



Appeal Decision

Site visit made on 13 December 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/P1045/W/22/3298296

Land at Nether Lane, Kirk Ireton Easting: 426911, Northing: 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 & Mrs Aled & Dominie Edwards against the decision of Derbyshire Dales District Council.
 - The application Ref 21/01109/FUL, dated 6 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the erection of 2 no. dwellinghouses.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal site is located within the Kirk Ireton Conservation Area (KICA). The KICA was originally designated in 1971 around the village core which comprises of buildings dating from predominantly the 18th and 19th centuries. The KICA was extended quite considerably in 1992 into its current form to include the landscape that surrounds the village. The significance of the KICA is largely derived from its rural setting, including views from the settlement out across an attractive agricultural landscape, and narrow lanes enclosed by hedgerows which provide a 'secretive' approach to the village's traditional core which has retained a strong visual integrity due to construction methods and materials.
4. The site is a parcel of agricultural land located between the dwellings of Hill View and Netherfield Cottage on the eastern side of Nether Lane. Ground levels fall away from the lane through the site to the east. Nether Lane is narrow and lined by residential properties, with those dwellings on the western side of the lane taking advantage of their elevated ground levels which provide long-range views over the site into the Ecclesbourne Valley. Views eastwards across the site are also afforded from the public right of way (PROW) located to the rear of these dwellings, and from points along Nether Lane itself.
5. The Kirk Ireton Conservation Area Character Appraisal (CA) confirms that the 'spaces' between buildings are just as important as the buildings themselves and should therefore be given a significant degree of consideration in proposals for development. The CA also identifies several principal views which contribute

towards the special interest of the KICA. One such view is eastwards from the KICA across the appeal site and into the attractive landscape and Ecclesbourne Valley beyond. This view has therefore been recognised as one of the most important and defining views from within the KICA.

6. The appeal proposal would see erection of two detached dwellings consisting of two linked blocks with large openings to their east facing elevations. Due to the sloping topography of the site the lower ground floor of the dwellings would sit beneath the highway, and therefore when viewed from Nether Lane they would largely appear as single storey structures. Both dwellings would also present a gabled elevation to Nether Lane which would assist in reducing their overall width. Nevertheless, the dwellings would still appear as prominent features that would significantly alter and block part of the principal view away from the KICA and the contribution it makes to its special interest. This would be experienced from the dwellings and the PROW on the western side of Nether Lane, as well as from other points along Nether Lane itself.
7. I acknowledge that consideration has been given to the principal view in the design of the proposed scheme, in particular by allowing gaps to exist between site 1 and Hill View, between sites 1 and 2, and between site 2 and Netherfield Cottage. Furthermore, the appellant states that the appeal proposal results in a reduction in the mass of both dwellings and an increase in the gap between sites 1 and 2 of approximately 49% when compared to the previous scheme. However, whilst the principal view would not be lost altogether, I find that the proposed development would still reduce, frame, and alter the principal view to the extent that it would have a harmful effect on the character and appearance of the KICA.
8. At present views across the southern end of the site from Nether Lane are largely obscured by the existing mature hedgerow which runs along part of the site's western boundary in the approximate position of site 2. Although the proposal would see the existing hedgerow removed allowing clearer views either side of the gabled elevation of the dwelling on site 2, this would not outweigh the cumulative negative impact that the scale and siting of the two new dwellings would have on the principal view. The gabled elevations of the proposed dwellings would be taller than much of the existing hedge, and I consider it highly probable that the proposed development would form part of the landscape for a considerable period. There is however no guarantee regarding the long-term existence of the existing hedge, as evidenced by the CA which appears to indicate that the hedge previously ran along the site's entire western boundary with Nether Lane as opposed to just part of it.
9. I also observed that additional hedgerow planting had taken place along the same boundary towards the northern end of the site, although this planting appeared to have taken place recently and it currently has no discernible impact on the principal view from Nether Lane. Whilst this additional hedgerow planting could in the future mature to the extent that views from Nether Lane across the site would be entirely blocked, there would again be no certainty that the hedgerow would be retained in perpetuity or maintained at a height so that views across the site would be entirely blocked.
10. In terms of their layout and design the two proposed dwellings would almost mirror each other. Although nearby properties comprise a variety of house types and designs, there is a consistency in the materials used with properties

predominately constructed with sandstone walls and clay tile roofs. Though also incorporating a modern trend, including the use of glazing and timber cladding on their lower levels, the proposed dwellings would be constructed using materials largely in keeping with the local vernacular. Consequently, by virtue of the appropriate use of materials, along with the separation distance afforded by the gap between sites 1 and 2, the repetitive design of the two dwellings would not result in any undue harm being caused to the character or appearance of the KICA. This however does not alter my conclusion that the proposed development would fail to preserve or enhance the character or appearance of the KICA due to its effect upon the principal view.

11. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the KICA. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of a development on a designated heritage asset, great weight should be given to the asset's conservation. Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight. Paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
12. There would be a benefit to the local housing supply through the provision of 2no dwellings. There would also be benefits to the local economy through the creation of temporary construction related jobs, and the on-going contributions of future occupiers in terms of local spending and their use of local services and facilities. These benefits however would be modest due to the small scale of the development. Matters relating to the risk of contamination, highway safety, occupants' living conditions, and flooding would also represent modest public benefits. Taking these points together, I conclude that the benefits of the proposal would not outweigh the harm identified, which carries considerable importance and weight.
13. I therefore conclude that the proposed development would fail to preserve or enhance the character or appearance of the KICA. Accordingly, the proposal would conflict with Policies PD1, PD2 and PD5 of the Adopted Derbyshire Dales Local Plan (December 2017) (LP) and Policies P1 and P2 of the Kirk Ireton Derbyshire Neighbourhood Plan 2019-2033 (made July 2021). These policies, among other matters, seek to ensure that developments conserve heritage assets in a manner appropriate to their significance, and are not detrimental to the heritage value of the landscape or views from the village, including those views highlighted by the CA.

Other Matters

14. The Council also referred to Policies S2 and HC1 of the LP in its decision notice, which relate to the principle of proposed housing development having regard to its location and the settlement hierarchy. However, in both the delegated report and statement of case the Council raises no objection to the principle of residential development in this location, acknowledging that the proposed development could reasonably be considered as infill and consolidation of the existing built framework of Kirk Ireton. I find no compelling reason to disagree with this conclusion and therefore find that the proposal would accord with Policies S2 and HC1 of the LP.

15. The Council has confirmed that it cannot demonstrate a deliverable housing land supply of 5 years. In addition, the appellants also contend that a complete review of the LP has not been undertaken within five years from the date of its adoption, as required by Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, and therefore paragraph 11(d) of the Framework is engaged. As such, the appellants consider, in line with paragraph 11(d)(ii), that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
16. However, the effect of paragraph 11(d)(i) means that permission should not be granted if policies in the Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed. Given my conclusion on the main issue, the balance required by paragraph 11(d)(ii) is unnecessary to undertake.

Conclusion

17. The proposal would conflict with the development plan as a whole, and there are no material considerations, including the approach of the Framework, to outweigh it. The appeal is therefore dismissed.

David Jones

INSPECTOR