



Appeal Decision

Site visit made on 6 June 2011

by Graham Edward Snowdon BA BPhil Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 June 2011

Appeal Ref: APP/G2713/A/11/2149511

**Kirby House Farm, Hill Road, Kirkby-in-Cleveland, Middlesbrough,
Cleveland TS9 7AN**

- 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 Waring Estates against the decision of Hambleton District Council.
 - The application Ref 10/02927/FUL, dated 17 December 2010, was refused by notice dated 4 February 2011.
 - The development proposed is six holiday cottages and change of use of land for residential garden(s).
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Application for Costs

1. An application for costs was made by Waring Estates against Hambleton District Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

I have taken account of the views of local residents and other interested parties in reaching this decision.

Main Issues

3. Most of the appeal site lies outside the defined development limits for the village. Policy DP9 in the Hambleton Local Development Framework Development Policies Document (DPD) states that permission for development in such locations will only be granted in exceptional circumstances, having regard to the provisions of Policy CP4 in the Core Strategy (CS) or where it replaces existing buildings and would achieve a more acceptable and sustainable development than would be achieved by conversion. It does not appear to be in dispute between the principal parties that such exceptional circumstances exist and that the proposed development is acceptable in principle. The present buildings on the site are of large size and utilitarian construction and of no visual merit. In principle, their replacement would secure a significant improvement to the environment and the setting of the adjacent conservation area, thereby meeting at least one of the exceptional
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criteria set out under Policy CP4. In principle, this is to be welcomed. The appeal site is also in a sustainable location being immediately adjacent to the existing village and within acceptable walking distance of a wider range of facilities available in nearby Great Broughton. I, therefore, agree with the Council that, in principle, the development of the site for holiday accommodation would help support a sustainable rural economy and would not be contrary to local policy.

4. The main issues at this appeal are, therefore, firstly, the effect of the proposal on the character and appearance of the village, including the setting of the adjacent conservation area and, secondly, whether the proposal would provide safe, convenient and easy access for all potential users.

Reasons

Character and appearance of the village

5. CS Policy CP17 requires all new developments to achieve a high quality of design. New buildings, among other things, must respect and enhance the local context and its special qualities, including the historic environment. DPD Policy DP32 makes similar provision. Development proposals should promote local identity and distinctiveness and, in particular, form is required to respect local character and distinctiveness by enhancing its positive attributes whilst mitigating its negative aspects. In addition, built form should contribute positively to the townscape or surrounding buildings and relate to and respect any historic context of the site, including plot patterns, street layout and block size. These Policies broadly reflect government advice in Planning Policy Statement 1 *Delivering Sustainable Development* (PPS1), which states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.
6. Although lying close to Great Broughton, Kirkby-in-Cleveland maintains a distinct and separate identity. Its cruciform layout, focussed on the staggered crossroads at the junction of Kirkby Lane with Busby Lane and Hill Road, is particularly distinctive. The older, more traditional properties towards the centre of the village front onto the principal thoroughfares and this pattern is reinforced by the more modern, mainly bungalow, development which flanks the approach roads from the east and west. Whilst there are 2 properties to the rear of those on the north side of Kirkby Lane, the cruciform layout survives largely intact.
7. The only significant departure from this arrangement is the large group of utilitarian farm buildings to the rear of Kirby House Farm. Whilst, as indicated above, the removal of these is to be welcomed, it also creates the opportunity for a development, which re-inforces the traditional layout and form of the village. The Kirkby-in-Cleveland Village Design Statement (VDS) emphasises the importance of this form and suggests that it should be retained by discouraging any further tandem development. I am advised that this document has been approved by the Council as "supplementary guidance for development management purposes" and as it was prepared by and for the residents of the village and, therefore, represents the views and aspirations of the local community, it must be accorded significant weight.

8. I acknowledge that the appeal proposals replace an existing form of backland development and they broadly reflect the alignment of the existing buildings on the site. I also acknowledge that the return elevation of the northerly terrace of units would close the vista from Hill Road. Nevertheless, I consider that the development fails to positively enhance the form and layout of the village or to take the opportunities available for improving its character and quality as a result of the redevelopment.
9. In themselves, the proposed units are of a traditional form with stone facings, slate tiles and parapet gables, which are sympathetic to the local vernacular. In terms of detail, I do not accept the Council's criticism that they display an unacceptable hybrid of domestic and agricultural characteristics. Nevertheless, I find the loose knit layout, the degree of physical separation from adjacent development and the isolated location of the southerly semi-detached unit, would result in the incursion into open countryside of a somewhat scattered and fragmented pattern of development, which would do little to complement or reinforce the distinctive form of the village. It would also lack the sense of enclosure provided by many traditional farm buildings, which the scale and architectural design warrants. I, therefore, share the Council's view that the layout would appear as a suburban appendage to the village, which would not respect the traditional form. I consider that this is sufficient reason for the appeal to fail.
10. On this first issue, therefore, I conclude that the proposal would have a detrimental effect on the character and appearance of the village, including the setting of the adjacent conservation area, and that this would be contrary to the provisions of CS Policy CP17 and DPD Policy DP32.

Safe and easy access for all potential users

11. In its second reason for refusal, the Council cites both CS Policy CP2 and DPD Policy DP4. The former requires development to be located so as to minimise the need to travel and states that convenient access via, footways, cycle paths and public transport should exist or be provided. The latter requires development proposals to ensure that safe and easy access is available to all potential users.
12. As set out in paragraph 3 above, it does not appear to be in dispute that this is a sustainable location. I note, in support of this conclusion, that a public right of way runs along the southern edge of the appeal site, giving access to a wide network of public footpaths to Great Broughton and the National Park beyond. I am also informed that the village is provided with a two hourly bus service to the nearest towns of Stokesley and Northallerton.
13. The Council's argument, therefore, appears to be that the development would not provide safe, convenient and easy access for all potential users. The main vehicle access to the site would be via the existing farm access from Hill Road. This is straight, with clear views along its length, and is some 5 metres wide at its junction with Hill Road though it widens further into the site. In my view, it is adequate to safely accommodate the level of 2-way traffic likely to use it and to ensure that there would be no significant conflict with other users. Visibility is restricted for emerging traffic, but Hill Road is not a through road, and serves as an access for local traffic only. I do not consider that the

arrangement, typical of many rural villages, would be unsafe. I have taken into account the fact that the access currently serves substantial agricultural buildings and there is no evidence that it has not functioned safely in the past. I also note the conclusion of the Transport Statement, submitted on behalf of the appellants, that the development proposed is likely to generate less traffic than at present.

14. Although there is no footway on the east side of Hill Road, I note that there is a footway on the west side, from its junction with Busby Lane, almost to the access into the appeal site. In typical rural fashion, Hill Road generally acts as a shared surface and, given the nature and level of traffic likely to use the highway, I cannot see that the proposal would lead to any particular conflict between vehicles, pedestrians and other road users. As indicated above, there is also a separate dedicated pedestrian access into the site along the public right of way running along its southern boundary. Overall, I consider that the development would provide safe and convenient access for all users. In reaching this conclusion, I have had regard to the advice in *Manual for Streets* and the fact that the highway authority accepts that an objection on highway safety grounds would be "difficult to sustain".
15. The objective of DPD Policy DP4 appears to be to ensure that inclusive access, with equal opportunities for all, is an integral part of the design process and that adequate provision is made for those with accessibility problems as a result of age, gender or disability. Where appropriate, proposals should demonstrate how specific measures have been incorporated to ensure high standards of access for all. I note that all the proposed units of accommodation appear to have entrance steps and that no specific provision is made for disabled parking. I can also anticipate problems with internal layouts, particularly for wheelchair users, including access to bedroom accommodation. None of these matters is specifically raised by the Council as part of its case. Instead, it has concentrated on broader access matters, which I have addressed above. Nevertheless, Policy DP4 is cited in the Council's second reason for refusal and, whilst some of the inadequacies might be resolved by the imposition of appropriate conditions, there is no evidence before me that equal access opportunities for all has been an integral part of the design process. Detailed access issues, therefore, remain a concern.
16. Overall, I have to conclude, on this issue, that the proposal would provide safe and convenient access in a general sense, thereby satisfying the requirements of CS Policy CP2, but ease of access for all sections of the community has not been adequately addressed, as required by DPD Policy DP4. This reinforces my conclusion that the development is unacceptable.

Other considerations

17. Other matters have been raised by adjacent residents and I have taken these into account. I can understand fears that the design of the scheme and suspicions about its viability as holiday accommodation could lead to pressures for the proposed units being made available for general residential use and that this might create a precedent for future residential expansion of the village. However, use of the units for holiday accommodation could be secured by the imposition of a condition and, as each proposal has to be considered on its

- merits, the Council would have adequate control over any proposal to relax such condition.
18. I have also considered issues such as noise and loss of privacy. In respect of the former, I can appreciate that residential use can have different noise implications from the existing primarily agricultural use, but as the predominant land use in the vicinity is residential, I do not consider that the additional residential units would introduce unacceptable noise into a residential environment, notwithstanding the seasonal nature of the use. I can understand the concerns of the occupiers of Heather House regarding potential noise and smells from the close proximity of the refuse storage area to the rear of their property, but the existing garage/outbuilding would provide something of a buffer and smells could be mitigated by some form of enclosure, which could be secured by the imposition of a condition on any permission.
19. In terms of privacy, I note that the gable end (incorporating a first floor bedroom window) of the southerly block would be some 29 metres from the main rear elevations of properties on Hill Road and some 20 metres from the common boundary. I consider this to be adequate to prevent any real loss of privacy from overlooking. The separation distances between the northerly block and the rear of properties fronting Kirkby Lane would similarly be acceptable. I appreciate that these latter properties are currently separated from the appeal site by a low hedge and fencing, but the proposed tree planting within the site, combined with control, by condition, of boundary treatment would, I consider, create acceptable living conditions, which would maintain a satisfactory level of mutual privacy.
20. Conditions, as suggested by the Council, could also be imposed to secure satisfactory conditions during construction and to deal with any potential contamination on the site.
21. None of these matters, however, affect my conclusion that the appeal proposals are unacceptable.

Conclusion

22. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

G E Snowdon

INSPECTOR