



Appeal Decision

Site visit made on 18 February 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2025

Appeal Ref: APP/P1045/W/24/3350512

Land at Nether Lane, Kirk Ireton

- 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 & Mrs Aled & Dominie Edwards against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/01337/FUL.
 - The development proposed is erection of 2no. dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is within a conservation area wherein I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
3. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issue

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

Reasons

5. The CA encompasses the village core which is formed of traditional stone buildings, predominantly from the 18 and 19th century of traditional form and shape, and includes the fields that surround the village. The evidence indicates that the CA was extended in 1992, into its current form, to include the rural setting afforded by the surrounding countryside. This is characterised by rolling hills, open fields, trees and hedgerows that are typical of the area's 'Wooded slopes and Valleys' landscape character.
6. The significance of the CA is largely derived from its rural setting, including views from the settlement out across an attractive agricultural landscape. The CA

encapsulates narrow lanes enclosed by traditional dry-stone walls and hedgerows within the village core, with historical properties having a strong visual cohesion due to construction methods and materials.

7. Nether Lane is narrow and lined by residential properties. Dwellings located on the western side of Nether Lane are generally elevated from the highway. Ground levels fall away from the eastern side of Nether Lane. The appeal site comprises part of a larger field which extends downhill to the east, located between dwellings. The verdant, and open, aspect of the site is an important part of this rural character and positively contributes to the significance of the CA.
8. The Kirk Ireton Conservation Area Character Appraisal (KICACA) sets out 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 KICACA identifies several 'principal views' which contribute towards the special interest of the CA. One such view is across the appeal site from Nether Lane into the attractive landscape and Ecclesbourne Valley beyond. A similar view is afforded from the public right of way (PROW), located to the rear of dwellings on Nether Lane.
9. The significance of a CA is dependent upon how it is experienced. Under such circumstances case law¹ has established that proposals must be judged according to their effect on a CA as a whole and must therefore have a moderate degree of prominence. Moreover, preservation does not mean that change is not possible².
10. The proposed dwellings would be single storey, split level, embedded into the sloping site, incorporating a green roof, with integrated solar panels. There are aspects of the scheme that would help conceal the houses so they would not be as visually intrusive, compared to dwellings of a more conventional construction from, the 'principal view'. However, notwithstanding the semi-subterranean design, the proposal would result in the introduction of substantial built development that would extend across a significant portion of the site that would harmfully interrupt that view.
11. The proposed dwellings would be of a high quality and architecturally designed. They would be stone-faced, incorporating large expanses of glazing. Be that as it may, I do not concur that the development would appear largely as a green roof that would blend into the field. In reaching this view I acknowledge that the properties would be viewed against a backdrop of existing built form and that the roof of the proposed dwellings would not sit higher than the existing dry-stone wall and hedge that forms part of the boundary to Nether Lane. Nevertheless, it is clear from the sectional drawings, that a significant amount of excavation would have to take place to construct the dwellings. The altered landform would harmfully disrupt the existing sloping topography. The accompanying residential paraphernalia, including new vehicular accesses, areas of hardstanding and the array of solar panels and rooflights, would erode views of the attractive agricultural landscape.
12. The KICACA recognises that on approaching the village from Hob Lane that the built development of the village is most apparent. It goes on to state that the 'principal view' and views from Hob Lane are an integral and intrinsic element of the

¹ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89

² South Lakeland District Council v Secretary of State for the Environment and Carlisle Diocesan Parsonages Board [1992] 2WLR 204, [1992] 2 AC 141

significance of the CA. To some extent, the principal view would be maintained, due to the low profile of the dwellings. Nevertheless, the physical and visual presence of two substantial and contemporary dwellings, and their managed gardens, would harmfully erode the sense of spaciousness of the field and its positive contribution to the significance of the CA.

13. The appellant submits that the large expanses of glazing, set behind a deep overhang, would significantly reduce glare in views. Nevertheless, the proposal would result in a detrimental change to the character of the area as a whole and would be seen as an incongruous addition. This would be particularly so when viewed from Hob Lane, where there is appreciation of the village in an elevated position surrounded by fields. Such views would not be continuous owing to existing screening. However, landscaping can rarely be relied upon in the long term with regards to its maintenance, retention and survival, particularly where it is under the control of third parties.
14. Whilst bearing in mind that the Framework does not seek to prevent or discourage innovation or change, in this circumstance, the contemporary design, and form of the dwellings, would be unsympathetic to local character. Although the external finish of the proposed dwellings would incorporate some traditional materials that are found in the area, the form of the dwellings is such that they would be conspicuous and would harmfully impact upon the character and appearance of the built form and the rural setting of the village.
15. Notwithstanding the sympathetic boundary treatments proposed, it is likely that outdoor activities such as drying of clothes, play, gardening and other forms of domestic recreation would have a visual impact. A condition that removes permitted development rights³, that relate to curtilage buildings, would not prevent the installation of domestic paraphernalia which falls outside of planning control. Together with the physical changes, the visual effect of the residential use would undermine the site's contribution to the significance of the CA.
16. Given the above, the proposal would be detrimental to the CA and would therein fail to preserve its significance. I find the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
17. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply. The proposal would provide two architecturally designed dwellings to add to the variety of housing stock within the district and would be an efficient use of land. There would be some economic benefits from the construction of the development, and upon occupation of the properties, residents would support the local economy, including the generation of council tax.
18. The proposal would contain a number of sustainability credentials which are commendable, as achieving a high level of sustainability through design and construction is something the government seeks to encourage. In addition, the scheme would provide additional habitat for biodiversity which would weigh in favour of the scheme.

³ Under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

19. Whilst mindful of the above, given the small scale of the development, I give these benefits limited weight in favour of the development. As a result, there are no public benefits of sufficient weight to outweigh the harm that would arise from the development.
20. For the reasons stated, the proposal would fail to preserve the significance of the Kirk Ireton CA. Conflict therefore arises with policies S1, S9, PD1, PD2 and PD5 of the Derbyshire Dales Local Plan 2017 (LP) together with Policies P1 and P2 of the Kirk Ireton Derbyshire Neighbourhood Plan 2021. Collectively, and amongst other things, these policies seek to ensure that all developments respect character, identity and context. Furthermore, the policies seek to conserve heritage assets in a manner appropriate to their significance and not be detrimental to the heritage value of the landscape or views from the village, including those views highlighted by the KICACA. Consequently, the proposal would fail to satisfy the requirements of the Act and the historic development policies of the Framework insofar as it relates to heritage assets.

Other Matters

21. My attention has been drawn to previous appeal decisions relating to the site⁴. I have not been provided with full detail. However, from the information presented, the appeal proposal before me is materially different in terms of the design of the preceding applications. Whilst I acknowledge the appellants attempts to overcome the previous Inspectors concerns, I have dealt with the appeal on its own merits.
22. Policies S2 and HC1 of the LP are referred to within the Council's decision notice, which relates to the principle of housing development having regard to location and settlement hierarchy. However, the Council's delegated report and statement of case raises no objection to the principle of residential development and recognises that the proposed development could reasonably be considered as infill. I have no compelling reason to disagree with this conclusion and therefore find that the proposal would accord with Policies S2 and HC1 of the LP in this regard.
23. Suitable access would be provided, and the living conditions of nearby residents would not be adversely affected. Similarly, I recognise that there are no outstanding concerns regarding contamination or flooding. These, however, are neutral factors that neither weigh in favour, nor against, the proposal.
24. I have considered all other matters raised by interested parties. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.
25. Support for the proposal from residents is noted. However, this does not overcome the harms I have identified.
26. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. The appellant has brought to my attention that the LP has not been reviewed within five years from the date of its adoption, as required by the Town & Country Planning (Local Planning) (England) Regulations 2012. The appellant submits that in such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless any adverse impacts of doing so would

⁴ APP/P1045/W/20/3254347 and APP/P1045/W/22/3298296

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. However, paragraph 11 d i) of the Framework clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the development. Therefore, in this circumstance, given the harm identified to the CA, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

27. For the reasons given above, the proposal would conflict with the development plan when read as a whole, and there are no material considerations including the provisions of the Framework, that would outweigh that conflict. The appeal is therefore dismissed.

R Gee

INSPECTOR