The Planning Inspectorate

Appeal Decision

Site visit made on 13 May 2024

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

Appeal Ref: APP/M1005/W/23/3330844
Christmas Cottage, Church Lane, Kirk Langley, Ashbourne DE6 4NG

- 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 Thompson against the decision of Amber Valley Borough Council.
- The application Ref is AVA/2022/1096.
- The development proposed is reserved matters application following the approval of AVA/2021/0765 (APP/M1005/W/22/3291303) providing details for access, appearance, landscaping, layout and scale for one proposed dwelling.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr I Thompson against Amber Valley Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. 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).

4. In September 2022, outline planning permission was granted on appeal (ref APP/M1005/W/22/3291303) for one dwelling with all matters reserved at land adjacent to Christmas Cottage. Planning conditions imposed on the permission include conditions No 1, relating to details of reserved matters, and No 4, specifying the approved plan nos 0323-1-02-00 and 0323-2-08-00 (in respect of matters not reserved for later approval).

5. The red line boundary of the application subject of this appeal (as shown on drawing ref 0325-1-01-00 Rev A, among others) is larger than the red line boundary of the outline permission. Moreover, development is proposed beyond the approved outline planning boundary. This is a matter that I will return to later in my decision.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the local area, and the extent to which it would preserve or enhance the character or appearance of the Kirk Langley Conservation Area.

Reasons

7. The Conservation Area (CA) covers an extensive area of land that includes the historic rural settlement of Kirk Langley together with dispersed clusters of development and the surrounding undeveloped countryside. Christmas Cottage and its garden are in the 'west end of the village' CA character area. This part of the CA is characterised by sporadic development along Church Lane interspersed with wide undeveloped rural gaps. Properties in the area include terraced, semi-detached and detached dwellings but the distinctive character of this part of the CA derives principally from the historic estate workers' cottages, with their generally consistent scale, external materials and detailing. Given the above, I find that the significance of the CA, insofar as it relates to this appeal, to be primarily associated with the coherent modest scale and historic rural appearance of buildings.

8. The appeal site comprises part of the garden of Christmas Cottage and the proposal would share the existing highway access with the neighbouring dwelling. The proposal would be a large 4 bed detached dwelling with a detached double garage, hardstanding driveway and patio areas and garden. The dwelling would have a long unbroken frontage, roughly 15m, with a central doorway with oak frame porch and brick chimneys to both gable ends. It would be finished in brick and plain tiles to match Christmas Cottage. Timber casement windows would have segmental arched lintels, with pitched roof dormer windows at first floor level breaking the eaves line. Traditional detailing would include corbelled verge and eaves and cast iron rainwater goods.

9. The proposal would be double-fronted, as are many of the typical cottages locally. The materials and architectural detailing would also be sympathetic and in keeping with the surrounding historic built environment. However, the long and relatively low-fronted dwelling would appear considerably larger than the historic cottages that characterise the area. The wide frontage would be conspicuously out of scale with the modest proportions and appearance of traditional cottages in this area. Consequently, the dwelling would be a discordant feature that would disrupt the cohesive historic built environment.

10. As acknowledged by the previous Inspector, there are some considerably large dwellings scattered along Church Lane. The comparative widths of a number of these have been provided to demonstrate that the proposal's wide frontage would not be disproportionate in the surrounding context.

11. Christmas Cottage is wider than the proposed dwelling by virtue of its previous extensions. However, its side extension is broken, stepped back and down from its host such that while large it is nevertheless subservient. The original compact dwelling, with its roughly 11m frontage, remains clearly legible. Irrespective of their relative heights, the plans illustrate that the proposal, with its long unbroken front elevation and roofline, would be markedly more imposing and visually dominant than the neighbouring extended dwelling.

12. Wheelwright Cottage and Southernwood Cottage are extended traditional workers' cottages with clearly subservient side extensions, including single storey. I note the suggestion that Lilac Cottage is a similar width to the proposal, although it appears to have been somewhat imprecisely measured from Google Maps. In any case, it is similarly an extended cottage, less prominently sited further from the road, well separated from nearby buildings and in an apparently larger plot than the proposal.

13. Longford House appears more similar to the proposal, insofar as the original dwelling has a wide frontage and it was built as a large family home. However, its higher eaves result in a pleasingly proportioned, traditional and somewhat grand frontage with large sash windows. Notwithstanding that planning permissions for subservient side extensions would extend its overall width, Longford House would continue to be read as a well-proportioned and higher status historic dwelling.

14. Large dwellings elsewhere, including these and modern dwellings in different surrounding contexts, may be comparable in terms of overall width. However, they are not demonstrably directly comparable to the proposal in terms of built form, bulk, massing, articulation and roofscape. Consequently, they do not provide a justification for what would be a markedly large modern dwelling.

15. The garage would be subservient to the dwelling, but it would be a substantial building in its own right. Moreover, while it would be set back from the principal dwelling elevation, it would only be narrowly set away from the side elevation. By virtue of its limited separation and its size, the garage would contribute to the significant visual massing and scale of the proposal. Including in oblique views along the road, there would be cumulative visual impacts due to the significant quantum of roadside built development. Notwithstanding its matching materials, the tall double garage would be a bulky and overtly modern form of development. Moreover, its close siting to the dwelling would be a more urban form of development than the irregular siting and orientation of outbuildings elsewhere in the area.

16. The parties worked together to agree an acceptable form of development and significant changes were made to the proposal to address the Council's concerns. However, the appellant takes issue with the Council's suggestion that a reduction in the length of the frontage by 2-2.4m would render the scale of the dwelling proportionate to nearby dwellings. He considers that such a modest reduction would not significantly change the visual impact of the proposal. There are no alternative plans before me to demonstrate either party's position on this matter. However, I agree that, by itself, a small reduction in the width of the elevation might not be sufficient to successfully integrate the proposal into its surroundings. Consequently, this is not a matter that could be addressed by the imposition of a planning condition requiring amended plans.

17. In allowing the previous appeal, the Inspector found that the outline proposal respected the established pattern of small clusters of housing facing the road and each in its own plot. They noted the semi-detached and detached properties to the north of Church Lane, some of which are of considerable size and scale and concluded that the proposal would have appropriate regard to the settlement pattern and the scale of local buildings. However, on the basis that all matters were reserved, the previous appeal decision does not definitively establish the acceptable scale, layout or appearance of a new dwelling in this location. Nevertheless, the Inspector's conclusion would have been informed by their understanding of the amount of development that could be accommodated within the outline planning application boundary.

18. As noted, the appeal site is markedly larger than the outline planning permission boundary considered by the previous Inspector. This extension of the plot appears to have enabled not only amended siting, but also a larger

footprint and hence scale of dwelling and garage than could potentially have been accommodated within the smaller outline permission area. Moreover, the larger appeal site allows proposed development to more closely approach Christmas Cottage, thereby contributing to a visual terracing effect in oblique views. Irrespective that the outline permission establishes the principle of residential development, the inconsistency in the planning boundary means that the previous Inspector's conclusions in relation to the acceptability, including scale, of the outline proposal are not directly applicable nor do they weigh in favour of the reserved matters proposal.

19. The overtly long, large modern dwelling and its bulky garage would be incongruous and dominant in the streetscene. The proposal would erode local distinctiveness and the strong rural and historic sense of place. As it would be clearly visible and prominent in views from the surrounding area, it would be capable of harming the wider character and appearance of the CA.

20. 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.

21. Paragraph 205 of the National Planning Policy Framework 2023 (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 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the scale and nature of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

22. 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 proposal would result in local economic benefits, including during construction and future occupation of the dwelling. The sale of the appellant's dwelling would be primarily a private benefit. Little substantive evidence has been provided to demonstrate environmental benefits in relation to the design of the dwelling or biodiversity. The proposal would however contribute to the Government's objective of significantly boosting the supply of housing. Even so, the economic and social benefits arising from one new dwelling would be limited and they are not sufficient to outweigh the harm that I have identified.

23. Given the above, I conclude that, on balance, the character or appearance of the Kirk Langley 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 saved policies LS3 and EN27 of Amber Valley Borough Local Plan Adopted 2006 and policy HER2 of Kirk Langley Neighbourhood Development Plan 2019-2032 Adopted May 2021. These seek, among other things, to ensure that proposals contribute to local distinctiveness through good design that respects and takes account of local styles and the distinctive character areas of the CA. As a result, the proposal would not be in accordance with the development plan.

Other Matters and Planning Balance

24. The proposal went through several design iterations during the processing of the planning application and I have seen correspondence between the parties in this regard. I understand that the appellant is frustrated by the Council's refusal, not least because the scheme had reached the point where the planning officer felt able to recommend it for approval. However, in correspondence dated 12 June 2023, the officer was clear that it was only a recommendation which she hoped would be signed off by her manager.

25. The appellant is dissatisfied with the conservation officer's comments and considers that the refusal was based on personal preference and not robust policy justification. In particular, he considers that the suggested reduction in the width of the frontage is arbitrary and unsubstantiated. However, the Council was seeking to secure a size of dwelling that would better relate to scale of the historic workers' cottages locally. Matters of appearance are inevitably somewhat subjective, but there is little evidence that the Council's conservation officer and planning manager did not have a robust understanding and knowledge of Kirk Langley CA.

26. As noted previously, the appeal site boundary includes additional garden land not included in the approved outline planning permission. On the basis that the reserved matters application is inconsistent with the outline permission in this regard, it is not clear that the submitted details could be authorised by the outline permission. However, as I am dismissing the appeal on substantive grounds relating to the CA, this is not a matter that I need to consider further.

27. Paragraph 11d) of the Framework sets out the presumption in favour of sustainable development where the most important policies for determining the application are out-of-date. The saved policies of the Local Plan are now old, but policies are not deemed out-of-date solely on the basis of age but based on their consistency with the Framework. In this case, the development plan policies cited in the reason for refusal are broadly consistent with the aims of the Framework in relation to the protection of heritage assets. Irrespective, paragraph 11d)i. of the Framework advises that permission should not be granted where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. The particular policies are set out in footnote 7 and they include policies that relate to designated heritage assets. Therefore, in this case, the presumption in favour of sustainable development does not apply.

Conclusion

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

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

Sarah Manchester

INSPECTOR