
Appeal Decision

Site visit made on 2 May 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 19 May 2017

Appeal Ref: APP/Q3115/W/17/3168400

52 Rotherfield Road, Henley-on-Thames, Oxon RG9 1NN

- 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 Russell Smith against South Oxfordshire District Council.
 - The application Ref P16/S3505/FUL, is dated 18 October 2016.
 - The development is change of use of redundant agricultural land to domestic garden.
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Decision

1. The appeal is dismissed and planning permission for change of use of redundant agricultural land to domestic garden is refused.

Procedural Matters

2. The Council has not formally determined the application. Nevertheless, it has confirmed that had it been in a position to do so it would have refused planning permission for reasons relating to landscape impact.
3. The appeal site was formerly part of an agricultural field. Its boundaries with the field have been defined by black wrought iron estate fencing. The side bordering onto the existing garden is unfenced. This has had the effect of incorporating the land into the residential curtilage. I have therefore determined the appeal on the basis that planning permission is being sought retrospectively.

Main Issue

4. The main issue in this case is the effect of the development on the character and appearance of the area.

Reasons

5. No 52 Rotherfield Road lies at the edge of the built-up area of Henley-on-Thames. To the west is a large expanse of open agricultural field. To the south the land falls away towards the settlement of Harpsden at the base of a valley. The area has an attractive rural character.
 6. According to the Council, and not contested by the appellant, the original boundary of the residential curtilage was delineated by timber post and rail fencing in the approximate position of a row of protected trees. This alignment, which was consistent with the rear boundaries of the two properties immediately to the north, provided strong definition to the edge of the settlement.
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7. The extended curtilage covers an area of 0.2 ha and projects into the field by approximately 25 m. Its boundaries do not relate to any features on the ground and as a consequence the development appears rather contrived.
8. It is argued that an absence of public views makes the application acceptable. This factor is not decisive as national and local planning policies seek to protect the countryside for its own sake. Furthermore, I must give some weight to the fact that the site is visible from nearby properties on Peppard Lane and at a distance from a public footpath running across the golf course at Harpsden. The latter vantage point lies within the Chilterns Area of Outstanding Natural Beauty.
9. Although clearly now part of the garden, the use of the appeal site is presently low key. The grass is mown but there are no structures or objects on the land and no other signs of domestication. The style of perimeter fencing is appropriate to its rural context. Notwithstanding this, the trappings of residential use on this open site would have a significant adverse effect on the character and appearance of the countryside. This would add to the harm arising from the development's incursion into the field.
10. The appellant advises that the site would remain open with no shrubs or trees planted along the boundary. However, any planning permission would run with the land and therefore I have no means of knowing how a future owner may choose to use the area.
11. I have given consideration to the option of imposing a planning condition to withdraw permitted development rights for buildings, enclosures and swimming pools on the land. However, the Council would have no effective means of controlling other aspects of the domestic use – play equipment and washing lines being two obvious examples, but this list is not exhaustive. Accordingly, the development could not be made acceptable through the use of a condition.
12. The relevant policy position is set out in saved Policies C4, G4 and H18 of the South Oxfordshire Local Plan 2011 and Policy CSEN1 of the South Oxfordshire Core Strategy (2012). Together, these policies seek to protect landscape character and the landscape settings of settlements. Their objectives are consistent with paragraph 17 of the National Planning Policy Framework which states that planning should recognise the intrinsic character and beauty of the countryside.
13. If this appeal is allowed, there would be no reliable mechanism in place to control the future use of the land and prevent harm to the character and appearance of the area. For this reason, I find that the application conflicts with the aforementioned policies and the development plan as a whole. There are no material considerations to justify making a departure from the development plan and therefore the appeal must fail.

Other Matters

14. I have taken into account the argument that the useable area of rear garden is restricted by two large protected trees. I have also noted the generous garden sizes of other properties in Rotherfield Road. However, neither factor justifies the harm I have identified.
15. No substantive evidence has been provided to support the assertion that the agricultural land was redundant. Even if it were not being actively farmed, this would not warrant the change of use to domestic garden.

16. My attention is drawn to a garden extension at Orion on Peppard Lane. This is considerably smaller than the appeal site but projects into the same field, albeit in a corner. I do not know whether that development is lawful. Nevertheless, the existence of similar development is not in itself a good reason for allowing a development that would cause harm.
17. I have also been referred to another example at Harpsden View on Harpsden Way. Insufficient details have been provided regarding this case and therefore I am unable to establish whether there are any direct parallels with the appeal before me. I have determined the case on its own merits, as I am required to do in any event.

Conclusion

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

Robert Parker

INSPECTOR