

Appeal Decision

Site visit made on 10 January 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 03 February 2017

Appeal Ref: APP/A3010/W/16/3154315

Hillcrest, Town Street, South Leverton DN22 0BT

- 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 Mrs Leah Styring against the decision of Bassetlaw District Council.
 - The application Ref: 16/00453/COU, dated 1 April 2016, was refused by notice dated 6 June 2016.
 - The development proposed is a change of use from agricultural land to residential garden land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has modified the description of development in its decision notice. As this more accurately and succinctly reflects the proposal I have used it for the purposes of this appeal.
3. Neither party express a view regarding any effect on the setting of the Church of All Saints, a Grade II* listed building situated to the west of the appeal site. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing its special interest. Given the separation distance and the intervening residential dwellings of Hillcrest and Bells Rest, I am satisfied that the proposal would preserve those interests.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the local area.

Reasons

5. The appeal site is situated within the small settlement of South Leverton which does not have a defined development boundary. The site comprises an enclosed, rectangular area of land that was formerly part of a larger agricultural land parcel. It abuts the western boundary of the host property which is defined by a mature hedgerow. A post and rail fence with a gateway defines the eastern boundary of the appeal site and an ornamental hedgerow, of recent origin, defines its southern boundary parallel to an adjoining chain link fence. This boundary abuts the curtilage of a small garage which is
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situated on lower ground and fronts onto Town Street. The appeal site occupies a highly prominent position and can be clearly viewed from Town Street and multiple locations along a public right of way that runs to the east of the site.

6. Notwithstanding the diminutive local garage, the immediate area has an open, strongly rural character that arises from the arrangement of its dwellings, which are set back from the road, its open agricultural land and a working farm. Whilst the proposed extension of the garden would be seen against the developed backdrop of Hillcrest and more recent development to the north, it would nevertheless lead to a significant and highly incongruent encroachment into an open, agricultural area. This is because its agricultural use would cease and it would become enclosed and domesticated. This process has already begun with the planting of an ornamental hedge along its southern boundary. The loss of its agricultural use, alteration of the historic field pattern and resulting domestic paraphernalia would all harm the established character of the immediate area.
7. Given the above, the proposed change of use would cause significant harm to the character and appearance of the local area contrary to policies DM3, DM4, DM9 of the Bassetlaw District LDF Core Strategy and Development Management Policies DPD 2011. As a result it would not be in accordance with the development plan. These policies seek, among other things, to ensure that development in undefined settlements is restricted to the replacement of buildings, use of previously developed land or the creation of agricultural, forestry or equine buildings. Additionally, they also require all forms of development to respect local character and distinctiveness and respond sensitively to landscape setting.

Other Matters

8. I accept that there were no objections to the proposed change of use. However, the absence of an objection does not indicate an absence of harm, merely that it has not been identified. Consequently, a lack of objection cannot be relied upon to imply that the change of use is acceptable.
9. The appellant has suggested that similar changes of use have been allowed elsewhere in the village. Whilst I acknowledge the recent development to the north of the appeal site, I note that the enclosure of agricultural land was associated with a wider, residential development. Consequently, it is not the same in all respects and therefore not directly comparable.
10. The appellant is of the opinion that the Council acted unreasonably because it failed to offer a refund and provide additional information to support the appellant's appeal. However, these are private matters that do not have a material bearing on the planning merits of the case. As such they are not directly relevant and consequently fall beyond the scope of this appeal.
11. I acknowledge the appellant's intention not to build on the land and the existence of a covenant. However, the fact remains that there is no planning mechanism in place that would stop future occupants from submitting an application to build on the land. The appeal site would add to the already substantial grounds of Hillcrest thus making it a more viable proposition for infill development in the eyes of future occupiers and developers.

12. The appellant has drawn my attention to procedural issues relating to the current proposal and how the Council dealt with a planning application associated with the nearby garage. Planning applications and appeals are determined on the basis of the evidence that is submitted and it is the responsibility of the applicant to ensure that this information is correct. I am satisfied that the land outlined in red, as shown on Plan 1, accurately reflects the area of land subject to the change of use. Consequently, whether or not the ownership of Hillcrest has been included is immaterial to the outcome of this appeal.
13. The appellant is of the opinion that positive benefits would arise from the planting of a mixed field hedge. However, I do not find that these benefits would outweigh the harm that I have identified.

Conclusion

14. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR