



Appeal Decision

Site visit made on 16 September 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/Z4718/W/22/3295401

Land at Middle Burn Farm, Burn Road, Birchenccliffe, Huddersfield, West Yorkshire HD2 2EG

- 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 Armitage Developments Ltd & J Clegg against the decision of Kirklees Council.
 - The application Ref 2021/62/92091/W, dated 19 May 2021, was refused by notice dated 14 January 2022.
 - The development proposed is the erection of 2 detached dwellings.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The Council's first reason for refusal relates to the proposal not according with development principles that state no development shall take place on an area marked as high significance in the Council's Heritage Impact Assessment to the south of listed buildings. This relates to safeguarding the setting of the two listed buildings which are also referenced in the second reason for refusal. I therefore consider the main issue in this appeal is the effect of the proposed development on the setting of the Grade II listed Middle Burn Farm and Lower Burn Farm.

Reasons

3. Middle Burn Farm is situated to the north of the appeal site, with Lower Burn Farm to its north east. These are traditionally constructed buildings dating from around the 18th Century, where their significance lies in their architectural interest, as detailed in their listing descriptions¹, and their historical agricultural use.
4. It is evident that the setting of the listed buildings has seen significant change, with reference to extensions and alterations such as a modern driveway, the construction of two dwellings on the adjacent site to the east of the appeal site as well as the larger housing development to its south across Burn Road, which, in the case of the latter, has introduced housing which has a suburban form. Despite this, the setting of these listed buildings is within a rural landscape with open land and fields that reflect their historic agricultural origins and connections with the use of the surrounding land.

¹ The listed descriptions reference the names of the listed buildings as 'Middle Burn Farmhouse' and 'Lower Burn Farmhouse'; I have utilised the names Middle Burn Farm and Lower Burn Farm which are used in the address on the application form and elsewhere in the appeal submissions by different parties.

5. The two dwellings proposed would be positioned close to each other in a linear arrangement facing Burn Road², which would significantly reduce views of Middle Burn Farm directly to the rear. Although the appellant considers that the area of land to the south of Middle Burn Farm makes a relatively limited contribution to the setting of this listed building and a comparison is drawn in this respect to land to the north of Middle Burn Farm, I consider the views from Burn Road over the appeal site provide important vantage points in which this listed building is seen in the wider rural backdrop to the north and east. Whilst these views are along a limited section of the road and such views are already partially obstructed by the existing boundary treatment, a large tree and conifers, the proposed dwellings would have a two-storey form that would have a greater impact in blocking views of this listed building from parts of Burn Road. This would adversely affect the rural setting within which the listed building is experienced and reduces the historic understanding in terms of its past agricultural history.
6. I acknowledge that the listed buildings can be experienced from many locations. In views from the public footpath to the east, the relationship between Middle Burn Farm and Lower Burn Farm, and their positioning within an area of generally open land of rural character enables them to be positively appreciated. From Grimescar Road, views of the proposed development would be more distant than from Burn Road and they would mainly be seen in the foreground to the large housing development to the south of Burn Road which owing to the close positioning of the houses, presents a continuous built-up form. As such, I do not consider that there would be a harmful urbanising effect from the proposed two dwellings and Middle Burn Farm would continue to be appreciated in the context of the open land in the foreground of such views.
7. However, this lack of harm would not outweigh the impact that I have identified in views from Burn Road to the front of the two proposed dwellings, where the development would be harmful in blocking views of Middle Burn Farm. I accept that the extent and importance of a heritage asset's setting can be influenced by factors other than views to and from it, such as in relation to noise, dust and vibration. The appellant has not however set out how the presence of the residential developments to the east and south of the appeal site, have an effect on the setting of the listed buildings other than by visual references to density and in the standardisation of their design.
8. Although concern has been raised on the impact of the proposal on Lower Burn Farm, this is located further away from the appeal site than Middle Burn Farm and at an angle, beyond the two dwellings constructed on the adjacent site. I do not therefore consider the proposed dwellings would harm this listed building's setting.
9. Nevertheless, the proposal would give rise to significant harm to the setting of the listed building, Middle Burn Farm. In terms of the National Planning Policy Framework (Framework), I assess the harm as less than substantial. Even so, great weight should be given to an asset's conservation. Paragraph 202 of the Framework advises that the harm should be weighed against the public benefits of the proposal.

² The length of highway within the appeal site to the front of the proposed two dwellings is referenced as Yew Tree Lane by the Council and Yew Tree Road by the Appellant; I have however utilised Burn Road which is the road name provided on the application form.

10. The proposed dwellings would contribute towards the Council's supply of housing in an accessible location. The development would also make a positive contribution to the economy during the construction phase, as well as expenditure by future residents on local services and facilities. Given the proposal is for two additional dwellings, such social, economic, and other benefits, including biodiversity net gain from bat roosting features would represent limited public benefits.
11. The appellant has stated that a conifer hedge on the western side of the appeal site would be removed and replaced with native planting. I recognise that this would be beneficial and would open up views of Middle Burn Farm from certain areas along Burn Road. However, given the width of the two dwellings that form the appeal proposal, which would also include new planting across the rear garden areas as shown on the proposed site layout plan, I consider that the development would result in a greater interruption of views.
12. Reference has been made to improvements to Middle Burn Farm, in terms of rendering with a lime-based render and reinstating mullions to the windows. Although a potential cross subsidy for these works from the development has been raised, I have not been provided with further details of this. It has not therefore been demonstrated that the proposed dwellings are necessary to secure these works and I attach limited weight to this public benefit.
13. The appellant has also made reference to the appeal proposal 'capping off' the new Harron Homes development. The appeal scheme would however introduce built development on the appeal site, which would give rise to harm for reasons set out earlier. I do not therefore consider this to be a public benefit.
14. Consequently, given the Framework states that great weight should be given to an asset's conservation, I do not consider the significant harm that would be caused to the Grade II listed Middle Burn Farm would be outweighed by the public benefits put forward. Accordingly, the proposal would conflict with Policy LP35 of the Kirklees Local Plan Strategy and Policies (Local Plan), which seeks, amongst other matters, for development proposals to preserve or enhance the significance of a designated heritage asset. It would also be contrary to the Framework in terms of its aim to sustain and enhance the significance of heritage assets.

Other Matters

15. Reference has been made to the planning history of the site, and the granting of permission by the Council on land to the east of the appeal site where the Council concluded that they had no concerns on heritage and design grounds, despite that site being within an area marked as high significance³ where no development should take place. Although the appeal site forms part of this same identified area, I have considered this appeal scheme on its own merits, which differs from that on the site to the east, given its more direct relationship in front of Middle Burn Farm and that it would largely block remaining views of this listed building from this area of Burn Road.

³ See Site HS35 in Local Plan

Planning Balance

16. The proposal would harm the setting of a listed building. Paragraph 199 of the Framework states that great weight should be given to an asset's conservation.
17. The Framework seeks to significantly boost the supply of housing. The proposal would provide new market housing in an accessible location, that would contribute to the supply and mix of housing in the area. As it would only provide two net additional dwellings, I attach limited weight in favour of this, and to any corresponding economic benefits and those benefits arising from biodiversity net gains and the building's being constructed to modern standards to aid their thermal efficiency. As such, these benefits would not outweigh the harm identified.
18. The main parties dispute whether the Council are able to demonstrate a five-year supply of deliverable housing sites. However, even if there was not a five-year supply to the extent as suggested by the appellant, the application of policies in the Framework that protect areas or assets of particular importance in footnote 7, which include designated heritage assets, provide a clear reason for refusing the development.

Conclusion

19. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR