



Appeal Decision

Site visit made on 2 April 2024

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/H1033/W/23/3326241

Land Adjacent to 34 Kinder Road, Hayfield, Derbyshire SK22 2HS

- 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 David Wigley against the decision of High Peak Borough Council.
 - The application Ref is HPK/2022/0203.
 - The development proposed is the erection of a split level dwellinghouse, associated works, access, landscaping and removal of a tree.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a new version of the National Planning Policy Framework (the Framework) after the appeal was made. As the relevant policies have not changed significantly, there was no need to ask the parties for further comments.

Main Issues

3. The main issues in this appeal are:
 - The effect of the development on the character and appearance of the Hayfield Conservation Area;
 - Whether the site represents suitable location for residential development, having regard to local policies on housing development, and;
 - The effect of the development on highway safety, with particular regard to access.

Reasons

Conservation Area

4. The appeal relates to an area of vacant unused land which is largely overgrown with trees and other vegetation. It lies immediately adjacent to 34 Kinder Road which forms part of a residential terrace. There are dwellings opposite the site and to the rear is a substantial drop to the village cricket ground. The site sits within the Hayfield Conservation Area (HCA).
5. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of

whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

6. The site falls within 'Character Area 2' of the HCA, as defined by the Council's Hayfield Conservation Area Appraisal (CAA). The significance of the area is derived from the historic character of the buildings, which share a palette of materials and are of a similar age, type and form. The character of the buildings also reflect that of the remainder of the conservation area, being predominantly stone with slate roofs. Kinder Road is indicative of the historic linear growth and expansion of the village. The CAA refers to the changing character of the road as the built form becomes more fragmented. This pattern is particularly clear on the southern side of the road beyond No 34. The site forms a clear break in development. The CAA recognises the importance of remaining gaps in the frontage, as they help to provide a connection to the rural setting of the village and its agricultural heritage. The glimpsed views these gaps allow for are an important part of the character of the area.
7. The CAA also identifies several important panoramic views. This includes a view from Kinder Road across the valley, taking in the cricket ground and adjacent recreation area. The relevant plan in the document illustrates this slightly further along the road, but the views across the site would be very similar. While not formally recognised in the CAA as such, it is still apparent to me that the site constitutes one of these important gaps and viewpoints. It is acknowledged that the ability to see across the valley and cricket ground will differ throughout the year. In the spring and summer, foliage would obviously filter such views. In winter, they would be much more evident.
8. The CAA also refers to the continually changing picturesque views along Kinder Road. The verdant nature of the site is an example of this, adding to the aesthetic quality of the street. There is no evidence that the site has ever contained buildings and thus it also strongly reflects the historic pattern of development in the village. In this regard, it breaks up the built form and creates a clear sense of transition between the village and countryside.
9. The proposed dwelling would be about twice the width of one of the existing terraced dwellings. The intention is for it to have two bays and two front doors. It would therefore appear as two dwellings, with one door being fake. It would also seek to replicate the architectural styling of the existing dwellings. The dwelling would not take up the whole site, but it would reduce the size of the gap, extend the built form along this side of Kinder Road and erode the contribution the site makes to the aesthetic quality of the street scene.
10. The encroachment and change in character would not only be seen in terms of the extension of the terrace, but also in relation to the creation of a new access, driveway, areas for parking and turning of vehicles and the laying out of formal garden space. While the intention would be to retain trees and provide additional landscaping in the remainder of the site, it would still form part of the wider garden of the dwelling, thus altering its character.
11. The terrace was ostensibly built in 1879. It has both architectural and historic interest, being a good example of the terraced properties built for workers in the local textile industry. It also has some distinct architectural features, including decorative stonework, which provides an added degree of visual interest. The CAA identifies the form of the terraces, with their sharp drop down to the rear, as being a strong characteristic of the conservation area. The

terrace is not listed but still contributes to the significance of the conservation area. In this regard, I would ascribe it more importance than the appellant's heritage statement.

12. The development would seek to replicate the appearance of the existing dwellings. However, it would still appear as an obvious later addition, with some artificial design elements such as the second front door. In my view, the development would still serve to diminish the character of the existing terrace, the well-established block form and the overall contribution it makes to the significance of the conservation area.
13. The trees on the site have collective value in terms of the visual amenity of the area. The development would result in the felling of one tree and works within the root protection areas (RPA) of two others. The appellant's Arboricultural Implications Assessment (AIA) suggests that the tree to be removed, an Elder (identified as T7 in the AIA) at the front of the site, is a category C tree. This denotes it as a tree of low quality. A large Ash (T1) on the frontage would be affected by the development. This is identified as a category B site which denotes it as being of moderate quality but desirable to retain. Another Ash (T6) would be affected to the rear of this site. This is also identified as a category C tree.
14. The AIA suggests the tree to be felled is unhealthy with signs of decay. The Council has not suggested this assessment is not robust. My own observations suggest that this tree is not the most important in terms of amenity value. The proposal also includes the provision of replacement trees. On its own, there would be no particular concern about the loss and replacement of this single tree.
15. The potential effect on the large Ash is of more concern. This tree is a highly prominent and important feature. The development would not result in the felling of the tree but would affect the RPA. Around 16% of unsurfaced ground would be placed under the hardstanding for the access and driveway. This is below the threshold identified by relevant British Standards. Although this is only guidance, the Council has not provided any specific evidence as to why this proportion would result in harm. The AIA also includes an Arboricultural Method Statement outlining the protective measures that would be taken. These could be required by condition. On this basis, there is insufficient evidence to conclude that development within the RPA of the tree would cause unacceptable harm to its health. For the same reason, there is unlikely to be harm to the health of tree T6, where less of the RPA would be affected.
16. The retained trees would be a sufficient distance from the proposed dwelling to ensure no particular effects in terms of the overshadowing of rooms or direct damage to the building from falling leaves or branches. The remainder of the site would however form part of the property's wider garden. Notwithstanding the landscaping plans, it would be reasonable to assume that future occupants would wish to make some use of the space. The retained trees would result in a heavily shaded area that could be subject to significant and on-going maintenance. T1 in particular could also result in damage to the hardstanding through root spread. These factors could increase pressure over time for the pruning or removal of the trees.
17. As the site is in a conservation area, any works to the trees would need approval by the Council. As such, there would remain an element of control.

However, it would be more difficult for the Council to refuse permission where there are risks associated with health and safety to occupants. This might come about as a result of being used as a garden where there would be greater expectation of access and use. I am not persuaded that a maintenance condition would be effective in this regard. Loss or excessive pruning of trees on the site, in particular T1, would be harmful to the character and appearance of the area. While I consider this to be a relatively small risk, it still adds to my cumulative concerns about the potential impact on the character and appearance of the HCA.

18. Overall, I find the development would cause harm to the character and appearance of the conservation area by altering the character of the site, diminishing the contribution it makes to the aesthetic qualities of the street scene, the erosion of views across the valley, and the effect on the well-established form of the existing terrace. The potential risk to retained trees of bringing them into the residential curtilage also weighs against the development to an extent.
19. In coming to this conclusion, I have had regard to the extent of the gap that would remain, the intention to retain trees and hedgerows, the potential for additional landscaping and the design of the building which seeks to replicate the existing appearance of the terrace. Even with such measures in place, the development would still result in less than substantial harm to the significance of the conservation area. This is consistent with the views of the main parties. There is no dispute from the appellant that the development would result in less than substantial harm, albeit they argue it would be very limited. Taking all aspects together, while not at the higher end of any spectrum of harm, my view is that it would be more severe than suggested by the appellant.
20. Paragraph 208 of the Framework requires the harm identified to be weighed against any public benefits of the development. The development would deliver one family-sized dwelling to the housing land supply. It would provide temporary economic benefits associated with construction. Longer term benefits would be derived from support for local services and facilities. However, the benefits from a single dwelling would be limited in scale. There is also no evidence to suggest the Council cannot currently demonstrate a 5-year supply of deliverable housing land or strong evidence of any local needs or deficiencies that the development would help to meet. As such, I have given only limited weight to the public benefits in these respects.
21. The site is on the edge of the settlement boundary. On that basis, future occupants would have some access to local services and facilities. This provides some benefits in terms of promoting sustainable patterns of development. The mitigation measures proposed would deliver potential for biodiversity net gain. This carry some weight in favour of the proposal. In terms of landscaping, the development could facilitate management of the site and deliver some additional planting. However, given its current nature, I am not persuaded that this would necessarily amount to a significant public benefit.
22. The appellant has made much of the potential to “regenerate” a vacant site. However, this is not a case of bringing a derelict brownfield site back into use. This is a greenfield site and, notwithstanding the appellant’s views, it makes a positive contribution to the street scene. In my view, there are no additional public benefits arising from the use of this site for housing than those already

described above. Similarly, the development would alter views of the cricket ground and across the cricket ground. The views that currently exist are already valued, even with the foliage in place. As the changes proposed would be harmful to the conservation area, it is difficult to conclude that this would constitute a public benefit of the development.

23. I do not consider the provision of additional Council Tax to constitute a public benefit of the development. This is effectively mitigation for the additional service needs generated by the development. As such, I have given this no weight in the balance.
24. Overall, I find that the limited public benefits associated with the development would not outweigh the less than substantial harm caused to the significance of the HCA. The development would therefore be in conflict with Policy EQ7 of the High Peak Local Plan 2016 (HPLP). This seeks to conserve heritage assets in a manner appropriate to their significance. It would also conflict with the Framework, which requires great weight to be given to the conservation of heritage assets. There would also be conflict with HPLP Policy EQ9 insofar as it would place trees with a collective amenity value at risk of harmful pruning or felling. The policy seeks to resist this.
25. The harm would be localised in nature, focussing on the effect on the HCA and historic pattern of development in the village. I am therefore not persuaded the development would cause harm to the wider landscape character of the area. There would therefore be no conflict with HPLP Policy EQ2, which seeks to protect landscape character.

Suitable location

26. Policy S2 of the HPLP establishes a settlement hierarchy into which most development will be directed. Hayfield is identified as a larger village. The site abuts but sits outside any defined settlement boundary. Thus for the purposes of the policy, it should be considered as being part of the "Other Rural Areas".
27. Policy S2 seeks to strictly limit development in such areas unless it meets an essential need to be located in the countryside in accordance with policies EQ3 and H5. Policy H5 relates to rural exception sites and is not relevant here. Policy EQ3 sets out several potential situations where development in such areas might be acceptable. None of the specific criteria are applicable to this development. However, the policy also refers to development which is in accordance with Policy H1. Policy H1 allows for development outside settlement boundaries where four criteria are met. This appears to be a separate consideration and there is nothing in my reading of this policy which suggests that development must also constitute limited infilling or meet any other exception set out in Policy EQ3.
28. The site clearly adjoins the settlement boundary of Hayfield. No 34 marks the end of the predominantly built-up area on the southern side of Kinder Road, where there are large gaps between more sporadically located buildings. However, there is housing opposite the site which continues for some distance south-east along Kinder Road. This is all within the defined settlement boundary of the village. Although the development would constitute encroachment into land classed as countryside, it would still relate reasonably well to the existing pattern of development and surrounding land uses. In

- principle, a single dwelling would also be of an appropriate scale for the settlement. The development therefore meets the first criterion.
29. Hayfield's position in the settlement hierarchy means that it is considered a suitable location for development in principle. As noted above, the site's position abutting the village means that access to facilities or public transport would be no worse than anywhere else in the village where development is considered acceptable in principle. I am therefore content that the third criterion is met. There is no substantive evidence to suggest a single dwelling would put unreasonable strain on local infrastructure and thus the fourth criterion is also met.
30. The second criterion deals with the effects on the character of the countryside. The development would have some prominence, particularly for users and residents of Kinder Road and from the cricket ground and recreation area. The site is however one of transition between the village and open countryside. There is still housing opposite the site and more sporadic buildings further east and the development would not significantly extend the built envelope of the village. While there would be localised harm to the HCA, I do not consider either the scale or location of development would constitute a prominent intrusion into the countryside. As set out in my conclusions on Policy EQ2, the harm would be focussed on the HCA and not the wider countryside. As such, it would not be described as having a significant adverse impact on the character of the countryside.
31. Accordingly, the development would meet the relevant criteria of HPLP Policy H1 in terms of development outside settlement boundaries. As such, notwithstanding my views on the effect on the HCA, this would be a suitable location for housing development in principle. On the same basis, there would be no conflict with HPLP policies S1, S2, S3 and EQ3 which control the scale and location of housing development in the district.

Highway Safety

32. The appellant has submitted additional technical evidence with the appeal which seeks to address the Council's concerns on highway safety. Based on this, the Highway Authority (HA) has confirmed that it no longer objects to the development on highway grounds, subject to conditions relating to visibility splays. The Council's appeal statement makes no reference to this additional evidence or the comments of the HA. Nevertheless, the lack of objection from the HA is an important material consideration.
33. I observed a significant amount of on-street parking near to the site. While my site visit can only represent a snapshot of normal conditions, the evidence suggests that this is normal. It is likely therefore that vehicles would park near to the access whatever visibility splay is delivered within the appellant's control. This could give rise to some visibility constraints in both directions. This is confirmed by the appellant's technical note. The Government's Manual for Streets 2 includes reference to such situations and concludes that this is common in built-up areas and does not create significant problems in practice. While this suggests defined parking bays should be provided outside the visibility splay, where speeds are low, it states that some encroachment may be acceptable.

34. Kinder Road has a limit of 30 mph. The appellant's technical note suggests speeds are generally lower than this. The data was collected over just one day. Therefore, this also only represents a snapshot. Nevertheless, the nature of the road, including its width, topography and the significant amount of parking on one side, which effectively narrows the road to one lane, is likely to slow vehicles to an extent. Passing traffic would therefore be generally slow moving.
35. The road is also relatively straight in this location and thus vehicles approaching in both directions should be able to see any vehicle slowly nosing out of the site and vice versa. There would be space to allow vehicles to enter and exit the site in a forward gear, so there would be no need for dangerous manoeuvring in the carriageway. A single dwelling would not generate significant numbers of daily trips and therefore use of the new access would be relatively limited. There are also other accesses and drives along Kinder Road and so it is not necessarily unusual for vehicles to be exiting onto the road.
36. On this basis, I am not persuaded that the development would result in unacceptable safety risks to passing motorists. In coming to this conclusion, I have had regard to the photographic evidence submitted by interested parties. However, it is not apparent that the case highlighted was caused by use of an access or that accidents are regular occurrences. Therefore, there would be no conflict with HPLP policies EQ6 and CF6 which seek to ensure development can be safely accessed. There would also be no conflict with the Framework which states that development should only be refused on transport grounds if it would result in unacceptable safety risks.

Other Matters

37. I have already identified the benefits of development above and there is no need to repeat them again here. These are not sufficient to outweigh the conflict with the development plan and the great weight given to the conservation of a heritage asset. A lack of harm in relation to the principle of development in this location or highway safety are neutral factors which weigh neither for nor against the development.
38. The appellant has raised concerns with how the application was considered. This is a matter between the parties and is outside the scope of the appeal. I am also conscious that pre-application discussions were had and changes to the scheme made. However, I must consider what is before me on its merits.

Conclusion

39. The development conflicts with the development plan as a whole and there are no other considerations that outweigh this conflict. The appeal should therefore be dismissed.

S J Lee

INSPECTOR