



Appeal Decision

Site visit made on 26 June 2018

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2018

Appeal Ref: APP/E2734/W/18/3199631

Grey Gables, Laverton Road, Kirkby Malzeard, Ripon HG4 3ST

- 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 Belgrave Property against the decision of Harrogate Borough Council.
 - The application Ref 6.24.226.B.OUT, dated 23 January 2017, was refused by notice dated 11 October 2017.
 - The development proposed is the construction of three dwellings with live/work units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters to be considered at this stage apart from landscaping. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The address of the appeal site in the banner heading above is based on the Council's decision notice and the planning appeal form, for the purposes of accuracy and clarity.

Main Issues

4. The main issues are whether the proposal would conserve and enhance the natural beauty of the Nidderdale Area of Outstanding Natural Beauty (AONB); and whether the site is in a suitable location for housing with regard to the accessibility of local services.

Reasons

Nidderdale AONB

5. The site comprises of a number of former agricultural buildings that are partially derelict, a garage, hardstandings and areas of overgrown vegetation. The buildings appear now to be used for domestic storage. A gated vehicular access is formed onto Laverton Road, which is a narrow country lane. There are hedgerows on either side of the access. A number of trees are found on the west boundary of the site, that are the subject of a tree preservation order and there are pleasing views in this direction over a pastoral landscape with distant higher moorland also visible. A field lies to the north, with the village of

- Kirkby Malzeard beyond. To the east are 'Grey Gables' and 'Holly Bank', two residential properties in an otherwise countryside location.
6. For the character area where the site is found, the Council's Harrogate District Landscape Character Assessment Supplementary Planning Guidance (2004) (SPG) states that, beyond the villages, the countryside is more open and moderately well wooded. This reflects the location of the site. The SPG also states that it is a well-tended landscape and, with the pastoral use of land in the vicinity of the site, this is also ably demonstrated.
 7. The proposal would increase and consolidate the amount of development on the site, to form a continuous arrangement of buildings set around a courtyard. This would result in a clustering of development away from existing settlements that would serve to detract from the more open qualities of the AONB. Even though groupings of buildings associated with farms are found in the area, they relate to the agricultural use of the landscape.
 8. The existing buildings that would be demolished, whilst of a modest value, have a limited presence in the landscape with their form and siting. The historical use reveals their linkage to the agricultural nature of the landscape. The proposal would, though, appear uncomfortable in its surroundings as, although it seeks to incorporate elements of a traditional farmhouse and yard, it would be markedly apparent that it would not reflect such a use with the creation of individual plots and the associated domestic appearance of each unit.
 9. The protected trees would not significantly soften the resultant appearance of the proposal, or provide adequate screening, because they are not continuous along the associated boundary. There is also no assurance that further planting would be effective in lessening the effects of the proposal and, in any event, landscaping details are not before me to consider.
 10. There would also be a requirement to trim the hedgerows along the frontage of the site to provide for adequate visibility splays at the vehicular access. This would cause further harm to the qualities of the area as they contribute appreciably towards its countryside character and as this would make the proposal more visible along the road. This would further add to what would be significant adverse effects on the AONB.
 11. The appellant has drawn my attention to a number of other sites for housing developments around Kirkby Malzeard. As these are located on the edge of the village, they are informed to a significantly greater degree by its built form and so this diminishes their impacts on the AONB. In contrast, as the site is set away from the village, with the intervening field, it is considerably more informed in its character by the open countryside aspects. With regard to developments related to other settlements, a consideration of the effects on the AONB is dependent on the particular site circumstances and the proposal, and so these do not alter my findings.
 12. Having regard to the above, I conclude that the proposal would not comply with the statutory duty under Section 85 of the Countryside and Rights of Way Act (2000) to conserve and enhance the natural beauty of AONBs. This harm weighs significantly against the proposal.

13. I also conclude that it would not comply with 'Saved' Policy C1 of the Harrogate Borough Council, Harrogate District Local Plan (2001) (LP) which states that development which would have a significant adverse impact on the landscape in the AONB will not be permitted. It would also not comply with 'Saved' Policies HD20 and E8 of the LP, and with Policies SG4 and EQ2 of the Harrogate District Local Development Framework Core Strategy (2009) (CS), which collectively seek to protect the character and appearance of an area, including landscape character. Nor would it comply with the related guidance in the SPG concerning the character area and managing landscape change.
14. It would also be in conflict with paragraph 115 of the National Planning Policy Framework (Framework) which states that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty, and with guidance in paragraph 17 about conserving and enhancing the natural environment. I find the development plan policies I have referred to are broadly consistent with this policy guidance in the Framework in this regard, so they can be afforded significant weight.

Accessibility to Services

15. Kirkby Malzeard lies approximately 500m from the site by road, and contains a range of local services. It is accessed along Laverton Road, and then Warren Lane. There is no footway along these roads, until the village is reached. There is also a Public Right of Way (PROW) from the village across a field towards Warren Lane, which joins the road near to 'Holly Bank'.
16. The occupants of the proposal would have to travel to Kirkby Malzeard to access local services. The absence of a footway along the roads to the village would result in a likely reliance on the private car as the primary means of transport. The use of these roads by non-car modes of transport, or the use of the PROW on foot and via an intended link from the site, would be unlikely to offer the same level of convenience, particularly during inclement weather or during the evenings or at night, even if users are suitably attired and equipped, and lights are visible in the village in the distance.
17. The site's limited accessibility to services is also reflected in its location in the countryside. This would not be adequately addressed through the live-work element to the proposal, as whilst this may reduce commuting, it would not provide for ready access to other services. The details that are before me of how it is envisaged this live/work arrangement would operate are also limited.
18. Concerning the sites for housing developments around Kirkby Malzeard, as these are located on the edge of the village, they have considerably more convenient access to the local services utilising footways, which are predominantly lit. Even though the site may be closer to some of the services, it does not offer the same level of access with its physical separation from the village.
19. I conclude that the proposal would not provide a suitable location for housing with regard to the accessibility of services. As such, it would not comply with Policy SG4 of the CS which seeks for development proposals to be well integrated into the spatial qualities of the local area. In addition, it would not comply with 'Saved' Policy E8 of the LP in respect of locational considerations it applies to a countryside location and the relationship to a settlement, and with

guidance in paragraph 28 of the Framework where it concerns sustainable new development in rural areas. The development plan policies are also broadly consistent with this guidance in the Framework, and so can be afforded significant weight in this regard.

Other Matters

20. In respect of the effect of the proposed access arrangements on highway safety, the appellant is proposing to implement visibility splays in accordance with the advice of the Highway Authority given at the planning application stage. With the proposed access arrangements, there would also be the scope for a passing place on the site. Laverton Road is of narrow width, but with the likely modest traffic generation and the access improvements, I see no reason to disagree with the view of Highway Authority. Based on the evidence submitted with the appeal, I also consider the works to the hedgerows to achieve the visibility plays would be carried out on land under the control of the appellant. Hence, the proposal would accord on highway safety grounds with Policy SG4 of the CS and paragraph 32 of the Framework. This does not, however, address my separate concerns over the adverse effects on the AONB that would result from the trimming of the hedgerows to achieve the visibility splays.
21. As regards the dimensions of sustainable development under paragraph 7 of the Framework as it would involve live/work units, the proposal would conform to the economic role, and the broader economic growth aspirations of the Framework. It would not, though, conform to the social role, despite that it would make a modest contribution to the Council's shortfall in its 5 year housing land supply¹ because it would not benefit from accessible local services.
22. In relation to the environmental role, it would not contribute towards protecting and enhancing the natural environment, with the harm that would arise to the AONB. Whether or not the proposal would involve the re-use of previously developed land under the definition in the Framework is not determinative in this case, given the harm that I have already identified. Taking these matters together, I find that the benefits do not outweigh the harm.
23. Despite the deficiency in housing land supply, the presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, does not apply because specific policies in the Framework indicate development should be restricted, related to the AONB.
24. The draft Harrogate District Local Plan housing allocations in Kirkby Malzeard have yet to be the subject of a full examination, and so only attract limited weight in my decision. With the allocation that is the subject a planning application, this lies adjacent to the village and so its location is materially different to the site. I have dealt with the matters raised in relation to consistency in decision making with my deliberations on the various other sites which have been put forward in the appeal submissions.

Conclusion

25. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal not

¹ The housing land supply stands at 4.5 years.

conserving and enhancing the natural beauty of the AONB and that it would not be a suitable location for housing with regard to the accessibility of local services. For these reasons, I conclude that the appeal proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR