



Appeal Decision

Site visit made on 2 December 2019

by E Symmons BSc (Hons), MSc, MArborA

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/H0738/W/19/3233081

Land at Kirklevington Hall Drive, Yarm TS15 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Classic Country Developments against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 18/0351/FUL, dated 15 February 2018, was refused by notice dated 1 February 2019.
 - The development proposed is for erection of three detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During determination of the planning application the description of the proposal shown on the application form as 'erection of three pairs of semi-detached properties (six dwellings)' was changed. The appeal form shows the description as 'erection of three detached dwellings at land at Kirklevington Hall Drive'. The Council determined the latter proposal which is reflected in the banner heading above and I have proceeded on this basis.
3. Part of plan TPS001 titled 'proposed floor plans' and elevations shows both drawings as the 'front elevation'. With reference to the part of the plan showing the 'proposed street view', I consider that the intention is for the raised gables to face Kirklevington Hall Drive and form the front elevation with the other drawing showing the rear elevation. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposal is acceptable outside the limits of development;
 - whether the proposal is justified in the open countryside with respect to its effect on the character and appearance of the area;
 - the effect of the proposal on trees within adjacent land, and
 - the effect of the proposal on highway safety.

Reasons

Whether the proposal is acceptable outside the limits of development

5. The Design and Access Statement acknowledged that the appeal site was outside the development boundaries set out in the development plan. As the Council's development plan at that time was out of date and the housing land supply requirements could not be demonstrated it carried limited weight. As the Council has now adopted a new Local Plan and can demonstrate a five year housing land supply, the policies within this plan carry full weight. Within its reasons for refusal the Council refers to Policy SD3 seeking to restrict isolated homes in the countryside.
6. Policy SD3 of the Stockton-on-Tees Borough Council Local Plan 2019 (Local Plan) has set out an approach to delivery of housing in a sustainable way by identifying the spatial development limits. The main parties agree that the appeal site is outside the identified development limits and is within the countryside. With respect to the sustainability of the site the appellant refers to an approved permission¹ for up to 100 dwellings which include various infrastructure improvements which would potentially benefit this proposal in sustainability terms. Additionally, the Council accepts that the appeal site is sustainable having access to services and facilities and I have no reason to disagree.
7. Despite its sustainability, given the proposals position in the countryside outwith the development limits of the settlement, it would still be considered under Policy SD3. This policy states that new dwellings in such areas would not be supported unless they were essential for farming, reuse a heritage asset or redundant/disused building and enhance the local area or are of exceptional quality/design. The proposals do not fall into any of these exceptions.
8. As the appeal site falls outside the development boundary as set out in the current Local Plan, and it does not fall within any of the exceptions set out within Policy SD3 which would support development of this type in the countryside, the proposal conflicts with Policy SD3 of the Local Plan when taken as a whole.

Character and appearance

9. The appeal site is within the Yarm Rural Fringe Character Area which the Council describes as a 'flat to rolling arable landscape'. The area surrounding the site is described by the Council as part of the Kirklevington Hall and Pit Wood Character Area with the area's openness being a key characteristic. Further south is the Local Heritage Asset of Kirklevington Hall which is now a hotel. The surrounding land which contains the appeal site would originally have formed the grounds of the hall. The proposed dwellings would sit on the site of a disused tennis court in the south west corner of a field. The field has a grazed parkland character with isolated specimen trees set within grass. When looking south towards the appeal site from Kirklevington Hall Drive (the access road), the area has an open and rural character. It is fringed and interspersed with trees which screen buildings and the periphery. Opposite the site is a short terrace of four modest two-storey dwellings and a further single storey

¹ 16/1959/OUT.

detached building to the south of the terrace. Separated from the appeal site by parkland, is a further single storey building.

10. The proposal would introduce three, two and a half-storey dwellings. The front gardens would incorporate hard standing for two parking spaces at each house with a small area of front garden. This garden layout would contrast with the houses opposite which are set back from the access road having open plan lawned front gardens with their parking situated adjacent to the access road within a parking bay. The layout of these existing gardens retains the area's characteristic openness. In contrast, the proposed dwellings would have a more cramped and urban, rather than rural character.
11. The proposal seeks to deliver high quality landscape improvements along the site boundaries to soften the visual impact of the dwellings. Although the plans do show some planting to the front with boundary hedges and small trees, there is insufficient space to allow for a meaningful landscape buffer on the northern aspect. Consequently, the proposal would appear as a prominent feature within the landscape which due to its scale and layout would appear incongruous. The appeal site would be particularly visible from the north and seen within the context of the open parkland and trees beyond.
12. Policy SD5 of the Local Plan seeks to retain the intrinsic value of the countryside. It only supports development within open countryside if it is of an appropriate scale and does not harm the area's character and appearance. Policy SD8 supports this and requires development to respond positively to the local area including the landscape character and local distinctiveness.
13. The proposed properties, due to their design, layout and scale when viewed from the access road and surrounding land would appear prominent and incongruous. This would be particularly the case within the open rural parkland setting and context of adjacent more modest dwellings. Their presence would therefore harm the character and appearance of the area and conflict with Policies SD5 and SD8 of the Local Plan.

Trees

14. There is a group of trees on neighbouring land to the south of the appeal site. Despite being categorised as of low quality, it was evident from my site visit that they made a positive landscape impact. An Arboricultural Report² was produced to support the appeal. Although outwith the appeal site, tree roots do not respect site ownership boundaries. The report therefore includes a tree survey; arboricultural implications assessment; a brief arboricultural method statement; tree protection details and a tree constraints and protection plan. The Council has not taken the opportunity to comment upon this evidence.
15. The arborist considers that the trees will have an asymmetrical rooting system due to the hard surfacing present in the tennis court. During my site visit it was not possible to see the tennis court surface as it had been covered by a fill material. Although the tennis court surfacing may originally have inhibited root growth, until recently the tennis court was covered with self-seeded trees. In all likelihood therefore, the surface had been degraded and broken for some considerable time and the adjacent poplar trees are likely to root within the appeal site. A method statement for work within the probable rooting area of

² Arboricultural Impact Assessment and BS5837:2012 Tree Survey. Terra Firma Trees and Woodlands

the trees has been submitted and appears satisfactory. This methodology could be enhanced and secured through a suitable planning condition.

16. Although the arborist has considered the constraints posed by tree roots, no assessment has been made of the tree canopies. These trees would sit to the south of the proposed dwellings causing shade and other nuisance. Trees T1 and T6 in particular, both shown close to the appeal site boundary on the submitted Tree Constraints and Protection Plan, have branch spreads towards the appeal site of five and six metres respectively. As the canopy spreads have not been shown on the proposals plan I have no certainty that the respective positions of the trees and dwellings have been considered. This casts doubt upon the feasibility of their long-term retention should the proposal go ahead. Although this in itself is not a decisive issue, it contributes to the concerns I have regarding the impact of the proposals on the character and appearance of the area.

Highway safety

17. Access to the site would be from the A67 via the access road. The A67 is subject to national speed limit. During my site visit I observed that an advisory 40 mph speed limit was present upon approach to the access road junction from the south. The appellant submitted a Technical Note³ which shows that the 85th percentile speeds recorded during the survey period were 36.5 mph from the south and 40.03 mph from the north. Consequently, using guidance contained within the Design Manual for Roads and Bridges, required visibility splays at this junction of 2.5 m by 90 m to south and 2.5 m by 120 m to the north have been calculated. Although the Council accepts the validity of the methodology used to generate the speed figures, they suggest that a visibility splay of 2.5 m by 120 m would be required in both directions.
18. A Highways Proof of Evidence⁴ has been submitted in support of the appeal. This study carried out a further speed assessment which gave the same results to the first survey with respect to required visibility splays. The report goes on to conclude that the available visibility splays of 104 m south and 123 m north, as measured by the Council, would be adequate for the recorded road speeds. It is contended that the difference in the road speeds in each direction would vary the respective required visibility splays. The Council has not advanced any evidence to the contrary.
19. Objections received from interested parties raise substantial concerns regarding the accuracy of the appellant's technical highways submissions. They have taken time to collect and supply evidence to support this view. However, the technical opinion of the Council is that the appellant's speed survey methodology and resultant data are valid and they only dispute the visibility splay findings. I have sympathy with the views of the interested parties and their concerns for safety at this junction. However, the technical evidence provided by the appellant, which has not been disputed by the Council, persuades me that the visibility splays present are adequate for the road speeds typical of this part on the A67.
20. Interested parties have raised the issue of accident rates in the vicinity of the junction with the A67 and submitted accounts of accidents, examples of

³ Technical Note 1. Via Solutions. November 2018.

⁴ Proof of Evidence – Highways. Via Solutions. July 2019.

irresponsible driving and near misses. The appellant, within their Highways Proof of Evidence, accepts that accidents have occurred in this area and cite CrashMap data for three accidents between 1 January 2007 and 30 June 2018. No common factor was found to cause the incidents and they have been attributed to driver error or poor weather conditions. The report states that no further incidents have been recorded on CrashMap in the period from March 2015 till June 2018. The Council have not disputed the data presented within this technical report.

21. The appellant has given evidence to suggest that following clearance of overgrown vegetation, the approximate minimum width of the access road varies from around 5.3 to 7 m and the Council has provided no evidence to dispute this. Given that use of the road is mainly associated with a small number of dwellings this, in addition to the 'give and take' often associated with use of narrower roads, would be acceptable on this private road.
22. Evidence has been provided by the appellant that shows that acceptable visibility splays could be achieved at the junction of the access road and the A67. In the absence of any technical evidence from the Council to the contrary I am therefore persuaded that use of the access by three additional dwellings would not unacceptably harm highway safety. The proposal would therefore not conflict with Policy SD8 of the Local Plan which seeks safe access to development within the context of the existing transport network.

Conclusion

23. The proposals would not affect the living conditions of neighbouring occupiers and would provide a good standard of internal and external living space with sufficient car parking. It would provide three dwellings which would contribute to the housing offer within the area. I have also found that there is no conflict with highway safety policy. However, the appeal site is in the open countryside outwith the development limits set out in the Local Plan. The proposals' visual impact would harm the open parkland character, and this outweighs the positive aspects of the proposal. I therefore conclude that the proposal conflicts with the development plan when taken as a whole.
24. For the reasons stated above, the appeal is dismissed.

E Symmons

INSPECTOR