

Appeal Decision

Site visit made on 27 September 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 30 September 2016

Appeal Ref: APP/B3030/C/15/3147921

Field House, High Street, Holme Newark NG23 7RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Burrows against an enforcement notice issued by Newark and Sherwood District Council.
 - The enforcement notice, numbered 15/00138/ENF was issued on 11 March 2016.
 - The breach of planning control as alleged in the notice is the material change of use of agricultural land to residential use (Garden) and the construction of play equipment.
 - The requirements of the notice are:
 - A. Cease the use of the land for residential purposes.
 - B. Remove all play equipment and structures.
 - C. Remove from the land all residential paraphernalia including all bark and chippings, borders and any planting you have undertaken on the land.
 - The periods for compliance with the requirements are;
 - A. 28 Days. B. 28 Days. C. 28 Days
 - The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed. See formal decision below.

Matters of clarification, background information and policy

2. The appeal site lies within the village of Holme and to the rear of Field House, High Street. The land is agricultural land outside of the residential curtilage of the dwelling and is classed as being in the open countryside. The site also lies within an Environment Agency Flood Zone 2. The land is being used as additional garden area to Field House and at the time of my site visit I noted the play equipment centrally positioned on the land. A previous enforcement case related to the siting of play equipment on the agricultural land.

3. The current appeal land projects across the rear boundary of Trent House and adjoins the boundary of Grange Farm to the north. There is a timber fence across the land separating it from further agricultural land to the east. To the south there are two more dwellings and to the rear of the one called The Pastures, there is a building understood to be a stable. I noted that the garden to Grange Farm extended beyond the fenced boundary of the appeal land. Beyond the garden there is a ménage and access to this is from High Street.

4. The relevant policies include Spatial Policy 3 (Rural Areas); Core Policy 9 (Sustainable Design) and Core Policy 13 (Landscape Character Assessment) of the adopted Newark and Sherwood Core Strategy 2011 (NSCS) and Policies DM5 (Design) and DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD 2013 (ADMDPD). The National Planning Policy

Framework (NPPF) and Planning Practice Guidance (PPG) are major material considerations in the determination of this appeal.

5. The site is classed as a 'Conserve and Reinforce Landscape Area' (CRLA) in Core Policy 13 of the NSCS. This requires any development to conserve and strengthen distinctive landscape features and accords with the other policies and guidance within the NSCS, the ADMDPD, the NPPF and PPG. These all seek to protect the countryside and to ensure that development does not have a detrimental impact on the character of the location or its landscape setting.

The Main Issues

6. The main issues are: firstly the effect of the garden use and the play equipment on the character and appearance of the open countryside and the CRLA and, secondly, the effect on the visual amenities of neighbours.

Effect on character and appearance

7. Having viewed the site from both near and distant viewpoints and having noted the play equipment, I share the Council's concerns about the visual impact on the character and appearance of this landscaped area within the countryside. I consider that the combination of the equipment and residential appearance of the land has resulted in an alien appearance to this part of the open countryside.

8. Residential development such as this which encroaches into agricultural land and thus the open countryside is not one of the normally allowed uses or operations allowed by policy DM8 of the ADMDPD. Thus as well as being visually and physically harmful as a matter of fact, it is also harmful in principle to this policy and others which seek to restrict inappropriate development from encroaching into the open countryside.

9. Due to the scale of the play equipment and the overall nature of usage of the land, I also consider that the development is contrary to Core Policy 13 of the NCS in that it fails to retain the local distinctiveness of the locality and is visually harmful to the landscape qualities of this part of Newark and Sherwood. I also find that the proposal is contrary to Spatial Policy 3 of the NCS in that it fails to protect the countryside and is not recognised or acceptable countryside use.

10. In relation to this first issue, therefore I conclude that the use of the land and the operations carried are harmful to the character and appearance of this part of the open countryside and the appeal fails on this first point.

Effect on the living conditions of the occupiers of neighbouring properties

11. The appeal land stretches across the plot widths of both Field House and Trent House. It also abuts the Grange Farm Boundary. It is well established in planning matters that there is no 'right to a view'. However residents in such areas as this should be able to have a reasonable expectation that their general outlook will not be unduly affected by developments on adjacent land.

12. Having seen the nature and scale of the unauthorised use and development I consider that the visual amenity of the adjacent occupiers is unacceptably affected. The extensive play equipment looks alien and out of place within this agricultural pastureland or paddock, as well as having an overbearing presence. The domestic appearance of the land adds to its unacceptable appearance. Whilst it could be argued that other residential items are to be expected in a village area such as this, the domestication of this area of agricultural land and the play equipment and structures detract markedly from the character and appearance of the open countryside.

13. I also consider, therefore that the appeal fails on the second issue due to the harmful effect on the visual amenity of neighbours. I find that the design of the structures is inappropriate in this agricultural location and contrary to policy DM5 of ADMDPD. The development is also contrary to policies within the NPPF which require good design (section 7) and seeks to ensure positive improvements in the quality of the built environment as well as in people's quality of life. In paragraph 17 the NPPF states that planning should always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. In my view the use of the land not meet this core principle of the NPPF.

14. It follows, therefore, that the appeal also fails on this second issue and I do not consider that planning permission should be granted for the unauthorised use of the land and its inappropriate structures. The Council would not have granted planning permission in the first instance and a previous application for the siting of a play structure on the land was subject to enforcement action. There can be no justification in my view to grant permission at this stage.

15. I acknowledge that the Grange Farm garden and the building at the Pastures both appear to extend into the agricultural land. However, there is no information before me to confirm the planning status of these two areas of land. Irrespective of whether or not these are lawful, I consider that to allow the appeal use to continue and the play equipment to remain would set a most unfortunate precedent which could lead to further applications (for residential curtilages in the open countryside in this part of Holme) being difficult for the Council to resist.

16. I appreciate the local support for the retention of the play equipment and that there is no other playground in the village. However, the other material considerations do not carry sufficient weight to overcome the harm which I have identified above. In this case I consider that the decision should be made in accordance with the development plan and the other material considerations do not indicate otherwise. The appeal therefore fails.

Other Matters

17. In reaching my conclusions I have taken into account all of the other matters raised by the Council; by the appellant and by other interested persons. These include the initial grounds of appeal; the planning history; the support from the occupants of Rose Cottage and the approval of the development by other neighbours; the references to improvements to the land; the plans to introduce horses or livestock on to the land and all of the other matters raised.

18. However, none of these carries sufficient weight to alter my conclusions on the main points at issue and nor is any other factor of such significance so as to change my decision that planning permission should not be granted.

Formal Decision

19. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Anthony J Wharton

Inspector