the provision of new housing and potential contributions as part of the development. Due to the small scale of the proposed development, these benefits would be modest and there is no evidence in respect of what, if any, potential contributions might be required in connection with the development. Nonetheless, a moderate amount of weight can be given to these potential benefits of the scheme.
17. The Framework sets out that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and that the more important the asset, the greater the weight given to its conservation should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
18. Grade II* listed buildings are particularly important buildings of more than special interest. Great weight is the minimum amount which must be given to any harm to a designated heritage asset. The more than special interest of the Grade II* listed building and the relative scarcity of Grade II* listed buildings warrants very considerable and significant weight being given to the harm that both parties recognise would be caused to the setting of Giles House. Whilst the proposed scheme would have a number of public benefits, particularly from increasing housing supply, none of these benefits, either individually or collectively, would overcome the very considerable and significant weight that must be given to the harm that would result to the setting of the designated heritage asset.
19. My attention has been drawn to another appeal decision within the Council's administrative area for the erection of a single dwelling house¹. I have noted this decision. Nevertheless, in that case the question of the benefits of the proposal was not determinative in the appeal, which turned primarily on matters of highway safety and the living conditions of the occupiers of the

¹ Appeal Reference: APP/A4710/W/18/3214566

existing house on the site. This is materially different from the present case which involves harm to the setting of a Grade II* listed building and the requirement to balance the less than substantial harm that would be caused to the heritage asset against the public benefits of the proposal. Consequently, I can give no weight to this point.

20. I therefore find that the proposed development would cause harm to the setting of the Grade II* listed building (Giles House). It would not comply with the relevant requirements of Saved Policy BE15 of the Calderdale Unitary Development Plan 2006 and the Framework, which seek to ensure that new development does not harm the setting of a listed building.

Other matters

21. I have had regard to the fact that the Council have not raised any other technical objections to the proposal in terms of: the effect on the living conditions of neighbouring occupiers; the effect on the local highways; the implications for drainage and flooding; the effect on the protected trees, or the effect on air quality. I have also noted that, as layout and design are reserved for future approval, matters of the detailed design of the buildings have not formed part of the reason for refusal. From what I have read and from what I saw when I visited the site, I have no reason to reach a different conclusion in respect of these points. However, these do not overcome the harm that the proposed development would cause to the setting of Giles House, notwithstanding that the development would comply with the development plan in other respects.
22. As the Council accepts that it does not have a deliverable five year supply of housing land, the proposal has to be considered in the context of the presumption in favour of sustainable development, which is set out in the Framework. This requires that where the policies which are most important for determining the application are out-of-date, which would include circumstances where a 5 year supply of deliverable housing sites cannot be demonstrated, planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
23. In this case the Framework includes clear policies in respect of the protection of designated heritage assets and I have found that the proposed development would conflict with these. As a result, the presumption in favour of sustainable development would not be engaged in this case.

Conclusion

24. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would cause harm to the setting of the neighbouring Grade II* listed building and as a result, conflicts with Saved Policy BE15 of the Calderdale Unitary Development Plan. This is a matter to which I must attach considerable importance and weight. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of the listed building and the Framework requires great weight to be given to the preservation of heritage assets. For this reason, the appeal must

fail, notwithstanding that the proposal complies with other policies in the development plan.

25. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR