



Appeal Decision

Site visit made on 17 September 2018

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2018

Appeal Ref: APP/W0734/W/18/3204756

Land adjacent to The Red House Cottage, Church Lane, Nunthorpe, Middlesbrough TS7 0PD

- 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 JK Construction against the decision of Middlesbrough Council.
 - The application Ref 18/0025/FUL, dated 15 January 2018, was refused by notice dated 30 April 2018.
 - The development proposed is 'Erection of a detached executive dwelling'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal proposal would provide a suitable location for housing having regard to the accessibility of services and the character and appearance of the area.

Reasons

3. The appeal site comprises part of the garden of The Red House Cottage on Church Lane, a quiet rural lane largely characterised by generously spaced substantial detached dwellings set back from the road within extensive mature and leafy gardens and surrounded by open countryside. The site lies outside the limit to development and within a special landscape area, as defined in the Middlesbrough Local Plan (LP). The proposal is to sub-divide the garden to create an additional dwelling.
4. Whilst there are bus stops on the A172 near the junction with Church Lane, the lane has no footway and is generally unlit and the site is around 500m away. This is likely to discourage future occupiers from using public transport when it is dark. What is more, the hourly bus service does not operate in the evening or on Sundays. Therefore, whilst offering some choice of means of travel, the available bus service is not so convenient that the site can be described as well served by public transport. Moreover, because centres with services are located a considerable distance away, and the appeal site is not connected to them by a continuous lit footway, opportunities for walking are rather limited.
5. In the particular circumstances of this case, I find that the development would be poorly connected by sustainable transport modes to services. This is likely to result in a significant daily reliance on the use of private vehicles.

6. The extensive grounds of The Red House have in the past been sub-divided and The Red House Cottage, originally staff accommodation associated with the main house, is now a separate unit. The appeal proposal would result in the further sub-division of the characteristically generous plot and create a dwelling with a sizable footprint set well forward of neighbouring properties in what is currently a clearing in the wooded garden. Thus, whilst existing trees could be protected and managed, the trees proposed to be removed could be replaced and the reduction in tree cover would not open up significant views into or out of the site, the scheme would nevertheless appreciably erode the spacious and verdant quality of the housing development along this section of Church Lane and harm the special landscape area.
7. Land near the junction of Church Lane and A172 has recently been developed for housing. Based upon the evidence before me, these developments secured the re-use of a vacant building on the Council's Local List of historic buildings and enhancements to the Conservation Area within which they are located. Moreover, the sites are very near the bus stops and lit footways on the A172 and so have better access to sustainable modes of transport than the appeal site. Thus, they are not directly comparable with the proposed development.
8. For the reasons set out above, the development would undermine the strategy for the distribution of housing, encourage car borne travel and detract from the quality and character of the landscape. I therefore conclude that the appeal proposal would not provide a suitable location for housing having regard to the accessibility of services and the character and appearance of the area, and would conflict with the housing spatial strategy, sustainable transport, design and landscape protection aims of LP Policies E20, E21 and E22, Policies CS4, CS5 and DC1 of the Middlesbrough Local Development Framework Core Strategy (CS) and Policies H1 and H11 of the Middlesbrough Housing Core Strategy and Housing Development Plan Document – Housing Local Plan (HLP).
9. Whilst the appellant makes reference to CS Policy CS9, the Council has confirmed that this policy was superseded and replaced by HLP Policy H11, referred to above, and so I have not had regard to it on this occasion.
10. The weight to be attached to the development plan does not hinge on its age. Rather, the National Planning Policy Framework (Framework) makes it clear that weight should be given to existing policies according to their degree of consistency with the Framework. The importance of promoting sustainable transport, achieving well-designed places and conserving and enhancing the natural environment is recognised by the Framework. The conflict between the proposal and the aforementioned development plan policies should therefore be given significant weight in this appeal. Both parties agree that there is not a shortfall in the five year supply of deliverable housing sites. Thus, the policies which are most important for determining the application are not out-of-date and the presumption in favour of sustainable development does not apply.

Other Considerations

11. The proposal would give rise to some economic and social benefits. However, employment generated during the construction phase and the contribution an extra household would make to the local economy and community would be limited. Providing 1 aspirational executive style house would make very little difference to the overall supply of this type of housing in the area.

12. The absence of technical objections to the proposed development does not materially affect my consideration of the planning merits of the proposal.

Conclusion

13. The Framework is clear that where a proposal conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations indicate that the plan should not be followed. The appeal proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised I conclude that the appeal should be dismissed.

CL Humphrey

INSPECTOR