
Appeal Decision

Site visit made on 20 June 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2018

Appeal Ref: APP/E2734/W/18/3199491

Land comprising OS field 5419, Galphay Road, Kirkby Malzeard, Ripon, North Yorkshire, HG4 3RX

- 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 Mr & Mrs M Atkinson against the decision of Harrogate Borough Council.
 - The application Ref 17/05482/OUT, dated 12 December 2017, was refused by notice dated 13 March 2018.
 - The development proposed is the erection of 2 No. dwellings
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the submitted application form, I have taken the address in the banner heading above from the Council's decision notice and the appeal form, as this provides a more accurate and complete description consistent with the submitted location plan.
3. Outline planning permission is sought, but with all matters reserved, except for access. I have determined the appeal on this basis.
4. The Revised National Planning Policy Framework (the Framework) was published in July 2018, after the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal, but neither has done so. Nonetheless I have had regard to the Revised Framework in reaching my decision.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the surrounding area, which lies within the Nidderdale Area of Outstanding Natural Beauty (AONB).

Reasons

6. The site lies within the countryside and mainly comprises a field on the periphery and away from the core of the village of Kirby Malzeard. It is noted that there is a dispute between the appellant and the Council in relation to the current use of the field. The appellant has drawn my attention to a small building to the rear of the appeal site, which has been described as a 'garden folly', and states that the site historically has a domestic nature. I saw that the

site was in use for the storage of building materials for the adjacent dwelling that was under construction. However, there was no overt sign that the site was in use as a garden or has been for some time. In any event, whether domestic or agricultural, once the temporary storage of materials is removed, the open and undeveloped nature of the site will still make a positive contribution to the rural setting of the village.

7. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The Framework also notes that AONBs have the highest status of protection in relation to landscape and scenic beauty.
8. The site lies in Area 35 'Kirkby Malzeard and Grewelthorpe' in the Council's Harrogate District Landscape Character Assessment Supplementary Planning Guidance 2004 (SPG), it describes the area as "a beautiful, interesting and well-tended landscape". These villages area are linear, and their settings are listed as sensitive to change, from development such as extensions to domestic curtilage and new development. The appellant submitted a Landscape and Visual Assessment Impact Assessment (LVIA) with the application to which I have had regard. I also viewed the site from the majority of locations identified in the LVIA and am satisfied that I saw everything I need to assess the impact of the development.
9. The appeal site is located behind a low stone boundary wall, with residential properties being constructed to the left when viewed from the front and an agricultural field to the right. Beyond the agricultural field to the right is a public footpath, where the appeal site can be clearly viewed. Opposite the site are residential properties. The appellant has drawn my attention to a number of other sites for housing development around Kirkby Malzeard, including the adjacent residential development under construction. However, whilst I have noted these, I consider these sites to relate more closely to the existing built environment than the scheme before me, which benefits from a greater connection with the open countryside. No additional details have been provided regarding these schemes and no documentation has been provided regarding the Council's analysis of these schemes in relation to the effect on the character and appearance of the surrounding area. Without this detailed information a comparison between these schemes and the case before me cannot be drawn and therefore I give little weight to them in the determination of the appeal.
10. Whilst the adjacent site is currently being developed, it has a stronger relationship with existing properties in the village, in particular those surrounding the junction with Back Lane and Galphay Road, than the scheme before me. Whilst it is acknowledged that the dwellings on the opposite side of the road extend further along Galphay Road, than the appeal site, this does not mean that the side of the road, which includes the appeal site, should automatically be allowed to be developed to the same extent. Whilst there is some merit in considering 'rounding off' the edge of the village settlements, the appeal site has a different set of characteristics to the other approved sites, and I consider that the appeal site contributes to an important vista, which forms a strong characteristic to the setting of the village.
11. Whilst the proposal is for outline permission only, the effect of erecting 2 dwellings on this site, and the associated domestic paraphernalia, that would

be associated with a residential development can still be determined. The site's existing connection to surrounding fields, countryside and AONB means it has value in terms of its contribution to the overall landscape and scenic beauty of the area. This would be significantly eroded as a result of any form of residential development.

12. The existing dwellings along Galphay Road are loosely arranged as sporadic ribbon development. Taking account of the generally spacious arrangement and the prevailing sense of openness around and beyond the buildings, the road has a distinctly rural character and feel. The majority of residential development is located on the opposite side of the road to the appeal site, which is itself bounded by open countryside, apart from the dwellings under construction and Galphay Road itself, which makes a positive contribution towards the rural character of the road. I note the conclusions of the LVIA, but I consider that the development of the appeal site would have a detrimental effect on users of Galphay Road, and the public footpath, where views from over the Vale of Mowbray have not been affected to a great extent. Additionally, whilst there would still be a field between the appeal site and the Public Right of Way (PROW), the scheme would nevertheless bring residential development closer to the PROW, and the users of the PROW would see the harmful erosion of the open and undeveloped character of the site.
13. For these reasons, I am unable to share all of the main findings of the appellant's detailed LVIA. 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 boundaries. Whilst additional planting as suggested in the LVIA may improve the southern edge to the village, it would not provide suitable or sufficient mitigation to counteract the harm created by the residential development on this site. Whilst, the built environment has been extended in the direction of the appeal site along Galphay Road, it is largely on the opposite side of the road to the appeal site. Even though these effects would be relatively localised, there would still be an unacceptable adverse impact.
14. For all of these reasons, I therefore conclude that the proposed scheme would unacceptably fail to conserve or enhance the natural beauty of the Nidderdale AONB. There would therefore be conflict with the requirements of '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' Policy HD20 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.
15. It also fails to accord with the related guidance in the SPG concerning the character area and managing landscape change, and the Kirby Malzeard Village Design Statement 2002 (KMVDS), which seeks to maintain the best qualities of its environment. The appellant has questioned the validity of the KMVDS given its age, and the Council has acknowledged in their statement that it can only be given little weight in the determination of this appeal. However, I consider that whilst it may only carry limited weight, it nevertheless seeks to maintain the best characteristics of the village and its environment, and is therefore relevant, and a material consideration in the context of this appeal. The

proposal would also be contrary to paragraph 170 of the Framework which, amongst other things, states that decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside.

Other Matters

16. The main parties agree that the Council is not able to demonstrate a 5 year supply of deliverable housing sites. The Council states that its most up to date figures show a housing land supply of 4.5 years. This represents a housing shortfall. Despite the deficiency in housing land supply, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, does not apply because specific policies relating to the AONB indicate development should be restricted in this case.
17. I have had regard to various other matters raised by the appellants, including no comments being received from the AONB unit or other statutory consultees, including the Local Highway Authority and the Arboriculture Section. However, I have considered the development on its own merits and concluded there would be harm to the character of the AONB. A lack of harm associated with highways is a neutral factor that weighs neither for nor against the development. The site is located in an accessible location, close to facilities within the village. The development would also provide two dwellings that would contribute to meeting the shortfall. Whilst I acknowledge there would be some limited economic and social benefits resulting from the development they are not sufficient to outweigh the harm identified above.
18. The appellants have suggested that encroachment into the countryside is an inevitable consequence of meeting the housing needs of the area. However, little evidence has been provided to support this statement in the context of this appeal. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Wayne Johnson

INSPECTOR