The Planning Inspectorate

Appeal Decision

Site visit made on 26 April 2019

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCIArb MCIL

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2019

Appeal Reference: APP/J3720/W/19/3221274
Land at 'Lynwood', Hellidon Road, Priors Marston, Southam CV47 7RN

- 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 Mr and Mrs Ben-Tovim against the decision of Stratford-on-Avon District Council.
- The application (reference 18/02557, dated 30 August 2018) was refused by notice dated 30 October 2018.
- The development proposed is the change of use of land to garden land.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to garden land, at 'Lynwood', Hellidon Road, Priors Marston CV47 7RN, in accordance with the terms of the application (reference 18/02557, dated 30 August 2018), subject to the following conditions.

   1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.

   2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
   unnumbered Ordnance Survey site plan (1:1250);
   unnumbered Ordnance Survey block plan (1:500).

Preliminary point

2. The information given in the application form, under the heading "Description of the Proposal" includes an extensive explanation of the proposal. I am convinced that the development that is the subject of this appeal should more succinctly be described as the change of use of land to garden land.

Main issues

3. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the surroundings.

Reasons

4. Priors Marston is a substantial village in a predominantly agricultural landscape. Plot sizes and dwelling types in the settlement are varied and the village retains a low density rural character, extending along various road frontages.

5. 'Lynwood' stands on the northern side of Hellidon Road, which leads out of the village in an easterly direction, at the end of a residential frontage, with open farmland opposite. Hellidon Road climbs out of the village with a steep bank on the northern side of the highway, beyond 'Lynwood'.

6. 'Lynwood' itself is a substantial dwelling that was undergoing construction works at the time of the site visit. It had a good sized plot but the garden has been extended to the east, by fencing in a strip of land and creating a sloping grassy space, bounded by a hedge and fences and including some small fruit trees, creating a rather formal garden area. This area previously formed part of a larger open parcel of land that still exists to the east of the appeal site, on rising land with a frontage to Hellidon Road, and it can be said to lie outside the obviously built up confines of the village, though there are more buildings further to the east.

7. Planning permission is now sought for the formal change of use of the additional garden land.

8. Policies in the Development Plan are aimed at encouraging sustainable development, including, in particular, Policies AS10 and CS15 of the 'West Northamptonshire Joint Core Strategy'. Notably, however, Policy AS10 does not make specific reference to the extension of garden curtilages. Policy CS9 of the 'Core Strategy' promotes good design generally, while Policies CS5 and CS12 deal specifically with "Landscape" and "Special Landscape Areas" respectively and are particularly relevant to this appeal. Policies AS10, CS5 and CS12 all lay particular emphasis on the protection of the landscape, with reference to its character and appearance.

9. All these policies reflect those that are set out in the recently revised 'National Planning Policy Framework', notably in Section 15, which is concerned with "conserving and enhancing the natural environment", while section 12 relates to design considerations more generally.

10. The extension to the garden at the appeal site has undoubtedly changed the character of the land, though it is unclear how the adjoining land (remaining from the original field that is shown on the plans) is currently used. The strip of new garden land now has a domesticated character. Inevitably, the garden has a manicured and closely cultivated appearance.

11. Nevertheless, the area involved is relatively small in landscape terms and it is somewhat secluded, being largely screened from public views, by the lie of the land and the fence and vegetation that marks the roadside frontage, on and above the bank that rises away from the road. Thus, the change of use of the land does not have a material effect on the character and appearance of the countryside and does not directly conflict with policies in the Development Plan or the 'National Planning Policy Framework'.

12. In making that assessment, it is necessary to take account of the domestic paraphernalia and other structures that can normally be introduced within the curtilage of a dwellinghouse without the need for planning permission. In the circumstances of this case (bearing in mind the nature of the garden and its secluded character) it would be unreasonable to impose a condition to remove permitted development rights, but the impact of such items, within the extended garden, would not unduly harm the landscape, in any case.

13. In short, I have concluded that the proposed development would not have a harmful effect on the character and appearance of the surroundings and that it would not conflict with planning policies that are intended to protect the countryside. Hence, I am persuaded that the scheme before me can properly be permitted and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

14. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity and simplicity.

15. I have concluded that conditions are necessary, to define the planning permission but, on the other hand, I am not persuaded that a condition is necessary to remove permitted development rights, bearing in mind that this should only be done in exceptional circumstances (as explained in the Planning Practice Guidance).

Roger C Shrimplin

INSPECTOR