
Appeal Decision

Site visit made on 23 January 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2024

Appeal Ref: APP/M2840/W/23/3326644

14 Ostlers Way, Kettering, Northamptonshire NN15 6GJ

- 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 Dr Katie Bland against the decision of North Northamptonshire Council.
 - The application Ref NK/2023/0072, dated 2 February 2023, was refused by notice dated 25 April 2023.
 - The development proposed is outline planning application for one dwelling with access.
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Decision

1. The appeal is allowed and outline planning permission is granted for one dwelling with access at 14 Ostlers Way, Kettering, Northamptonshire in accordance with the terms of the application, Ref NK/2023/0072, dated 2 February 2023 and subject to the Schedule of Conditions attached to this Decision.

Preliminary Matters

2. The application is submitted in outline with all matters except for access reserved for future consideration. I have dealt with the appeal on this basis, treating any details of other matters shown on the plans as illustrative.
3. Since the Council determined the application, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. I have consulted the main parties on this and had regard to any representations received.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. With the exception of the strip of land proposed for access, the appeal site is an enclosed area of broadly rectangular land, which is mainly occupied by a tennis court and surrounded by lawned areas. The lawned areas incorporate a number of mature trees and shrubs.
6. The aforementioned rectangular area of land is located at the end of the large linear rear gardens to two neighbouring properties to the west of Ostlers Way, 82 and 84 Headlands. On the information before me, the transfer of this land from properties in Headlands to 14 Ostlers Way, occurred approximately 10 years ago. The appellant advises that the appeal site has a domestic land use

and has become functionally separated from the host dwelling's private garden, since the appellant moved out of 14 Ostlers Way some time ago.

7. In accordance with the adopted Kettering Site Specific Part 2 Local Plan (SSP2LP) (December 2021) ('LP2') and the recently made Kettering Town Council – South-West Kettering (Headlands Community) Neighbourhood Plan 2019-2031 ('NP'), the rectangular area of land associated with the appeal site, which is the main area for the proposed development is identified as part of the Headlands South character area.
8. The NP defines the predominant characteristic of the Headlands South area as: 'its greenery and linear pattern of building following the curvature of the road. The verdant appearance of the area is created by the dense coverage of mature trees and other shrubs growing within around the buildings, particularly within front gardens. This serves to obscure views of the substantial detached buildings which are located beyond.'
9. In light of the above and my observations, the distinctive townscape for the Headlands South Area, is a combination of its large family dwellings in spacious linear plots and the sylvan nature of the frontages and gardens associated with these dwellings.
10. Policy 4 of the NP requires that new development must be of good design and respect the distinctive character of the Character Area within which it is located. Policy HOU1 of LP2 says that infilling through the division of a curtilage or garden development in the Headlands area, amongst others, as shown on the policies map will be resisted in order to protect the distinctive townscape character and retain the range of family dwellings in this part of the town centre and to avoid a negative impact on local residential amenity.
11. Together, the above policies do not preclude developments in the Headlands South character area, subject to these respecting the character of the area and the living conditions of neighbours.
12. Although the proposal includes the development of garden land, this has historically, functionally and to an extent physically been disassociated with the rear gardens of dwellings along Heathlands. Moreover, the sizes of these gardens will be unaffected by the proposal, will remain linear and spacious and continue to complement the family dwellings which they serve.
13. As already stated, a large part of the appeal site is occupied by a tennis court. Although landscaping is a reserved matter, the appellant has indicated that the existing trees would be largely retained. Given that this landscaping is mostly located along the perimeter of a sizeable plot, I see no reason why these elements of the appeal site which contribute to its natural appearance could not be largely preserved.
14. The access to the proposed development would be off the shared drive that serves 13 and 14 Ostlers Way. This would involve the loss of some landscaping to facilitate access, parking / turning areas and the dwelling. Even so, as part of the reserved matters, these areas could be designed to be limited to an extent which is essential for such purposes, to safeguard existing landscaping. Also, where removal is necessary, this could be replaced and augmented by new landscaping.

15. Moreover, because of the proposed access arrangement, the new dwelling and in particular its frontage would be viewed from within Ostlers Way. This is a relatively modern housing development comprising detached dwellings, with frontages that are a combination of soft and hard landscaping. Given this context, and subject to approval of reserved matters, a frontage which incorporates a combination of soft and hard landscaping would be acceptable.
16. Based on the submitted illustrative drawings, a single storey dwelling at the appeal site would also allow views of the retained mature landscaping within the appeal site and gardens associated with properties in Headlands. The proposed plot for the new dwelling would be larger than those associated with dwellings in Ostlers Way. As such, subject to layout, there is no reason why the proposal would not reflect the pattern and density of development along here.
17. The proposal would introduce built development in an area which is free of any significant development. However, and whilst scale is a reserved matter, based on the appellants illustrative submissions, I have assessed the proposal as being a single storey dwelling. This would have limited visual impact in views from the properties and gardens along Headlands. Such low lying development, along with the retention of landscaping and additional planting, which could be secured at reserved matters, would ensure the maintenance of the sylvan character of this area.
18. Based on the proposed illustrative scheme and subject to reserved matters, a single dwelling could be accommodated at the appeal site to complement the pattern of development and sense of place along Ostlers Way, without compromising the overall character of the Headlands South Character area.
19. Whilst the Council has expressed concern about the design and quality of the development, these matters would be largely considered through the reserved matters.
20. For the above reasons, the proposal, in so far as this relates to the matters before me, would not harm the character and appearance of the area. As such, this would not conflict with the overarching aims of policy HOU1 of LP2 and Policy 4 of the NP. Accordingly, I find no conflict with Policy 8 of the North Northamptonshire Joint Core Strategy, which amongst other things requires development to respond to the site's immediate and wider context and local character to create new streets, spaces and buildings which draw on the best of that local character without stifling innovation.

Other Matters

21. In addition to the above issues, third parties have raised concerns about a number of matters. Although layout and scale are reserved for future consideration, the proposal is predicated on a single storey dwelling. To this end, it is unlikely that this would result in any unacceptable overlooking, loss of privacy or impact on the outlook of neighbours. Because landscaping is a reserved matter, the effect of the proposal on existing trees would be considered in detail at the subsequent reserved matters stage.
22. Whilst a new dwelling and activities associated with this would introduce some additional noise, given that the proposal is for a single dwelling within an established residential area, this would not be unacceptable.

23. My attention has been drawn to the refusal of a planning application and the dismissal of a subsequent appeal in relation to another proposal for development at the appeal site. However, on the information before me, the quantum of that scheme is different to the proposal before me. Therefore, I attach limited weight to the refused scheme. Irrespective of this, I have determined the proposal before me on its merits and have found this to be acceptable for the reasons set out above. Other applications for development in the area would be determined on their merits and therefore my Decision does not set a precedent.
24. The proposal would not exceed the Council's Highways standards for the maximum number of dwellings served off a private drive (5). Also, there is no substantive evidence to suggest that the proposed access would not be suitable for construction traffic or that the surrounding highway network would not cope with the additional movements created by the proposal. Given the size of the appeal site, there is nothing to suggest that the proposal would not be able to accommodate the maximum level of on-site parking required for a detached family dwelling. Overall, the proposal is unlikely to result in any unacceptable impact in respect of the proposed access and highway safety.
25. The appeal site including the area for the proposed access is owned by the appellant and this has been confirmed by the Certificate A which was submitted with the application. Therefore, disputes over the access impinging on third party land and any breaches of covenants would be a civil matter between the relevant parties.
26. Whilst I have noted concerns about the proposal affecting property values, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

27. I have considered the conditions put forward by the Council and the appellant in light of the requirements of the Planning Practice Guidance and the Framework. In addition to the standard timescale conditions for the submission of reserved matters and implementation of the planning permission, I have imposed a condition specifying the approved plans.
28. Noting the concerns raised by local residents, I agree that a condition to minimise the disruption caused by construction activity on neighbours and the highway, by requiring a Construction Management Plan is both necessary and reasonable. This condition could also deal with the hours and days when construction activity at the site would be permissible.
29. I have specified a condition requiring details of sustainable construction, energy efficiency, provision for waste reduction and recycling and water efficiency / recycling. This is necessary to promote energy efficiency and sustainable construction.
30. Because the appeal site maybe adversely impacted by railway noise from the nearby Midland Mainline, I have specified a condition requiring a noise mitigation scheme to safeguard the living conditions of the occupiers of the dwelling hereby permitted. In the interests of health and safety a condition to deal with unexpected contamination is also required.

31. To safeguard all retained trees, it is necessary to impose a condition requiring a tree protection scheme. To safeguard nesting birds and habitats a condition requiring demolition or site clearance works to be undertaken outside bird nesting season is necessary.
32. It is not necessary to require details of external facing materials, surfacing, boundary treatments, existing and finished floor levels, refuse storage and collection, the provision of parking spaces, and a requirement that the approved dwelling is single storey, as these are matters that would be dealt with under the reserved matters.
33. Because it is unclear which part of the site the Council's suggested condition 12 relates to, I have not imposed this. Irrespective of this, proposed levels would be required and agreed at reserved matters stage.
34. Where necessary and in the interests of flexibility, clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

35. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application(s) for the approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. This permission relates to the following approved plans: Location plan – drawing number: KA46796-BRYXX-PL-A-001 and Proposed Site Plan – drawing number: KA46796 BRY ST PL A 003 (in so far as this relates to the proposed access).
5. Prior to the commencement of any development, a Construction Management Plan ('CMP') shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved development shall be undertaken in accordance with the approved CMP.
6. Prior to the commencement of any development, a noise mitigation scheme for ensuring that residents are not exposed to significant adverse impacts on their health or quality of life due to noise shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved noise mitigation scheme shall be implemented prior to the first occupation of the dwelling hereby permitted and retained for the life of the development.
7. No development or site clearance works shall take place on the development site, until a scheme for the protection of all trees to be retained has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the method of excavation, method of construction and protective fencing. Thereafter, the development shall be undertaken in accordance with the approved scheme.
8. No development above slab level shall take place on the development site, until a scheme demonstrating how the development will incorporate techniques of sustainable construction and energy efficiency, provision for waste reduction and recycling and provision for water efficiency and recycling has been submitted to and approved in writing by the local planning authority. Thereafter, the approved scheme shall be implemented prior to the first occupation of the dwelling hereby permitted and retained for the life of the development.
9. In the event that unexpected contamination is found at any time when carrying out the development hereby approved, it must be reported immediately to the local planning authority. Development works at the site shall cease and an investigation and risk assessment undertaken to assess the nature and extent of the unexpected contamination. A written report of the findings shall be submitted to and approved by the local planning

authority, together with a scheme to remediate. Once written approval from the local planning authority has been given to the proposed remediation, the development works shall recommence.

10. No demolition or site clearance works shall occur during the bird nesting season which would result in disturbance or loss of habitat of nesting birds; the bird nesting season runs between the months of March and August.