
Appeal Decision

Site visit made on 2 August 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal Ref: APP/B3030/W/21/3289892

Forge Cottage, School Lane, Kneesall NG22 0AE

- 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 G Buckley against the decision of Newark & Sherwood District Council.
 - The application Ref 21/01616/FUL, dated 20 July 2021, was refused by notice dated 22 October 2021.
 - The development proposed is described on the application form as 'proposed private dwelling in part of existing garden relating to Forge Cottage, Kneesall NG22 0AE'
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's officer report indicates that the application was considered based on the proposal shown on DRWG no. P-01 Rev E Proposals. An amended plan DRWG No. P-01-Rev F incorporating additional parking, cycle stores and bin stores was submitted prior to the determination of the application. The Council confirm that the amended plan was never formally consulted upon.
3. Regulation 5A (3) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) requires LPAs to notify Historic England of any application for planning permission for any development of land where the LPA think that the development would affect the setting of a listed building. The LPA indicated within their officers report, and their reason for refusal, that the proposal would cause limited harm to the setting of St Bartholomew's Church, a Grade I listed building. However, the evidence before me suggested that the requirement to notify Historic England, as required by the Regulation, had not been carried. Accordingly, I requested that this be done. Historic England responded that, in this case, they are not offering advice, and suggested that the Council seek the views of their own specialist conservation and archaeological advisers. In light of Historic England's response, no further comments were required from the parties.

Main Issues

4. The main issues are:
 - the effect of the proposed development on trees and biodiversity;
 - highway safety, having particular regard to car parking and manoeuvring;

- whether the proposed development is consistent with the objectives of local and national policy with regards to location of housing; and
- the effect of the proposal on designated heritage assets.

Reasons

5. Kneesall is a small village situated on the A616 between Newark on Trent and Ollerton. It has a church, a primary school, a children's nursery, a restaurant and a farm shop. It is surrounded by open fields.

Trees and Biodiversity

6. The appeal site forms part of a wider area of woodland and contains several semi-mature and mature trees. Whilst it has not been regularly used or maintained in recent years, it nevertheless makes a positive contribution towards the character of the area. The appellant has confirmed that, in the event that the proposed development was allowed, only one conifer tree located adjacent the site entrance would need to be removed.
7. Notwithstanding the above, the proposed dwelling and its associated driveway and parking areas are shown in very close proximity to the 'retained trees'. Whilst noting the appellant's assertion that the 'Local Environmental Health Officer' has indicated all proposals for the site clearance and tree surgery were acceptable, I have no evidence before me to confirm the extent of any works proposed. Moreover, I have nothing before me to indicate the likely impacts the proposed development would have on the retained trees. In particular I have no information regarding the impact the proposed development would have on the root systems, including any influence arising from the provision of services or hard standings.
8. The proposed development would also lead to further pressures on the retained trees in the future. Such demands could arise as a result of future occupiers wanting to carry out tree works, to allow more light into the shaded parts of the appeal site, or to avoid damage to vehicles parked beneath the canopy of the trees. Over time, such requests would become more likely, as the trees that are present continue to grow and increase in size.
9. I have also taken into account the appellant's claim that the appeal site has been monitored by its current owners with no special interest species having been detected. However, this is anecdotal evidence and in the absence of a specific survey, undertaken in accordance with accepted practice, I am unable to give it any weight in my consideration. Moreover, given the close proximity of the appeal site to open countryside, and its woodland setting, I find that there would be a reasonable prospect of protected species being present on the site.
10. Construction activity on the appeal site would create additional levels of noise and ground disturbance, in this relatively untouched area, and as a consequence would be harmful to biodiversity. Moreover, it is reasonable to expect that the future occupiers would make more frequent use of the garden area compared to someone who doesn't live on the site, who would be likely to visit it on a less frequent basis. They could also have cats or dogs, who would inevitably use the garden and may stray into the wider woodland, which would be likely to disturb wildlife.

11. Accordingly, on this main issue, I conclude that it has not been demonstrated, with substantive evidence, that the proposed development would not have a harmful impact on the retained trees, and biodiversity. As a result, the proposed development would be contrary to Core Policy 12 of the Newark and Sherwood Amended Core Strategy DPD (ACS) and Policies DM5 and DM7 of the Newark and Sherwood Local Development Framework - Allocations & Development Management Development Plan Document (DPD). These policies, amongst other matters, require development proposals to be of high quality whilst protecting and conserving green infrastructure and enhancing biodiversity.

Highway Safety - Parking and Manoeuvring

12. The plan considered by the Council in reaching their decision, Revision E, indicates the provision of a drive and a manoeuvring area within the appeal site, albeit there is no clear indication of where vehicles would park. They do not propose any works outside the appeal site, including works to the access drive.
13. The appellant asserts that the amended details, Revision F, illustrate 3 fully compliant parking spaces and a manoeuvring space, surfaced in a permeable hard material, that would facilitate access to, and egress from, the site in a forward gear.
14. In this regard I accept that the site would be physically capable of providing space for the parking of three vehicles. However, even taking into account the amended plans, manoeuvring within the site would be limited, particularly when some of the parking spaces are occupied. In this regard I have no evidence before me, including tracked path analysis, to demonstrate that adequate space is available to park and manoeuvre, without affecting existing trees. As a result, there would likely be pressure to remove existing trees to provide additional turning space. This would further reduce the tree cover on the site which would be harmful to the character and appearance of the locality.
15. In light of the above, there is no certainty that the Council's parking requirements, could be accommodated within the appeal site, without a harmful effect on the area. Any off-site parking would have an adverse impact on the safe use of the private drive and School Lane, which would be to the detriment of highway safety.
16. I have also taken into account the comments of the Highway Authority with respect to other matters, including the width of the access, visibility splays surfacing, drainage and gradient. Given the number of dwellings proposed, and what I saw on my site visit, I find that these are matters that could have been dealt with by condition, however I do not consider that this would outweigh the other harm that I have identified above.
17. Accordingly, on this main issue, I conclude that it has not been demonstrated that there would be adequate provision to accommodate the required car parking and manoeuvring space within the appeal site. As a result, there would be an adverse impact on adjoining roads to the detriment of highway safety. Consequently, the proposed development would be contrary to Spatial Policy 7 of the ACS, Policy DM5 of the DPD and the adopted SPD on Residential Cycle and Car Parking Standards and Design Guide 2021. These policies and

guidance seek, amongst other matters, the provision of appropriate and effective parking.

Location

18. The appellant accepts that the appeal site falls outside the existing planned village line, as defined by the conservation area boundary. Nonetheless, they assert that the appeal site is part of the extended garden to Forge Cottage and has been cultivated for over 40 years. Moreover, they indicate that it is only during recent years that the garden has fallen into disrepair. In this regard the Council do not accept that the site is residential land, drawing attention to its woodland character, lack of domestication and the physical disconnect between the site and the host property.
19. On my site visit I saw that there was little evidence of domestic use having occurred on the appeal site in recent years, albeit there were some remnants of garden use including a small 'summer house' and a garden ornament. However, I did see that several trees had been cleared, particularly from the centre site, at some indeterminate time in the past. I also noted that the land to the south was being used as a domestic garden in connection with Forge Cottage, albeit it contained several trees and had a similar woodland character to that of the appeal site. Consequently, I find that the presence of trees, in numbers similar to those present at the appeal site, and an unkempt appearance, is not in itself the only determining factor as to whether the land forms part of a domestic curtilage.
20. Based on the above, and all evidence submitted by the appellant, I find that it is highly likely that the appeal site once functioned as a domestic garden. Therefore, as a matter of principle, I find that the proposed development falls within the criteria set out in Spatial Policy 3. As a consequence, the provisions of Policy DM8 of the DPD which relate to Development in the Open Countryside would not apply.
21. I also saw that the appeal site was not being cultivated as agricultural land. Furthermore, it was readily apparent that it was not in open countryside, would be close to existing properties and would be within easy reach of the services and facilities that the village provides. As a result, the proposed development would not result in the provision of an isolated home in the countryside, as suggested by the Council. Consequently, the provisions of paragraph 80 of the National Planning Policy Framework (the Framework) would not apply.
22. Even if I found the land was not part of a garden, Spatial Policy 3 indicates that consideration will be given to infilling of small gaps with 1 or 2 dwellings so long as this does not result in the joining of outlying areas into the village, or the coalescence with another village. In this regard whilst the proposed development, may not meet a strict interpretation of infilling, it is clear that the proposed development relates to one dwelling, and coalescence of villages would not result in the event that the proposed development was to proceed.
23. In light of the above I conclude, on this main issue, that the proposed development would be consistent with the objectives of local and national policy with regards to location of housing. Consequently, I find there would be no conflict with Spatial Policy 3 of the ACS, Policy DM8 of the DPD or paragraph 80 of the Framework, which jointly seek, amongst other matters, to protect the countryside and focus housing in sustainable locations.

Heritage Assets

24. I have considered my statutory duties with regards to the setting of St. Bartholomew's Church, a Grade I listed building which is located a short distance to the west, and the Kneesall Conservation Area (CA)¹.

Listed Building

25. St Bartholomew's Church originates from the 14th Century and was restored during the 19th Century. It is constructed of course squared rubble, dressed stone and plain ashlar and has concrete, asbestos cement and slate roofs. The church forms a focal point to the village and because of its scale is a significant local landmark. It is highly visible from the A616 as it passes through the village. The church's tower is a prominent feature that can be seen from a number of vantage points within the village, and there are some long views from the surrounding countryside. Consequently, its significance derives from its historical and architectural interest, along with its association with its rural surroundings. A number of developments have occurred, in the vicinity of the church, which indicates that its setting has changed over time.
26. On my site visit I noted that the upper parts of St. Bartholomew's Church could be seen from within the appeal site, however views were restricted and limited by existing buildings. Moreover, and despite the elevated level of the Church grounds, views of appeal site from the west were also severely restricted. The proposal would not be appreciated in any visual or other perception or experience of the setting of that building. For these reasons, the setting of St. Bartholomew's Church, as a designated heritage asset, would be preserved reflecting the requirements in S66(1).

Conservation Area

27. Paragraph 206 of the Framework states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
28. The appeal site is a regular shaped parcel of land located on the eastern edge of Kneesall village. Its immediate neighbours to the west, including Forge Cottage and Church Farm Cottage fall within the CA. However, the appeal site lies outside the CA, abutting its boundary on its western side.
29. The CA comprises the built up part of the village and some adjoining fields. The village is mentioned in the Domesday Book and its church, St. Bartholomew's, dates back to Roman times. The older parts of the village are characterised by vernacular brick houses which front onto the A616 and School Lane. There are a limited number of infill developments on the A616 that have become established features within the historic streets.
30. The proposed dwelling would be discretely sited within a landscaped setting, with access being obtained via a narrow track. It would be built of traditional materials that would complement those found elsewhere in the village, and the majority of the existing trees would be retained. Whilst acknowledging that the proposed dwelling would extend beyond the built environment of the village, it

¹ Sections 66(1) and 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990.

would not appear prominent in relation to its immediate surroundings, and the woodland character of the appeal site would be preserved.

31. In light of the above the I find that the significance of the CA in terms of its setting would not be harmed by the proposal.

Conclusions on heritage assets

32. These considerations taken together lead me to the conclusion, on this main issue, that the proposed development would have a neutral effect on the setting of St. Bartholomew's Church and would not harm the significance of the CA, in terms of its setting. For these reasons the proposed development would not conflict with Core Policy 14 of the ACS, Policy DM9 of the DPD and section 16 of the Framework. These policies seek, amongst other matters, to conserve and enhance the character, appearance and setting of heritage assets.

Other Matters

33. The appellant has referred me to a number of developments that have been undertaken, or are in the course of construction, within the village of Kneesall. On my site visit I saw that, whilst there were some similarities with the appeal proposal, in terms of their size and design, the context in which they were located was not directly comparable. In particular they were infill developments within an otherwise built up frontage, and there were no significant landscape features on the sites. Consequently, they are not directly comparable with the proposed development.
34. I acknowledge that the proposed development would provide a new dwelling in an accessible location. It would also provide some accompanying benefits in the form of employment during its construction, and from spending in the local area by future occupants. However, these benefits do not outweigh the harm to the trees and biodiversity, and highway safety that I have identified above.

Conclusion

35. I have found that there would be harm in regard to the first and second main issues, but none in respect of the third and fourth. However, the absence of harm would be neutral in each case and thus could not, by definition, be used to weigh in favour of the development.
36. Drawing my conclusions together, the harm and conflicts that I have identified are such that the proposed development should be regarded as being in conflict with the development plan when taken as a whole. Material considerations, including the Framework, do not indicate to me a decision should be made other than in accordance with it. The appeal is therefore dismissed.

John Gunn

INSPECTOR