
Appeal Decision

Site visit made on 22 February 2016

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 14 April 2016

Appeal Ref: APP/C1625/W/15/3138313

Land adjoining Springhill House, Spring Hill, Eastington, Stonehouse, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Brian McGee against Stroud District Council.
 - The application Ref S.15/1858/FUL, is dated 31 July 2015.
 - The development proposed is described as the erection of four dwellings (resubmission of application S.15/0784/FUL).
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Decision

1. The appeal is dismissed and planning permission is refused for the erection of four dwellings on land adjoining Springhill House, Spring Hill, Eastington, Stonehouse, Gloucestershire.

Application for costs

2. An application for costs was made by Mr Brian McGee against Stroud District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The site address above has been taken from the appeal form as one was not provided on the application form. I have determined the appeal on the basis that the proposal is for the erection of four dwellings. Reference to an earlier application is superfluous.
 4. The appeal has been lodged as the Council did not determine the planning application within the prescribed period for it to make to make a decision. The Council has however indicated that had it had the opportunity to determine the planning application, it would have refused planning permission.
 5. Since the planning application was submitted to the Council, the Stroud District Local Plan (SDLP) has been adopted by the Council. The SDLP replaces the Stroud District Local Plan 2005 in its entirety and is the development plan for the area. Both parties have had the opportunity to comment on the relevant policies of the SDLP as part of the appeal process.
 6. The Parish Council has referred me to policies within the Eastington Neighbourhood Development Plan (ENDP) which it considers are relevant to the appeal proposal. I understand that this plan has not yet been adopted and accordingly the policies referred to carry limited weight in my overall Decision.
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7. The Tree Survey, Implications Assessment and Outline Protection Method Statement (March 2014) submitted with the planning application relates to a scheme for 6 dwellings on the site. This is not the scheme before me and I attach little weight to the content of this report in my overall Decision.

Main Issues

8. I find that the main issues in this case are:
- whether the proposal is appropriately located having regard to the housing objectives of the development plan;
 - the effect of the proposal on heritage assets, having particular regard to the effect on the setting of nearby listed buildings and non-designated heritage assets; and whether the proposal would serve to preserve or enhance the character or appearance of the Industrial Heritage Conservation Area; and
 - the effect of the proposal upon the life expectancy of trees within the appeal site.

Reasons

9. The appeal site comprises part of the front garden of Springhill House, a large detached dwelling, identified as a non designated heritage asset, located within the Industrial Heritage Conservation Area. The proposal is for 4 detached dwellings, served off an improved access onto Spring Hill.

Principle of new dwellings in this location

10. There is no dispute between the parties that the appeal site lies outside of, but close to, the settlement boundary for Eastington. It is therefore located within the countryside for planning policy purposes. In order to protect the separate identity of settlements and the quality of the countryside, Core Policy CP15 of the SDLP limits development outside identified settlement limits.
11. In terms of new housing outside of identified settlement limits, Core Policy CP15 allows for rural exception sites, for replacement dwellings and for enabling development to maintain a heritage asset of acknowledged importance. It does not allow for windfall development. The proposal for 4 market dwellings would not fall within any of the exceptions set out in Core Policy CP15 of the SDLP and as such there would be conflict with this policy.
12. The National Planning Policy Framework (the Framework) is clear at paragraph 12 that the development plan is the starting point for decision making. Where proposed development conflicts with an up-to-date Local Plan, it should be refused unless other material considerations indicate otherwise.
13. Whilst the appellant acknowledges that the Council can provide a five year supply of deliverable housing sites, and that its policies for the supply of housing are up-to-date, it is submitted that the appeal site is in a sustainable location and therefore new housing upon the site should be allowed as it would accord with the sustainability objectives of the Framework. Furthermore, the appellant submits that the appeal scheme would make a contribution to the Council's objective of providing 750 dwellings on windfall sites.
14. The Council acknowledge that the appeal site is close to the services and facilities in Eastington. I have no reason to disagree. I observed on my site

visit that there is a pavement outside of the appeal site and future occupiers of the new dwellings would be able to walk into the village to access these services. New jobs would be created during the construction phase of the development; local services would be accessible and it is likely that future occupiers of the new dwellings would support the services and facilities in the village. The proposal would make a contribution, albeit small to the Government's objective of significantly boosting the supply of housing, which in this case would also include a financial contribution towards affordable housing.

15. In light of the above, there would clearly be some economic, social and environmental benefits associated with the proposal. However, these benefits would be so regardless of where the new dwellings were built. I share the Council's view that given the recent adoption of the SDLP, these benefits could be achieved on sites that would comply with the development strategy of the SDLP, rather than on sites that would conflict with this strategy, as would be the case with the appeal scheme.
16. Whilst the appeal site has not been identified for development within the SDLP, I find that the proposal would not fall within the definition of windfall sites as defined within Annex 2 of the Framework, as the site has not been previously-developed. Although the appeal site comprises part of the garden and tennis courts of Springhill House, the Framework is clear that previously developed land excludes private residential gardens.
17. I therefore conclude that the proposal would result in new market housing within the countryside in conflict with Core Policy CP15 of the SDLP and emerging Policies EP1 and EP3 of the ENDP. The circumstances advanced in support of the scheme do not significantly and demonstrably outweigh the harm that would be caused to the settlement hierarchy strategy of the SDLP. In reaching this conclusion I have had regard to an appeal decision in Cornwall¹ that the appellant has referred me to. However, I am not aware of the individual circumstances of this case and being within a different administrative district to the appeal case before me, I am unable to ascertain whether this scheme is directly comparable to that before me. Accordingly I have attached limited weight to this matter in my overall Decision.

Heritage assets

Listed building and non-designated heritage assets

18. To the west of the appeal site is Eastington House, a grade II listed building set in mature landscaped grounds. To the north of this are the stables to Eastington House and The Yellow House which are also grade II listed. To the rear of Springhill House is The Coach House which is grade II listed. Springhill House is a non-designated heritage asset.
19. In terms of the grade II listed buildings, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

¹ Ref: APP/D0840/A/13/2209757

20. When considering the impact of a proposed development on the significance of a designated heritage asset, paragraph 132 of the Framework advises that great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 135 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
21. Although the appeal proposal would take new housing development closer to Eastington House, and nearby listed buildings, these properties are set within their own landscaped grounds and at a lower level than the appeal site. Tree cover would remain close to the boundary with Eastinton House, such that the new dwellings would not be viewed in the context of these properties.
22. The Coach House was historically connected to Springhill House. However it is now a separate dwelling accessed from Millend Lane. I consider that the appeal site is not visually connected to the Coach House and that the appeal site does not form part of this heritage asset's setting.
23. Being located within part of the garden of Springhill House, the appeal scheme would inevitably alter the character of this area of land. However, over the years the formal garden area of this property has changed, been sold and developed, reducing the contribution of the garden to the heritage value of this house. The new dwellings would not be viewed in the same context as this property, which is best appreciated from Spring Hill. Mature landscaping would remain between the new dwellings and the house, and I am satisfied that they would be of sufficient distance away from this property to ensure that they would not compete with the significance of it.
24. In light of the foregoing, I conclude that the appeal proposal would not have an adverse effect upon the setting of nearby listed buildings. It would have a limited effect upon the setting of Springhill House. However, given my findings, I do not consider that the effect would be so significant to render the scheme unacceptable.

Conservation area

25. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the Framework. At paragraph 131, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
26. I have not been provided with a copy of a conservation area appraisal, however it is clear from my observations that the wooded nature of the appeal site makes an important contribution to the prevailing rural character and appearance of this part of the conservation area, providing visual separation

- between Eastington and the hamlet of Millend. A further feature of this part of the conservation area is glimpsed views of dwellings set in landscaped grounds.
27. Although the new dwellings would be set back from the adjoining highways they would nevertheless have a significant visual presence in the landscape, especially when seen from Millend Lane, being 2-storey in height with a high pitched roof and a wide rear elevation (particularly plots 1, 2 and 4). Although existing buildings in the area can be seen from Millend Lane, they are viewed in the context of their landscape setting. By contrast the new dwellings would be evident as a noticeable and dominant visual incursion of built development that would erode the natural and spacious qualities of the site and the rural character of the wider area. They would appear as a prominent finger of new development, extending suburban development into a rural area which would have an urbanising impact that would detract from the rural setting of both Eastington and Millend.
28. In light of the foregoing, I conclude that the proposal would not preserve or enhance the character or appearance of the Industrial Heritage Conservation Area. The scheme would not make a positive contribution to local character and distinctiveness. This would be in conflict with the objectives of Delivery Policy ES10 of the SDLP which requires proposals to conserve and, where appropriate, enhance the heritage significance and the setting of heritage assets. The planting of landscaping along the eastern boundary of the site would not mitigate this concern.
29. I consider that the harm that would be caused to the conservation area would be less than substantial. Paragraph 134 of the Framework states that where a development would lead to less than substantial harm, this harm should be weighed against the public benefits of a proposal. The proposal would provide new housing and a financial contribution would be made to the provision of affordable housing in the area. Jobs would be created during the construction phase and the intended future occupiers would be likely to support the services and facilities within the village which would be accessible by foot from the site.
30. Whilst these benefits clearly weigh in favour of the proposal, heritage assets are irreplaceable. The harm that would be caused to the character and appearance of the conservation area would be permanent and I am not convinced that these public benefits taken either individually or as a whole are sufficient to outweigh the harm that I have identified. The scheme therefore conflicts with the Framework in this respect.

Trees

31. There are a large number of trees upon the appeal site which make an important contribution to the sylvan character of the area. In order to accommodate the appeal scheme a number of trees within the site would be removed. The appellant has calculated that of the 250 trees upon the site, 9 would need to be removed. These trees have been classed as Category B and C trees, and other than the Yew tree at the entrance to the site, the remainder are set within it.
32. The Council submit that veteran trees would be removed as part of the proposal, but has not provided me with details of which trees it considers to be classed as such. The appellant's Pre-Development Tree Survey and Constraints

Report has identified those trees shown for removal to be semi-mature (5), middle-aged (2) and mature (2). Having regard to my observations and the evidence before me, I have no reason to disagree with the appellant's findings. Whilst the removal of trees upon the site would be regrettable, the number shown for removal would be small. The impact of the removal on the character and appearance of the area would be limited and would not in itself be harmful.

33. However, the new dwellings would be sited close to some of the remaining trees upon the site. The front garden of plot 1 and plot 2 would be dominated by a mature Common Ash and a middle aged Yew respectively. The main outlook from the front windows of plot 3 would be dominated by a mature Holm Oak. Plot 4 would have a more open outlook from the front windows, but over time as the Ash tree grows within its front garden, this too would be likely to dominate the outlook from the windows in the front elevation.
34. I find that the relationship of the new dwellings to the retained trees would be likely to place a threat on the trees' good health and longevity, arising from pressure to fell or prune from the intended future occupiers of the dwellings. Such pressures are likely to occur as a result of real householder concerns relating to restriction of light, dominance, and perceived danger from falling limbs or root damage. This is notwithstanding any other potential issues which may arise in terms of falling debris or branches, blocked gutters, shading of a large part of the garden or simply in relation to their overbearing presence.
35. Whilst protection afforded by the site being located within a conservation area would enable the Council to control future tree work, I consider it would be more difficult for it to refuse an application to cut-back or even remove a tree that was threatening the safety of the occupiers, or having a harmful effect on their enjoyment of the property. There can be no certainty that such pressures could be reasonably resisted. Trees within conservation areas merit special care, and the trees upon this site are no exception. If the trees were to be stunted by pruning or removal their amenity value would be diminished and the appearance of the surrounding area would suffer as a result.
36. Therefore, on balance, I conclude on this issue that the proposal would be likely to lead to increased pressure to carry out works to trees upon the site, which in turn would have a detrimental effect on the future appearance and life expectancy of them. As a consequence harm would be caused to the character and appearance of the area which brings the scheme into conflict with the tree retention objectives of Delivery Policies ES7 and ES8 of the SDLP.

Conclusion

37. Notwithstanding my findings in respect of the scheme's effect on the setting of listed buildings and non-designated heritage assets, my conclusions in respect of the suitability of the site for new housing, the character or appearance of the conservation area and trees upon the site represent significant, substantial and overriding objection which must be decisive. The scheme would not therefore comprise sustainable development for which the Framework indicates there should be a presumption in favour, because of this harm and the conflict with both national and local planning policies.

38. Given this conclusion it is not necessary for me to consider the appellant's Unilateral Undertaking and whether the planning obligations it contains satisfy the relevant tests.

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

R C Kirby

INSPECTOR