



Appeal Decision

Site visit made on 16 April 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2024

Appeal Ref: APP/U2750/W/24/3338984

The Mill, Badger Farm to Kirklington, Kirklington, North Yorkshire DL8 2LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Hullah against the decision of North Yorkshire Council.
 - The application Ref is ZB23/01609/FUL.
 - The development proposed is a new 2 storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023. This is a material consideration in the determination of the appeal. Based on the evidence, I am satisfied that the parties would have been aware of the revision and they have been provided with the opportunity to comment on any implications of it to their cases through the appeal process. As such, the interests of the main parties would not be prejudiced by the changes.
4. A daylight and sunlight assessment (DSA) was submitted with the appeal. This is based on amended plans (Ref: H27-6B – house details), which the appellants request the appeal should be determined upon. The appeal process should not be used to evolve schemes. However, while the Council considers that the amended scheme should not therefore be accepted, it has commented on the revisions to the fenestration and I am satisfied that the interests of the parties would not be prejudiced by my taking the amended scheme into account.

Main Issues

5. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area and the extent to which it would preserve or enhance the character or appearance of the Kirklington Conservation Area (the CA); and
 - ii) Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to daylight and sunlight.

Reasons

Character and appearance

6. Kirklington is a small rural settlement, medieval in origin. The core of the village includes vernacular terraced and semi-detached dwellings arranged around a long rectangular village green. Larger and higher status dwellings are set back from the village roads in larger plots and ribbons of development extend along the lanes at each corner of the green. The rural agricultural origins of the settlement remain legible in the form of farms, converted farm buildings and the converted mill.
7. The CA is centred on The Green and the flanking roadside development but it also extends northwards to include land between Whinlath Lane and Lady Well, excluding Hall Farm and the ribbon of dwellings to the south of the appeal site. While this northern part includes The Hall, a Grade II* listed building and its grounds, and The Mill, it is characterised by extensive woodland cover and mature trees. The broad-leaved woodland is a strong landscape feature that encloses the village. Given the above, I find that the significance of the CA, insofar as it relates to the appeal, to be associated with the secluded, rural and wooded character and appearance of the historic settlement.
8. The appeal site is a narrow, vegetated strip of land at the edge of the woodland beyond The Willows, which is the last house along the road. The appeal site is set down from the road and screened from it by a mature boundary hedgerow. It shares its highway access with The Mill, which is set deep in the woodland to the north of the village. The western boundary is formed by the disused tail race of the mill. The appeal site is physically, visually and functionally related to the woodland that encloses the village. Consequently, it makes a positive contribution to the character and appearance of the area and the CA.
9. The proposal would be a 2-storey dwelling with a pitched roof, finished in brick and pantiles. The long narrow roadside plot would not be in keeping with the prevailing arrangement of residential plots in the historic settlement, but the size and external materials of the dwelling would be appropriate in the context of the village. However, irrespective of its design including its fenestration, the modern dwelling, hardstanding, car parking, garden and associated residential activity would have a domestic, urbanising effect on the woodland. The leaching of residential development into the woodland would diminish the strong sense of place and it would be detrimental to local distinctiveness.
10. The parties agree that the appeal site is located adjacent to, rather than within, the built form of the village but the appellants consider that the northern boundary of the village is defined by the defensible boundary of Lady Well. There is certainly a distinct change in character between the woodland edge and the farmed land beyond Lady Well. However, scattered woodland and tree belts are characteristic of the countryside. There is little evidence that the large swathe of woodland with grassy clearings between Whinlath Lane and Lady Well should be considered developable land within the settlement.
11. The sewage treatment plant on the opposite side of the road to the north is well separated from the village. The low infrastructure is unobtrusive, screened by vegetation and surrounded by grassland and undeveloped countryside. Particularly taking into account its function, there is little evidence that it forms the settlement boundary for the purposes of development. Stone bridge

parapets and telegraph and electricity poles are commonplace in rural areas. The 30mph signs certainly indicate the approach to the village, but the Kirklington village sign is located on the boundary of The Willows to the south of it. These features would not integrate the proposal into its surroundings and they do not provide a justification for a new dwelling in this location.

12. The dwelling would be around 20m from the nearest property and separated from it by the highway access to The Mill. It would be poorly related to the ribbon of development to the south, which is characterised by modern single storey dwellings with somewhat urban frontages. The ribbon is already neatly terminated by The Willows, this being set back from the road, screened by vegetation and contained by The Mill access. The proposal would not reinforce the edge of the settlement. On the basis that the appeal site is not a small gap between buildings nor part of a continuously or substantially built-up frontage, the proposal would not be infill development.
13. Irrespective that the land is privately owned, the proposal would be new residential development in wooded countryside. The extension of the built village envelope and the resulting visual erosion and urbanisation of the woodland would be detrimental to the rural seclusion and historic settlement pattern. The appeal site is adjacent to the road and therefore it would be prominent in public views. Consequently, it would be capable of harming the character and appearance of the area and the CA as a whole.
14. Given the above, I find that the proposal would fail to preserve the significance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.
15. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of assets and that any such harm should have a clear and convincing justification. Given the scale of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
16. In this regard, while the appellants do not agree, I note that the submitted Heritage Assessment also concludes that the impact on the woodland, which is a Peripheral Area in the CA, would result in less than substantial harm to the designated heritage asset.
17. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellants suggest various benefits including in terms of housing supply, support for rural areas and the restoration of the mill race.
18. One new dwelling would make a negligible contribution to the supply of housing. It would be a market dwelling and not a local occupancy or affordable dwelling. There would be limited economic benefits during construction. Future occupiers would make a limited contribution in terms of support for local services and facilities and the vitality of the rural community. The social and economic benefits would be a limited public benefit. The design of the dwelling would not be a public benefit.

19. The defunct tail race is a non-designated heritage asset by virtue of its historic use and function in association with the former mill. The removal of vegetation and debris from the tail race might restore its historically open appearance to a degree. However, the water supply would not be reinstated and it would remain a predominantly dry feature. If it was visible from public land, the tail race would be viewed as part of the modern development rather than in conjunction with the historic former mill or the natural watercourse to the north. I disagree that the proposal would contribute to a greater understanding of the water management or former function of the tail race. The incorporation of the tail race into a residential use would not be a public benefit.
20. Given the above, I conclude that, on balance, the character and appearance of the Kirklington Conservation Area would be neither conserved nor enhanced. This would fail to satisfy the requirements of the Act, paragraph 205 of the Framework and conflict with policies E5 and HG6 of the Hambleton Local Plan Adopted February 2022 (the LP) that seek, among other things, to preserve and enhance elements that make a positive contribution to the CA and to avoid harm to the character and appearance of the area including countryside that contributes to the historic form, layout and setting of the village. As a result, the proposal would not be in accordance with the development plan.

Living conditions

21. The appeal site is a long, narrow and tapering parcel of land that extends northwards from the highway access to The Mill. The dwelling would be sited towards the south of the appeal site and set down from the level of the road.
22. The principal private outdoor space would be to the north of the dwelling between the boundary hedgerow and the mill race. The removal of 4 cherry trees would open up the narrow garden space and it would be lighter in the mornings when the sun is in the east. However, future occupiers would be likely to spend more time in the garden later in the day for activities such as sitting out, socialising and children's play. The part of the garden closest to the house would be overshadowed by the 2-storey dwelling during the middle of the day. Later in the day, the garden would be shaded by the trees along the mill race corridor. The narrow shady garden would not provide high quality outdoor space for future occupiers.
23. By virtue of the change in ground levels and the constrained nature of the site, the east facing ground floor bedroom windows would be narrowly separated from the roadside boundary hedgerow. As the top of the hedgerow would finish roughly in line with the first floor window cills, the bedroom windows would be overtopped by the hedge. The north-facing bedroom window would receive no sunlight while the south-facing bedroom window would likely be shaded for much of the day by the trees to the south and south-west.
24. Based on the enlarged east elevation ground floor windows, the DSA concludes that the bedrooms would appear reasonably sunlit. I have no reason to dispute the results of the computer modelling. Nevertheless, based on the plans, the arboricultural assessment and my observations, I share the Council's concerns in relation to the parameters that informed the model. Even accepting that the bedrooms might receive sunlight in the mornings, the close proximity of the roadside embankment and hedgerow and nearby tall trees would result in somewhat dark and gloomy internal conditions.

25. I note the appellants' concerns that the Council's indicative shading illustrations are crude, ill-informed and prepared without specialist input. However, while the DSA was presumably carried out by suitably qualified and experienced professionals, it does not include any illustrations of the shading of the dwelling and garden at different times of day during the year. Moreover, the DSA relates only to daylight to the ground floor bedrooms and it does not address concerns in relation to the extent of shading of the private outdoor space.
26. Furthermore, according to the arboricultural assessment, the nearby trees and hedgerow have a reasonably long estimated remaining contribution. On the basis that at least some trees may not have reached their maximum height and spread, shading to the dwelling and its garden might be expected to increase over time. Future occupiers would therefore be likely to seek to prune or even remove trees in close proximity to their home and garden. Notwithstanding that the proposal is in a conservation area, it could be difficult for the Council to resist applications for tree works particularly if there were safety concerns.
27. Therefore, I conclude that the proposal would not provide an adequate standard of living conditions for future occupiers, with particular regard to daylight, sunlight and overshadowing. It would conflict with LP Policies E1 and E2 in relation to providing a high standard of amenity for future occupiers.

Other Considerations

28. The Mill is in residential use and the appellants consider the appeal site is part of their garden. However, it is remote from the Mill and its principal domestic garden. There is little evidence of frequent or regular use for activities such as sitting out, socialising, drying of laundry or children's play, which are all activities that would be expected to take place closer to the dwelling. Occasional mowing does not provide a justification for the proposal.
29. I note the suggestion that the appeal site is previously developed land (PDL) by virtue of the mill race and association with the former mill. The appeal site is shown as a small field on the 1856 OS map. The mill is thought to have been in decline by the latter part of the 19th century, at which time it was referred to as Mill Farm, before finally falling out of use in the middle of the 20th century. Irrespective of any historic use in connection with the former mill, the appeal site is a vegetated woodland edge. In this regard, the Framework definition of PDL does not assume the whole of the curtilage of the developed land should be developed and it excludes previously developed land where the remains of former structures have blended into the landscape. Policies in the Framework that support the re-use of PDL do not weigh in favour of the scheme.
30. The arboricultural report identifies that several trees would need to be removed to facilitate the proposal and compensatory planting would be required. Tree protection during construction and a scheme of landscaping could be addressed by the imposition of planning conditions. The Bat Survey report found the trees have low potential to support roosting bats, but the broad-leaved woodland is optimal foraging habitat such as will support at least moderate levels of bat activity. Mitigation for impacts on bats and their habitat, and biodiversity net gain, could be secured by planning condition. These are neutral matters.
31. Kirklington is a small village with limited services and facilities and where no new housing sites are allocated. However, additional policy-compliant housing development makes an important contribution to the supply of homes. This is

consistent with the Government's objective of significantly boosting the supply of housing. However, compliance with some relevant policies, including parts of LP Policy HG5, does not weigh in favour of the proposal. Even if the appeal site had been within the built form of the village, Policy HG5 does not provide unqualified support for new housing where sites are protected for their historic value. Neither paragraph 11c) nor 11d) of the Framework demonstrably apply.

Conclusion

32. For the reasons set out above, I conclude the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.

33. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR