



Appeal Decision

Site visit made on 8 July 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/Z1510/W/19/3222997

16 Old Road, Coggeshall, Colchester, Essex CO6 1RS

- 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 Jackie Thompson against the decision of Braintree District Council.
 - The application Ref 18/01656/FUL, dated 3 September 2018, was refused by notice dated 29 November 2018.
 - The development proposed is the change of use of agricultural land to residential garden, as property came with minimal curtilage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is the effect of the development upon the character and appearance of the countryside.

Procedural matters

3. The planning application sought a change of use of agricultural land to provide an extended residential curtilage. Although not included in the above description the application also included additional timber post and rail fencing along the east of Old Road. This has been considered as part of this appeal.
4. The curtilage of a building is an area of land related to that building and is not a use of land. I could see from my site visit that the land has an appearance more akin to an extension to the residential garden, than agricultural land. I have therefore determined the appeal on this basis and that the development has, in part, already occurred.
5. The Council are working on a Draft Local Plan which is currently under examination. Revisions to the Plan have resulted in a delay to its adoption. Therefore, policies LPP1 and LPP43 of the emerging Braintree District Publication Draft Local Plan as specified in the reason for refusal cannot be afforded full weight.

Reasons

6. The appeal site lies adjacent to 16 Old Road and comprises just under half a hectare in area. There is an existing gated access to the land from Old Road and the land is also accessed through the garden of No16. The appeal site is

located within a remote hamlet within the countryside. There are a number of residential properties set within modest plots and the road becomes more rural towards the south of the site. The site is no longer separated from the original garden of the host dwelling. At my site visit, it was clear that the land is maintained by mowing. I also noted that there was a timber barn, a stable and a horse trailer was parked close to these buildings together with some stored jump wings and corrugated sheeting. There was a pond to the west, ornamental plants towards the northern boundary and a number of single specimen trees had been planted throughout the site. Post and rail fencing separates the land from the paddocks grazed by ponies beyond.

7. Policy CS5 and CS9 of the Braintree District Council, Local Development Framework, Core Strategy, seek to ensure that development outside town development boundaries, village envelopes and industrial development limits are of high quality and strictly controlled to uses appropriate in the countryside. Policy RLP26 of the Braintree District Local Plan Review, relates to garden extensions. The policy supports garden extensions in the countryside provided that there is no significant increase in residential impact, or material adverse effect on the surrounding countryside.
8. The application site is considerably larger than other dwellings and gardens in the area. The resultant extended curtilage would be extensive and, in my judgement, would be disproportionate to the size of the host dwelling and to others in the area.
9. Moreover, if permission were given to retain this change of use, it is reasonable to anticipate that a more intensive residential use would follow, with further ornamental planting, domestic paraphernalia, garden buildings and structures. This would add further to the incongruity of the use in the countryside and would significantly harm the attractive rural appearance of the wider surrounding area.
10. Whilst the principal of post and rail fencing may be appropriate in this rural location, I do not have information relating to its height and design. I therefore am unable to conclude whether what is being proposed would be acceptable. However, as I have found that the change of use of this land would cause harm to the character and appearance of the countryside, there is no need to consider this further.
11. For these reasons I conclude that the use of the land for an extended residential curtilage, results in a significant increase in the residential impact of the site which has eroded the character and appearance of the countryside. The development is therefore contrary to Policy RLP26 of the Braintree District Local Plan Review (2005), Policies CS5 and CS9 of the Braintree District Council, Local Development Framework, Core Strategy (2011). In summary these policies seek to ensure that residential extensions into the countryside protect and enhance the landscape character and have no increased residential impact, or adverse effect on the surrounding countryside.
12. In coming to this view, I have some sympathy with the appellant who sees this as a small change of use to provide a larger garden. The appeal is accompanied by a statement from a number of people, who indicate that the land has not been in agricultural use for many years. However, this appeal

relates to the refusal of the Council to grant planning permission on the application submitted. Thus, whether or not the current use of the land is lawful, falls outside the scope of this appeal and cannot form part of my considerations. It is open for the Appellants to make an application for a Certificate of Lawful Development (for an existing use) to the Council, where any available evidence could be considered.

Conclusion

13. For the above reasons the appeal is dismissed.

Hilary Orr

INSPECTOR