



Appeal Decision

Site visit made on 29 May 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2019

Appeal Ref: APP/R2520/W/19/3223065

**Edens Rest Wholesale Nursery, Mareham Lane, Spanby, Sleaford,
Lincolnshire NG34 0AS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr and Mrs Davis against the decision of North Kesteven District Council.
 - The application Ref: 18/1586/DISCON, dated 15 November 2018, sought approval of details pursuant to condition No.7 of a planning permission Ref: 17/0838/FUL granted on 26 September 2018.
 - The application was refused by notice dated 17 January 2019.
 - The development proposed is the siting of a temporary dwelling for permanent occupation and revision to: the siting of 2no. polytunnels; and the siting, design and layout of an agricultural building, permitted under planning permission Ref 10/0840/FUL - part retrospective.
 - The details for which approval is sought are: identification of a residential curtilage for the temporary dwelling (Condition 7).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above is taken from the decision notice as it is more precise than that in the application form.

Application for Costs

3. An application for costs was made by Mr and Mrs Davis against North Kesteven District Council. This application is the subject of a separate decision.

Background and Main Issues

4. Approval had been granted on appeal to modify the originally permitted layout of nursery buildings with the addition of a mobile home. In order to safeguard the character and appearance of the countryside, condition 7 was imposed. Because the dwelling was already in place, the condition requires its removal if the approved measures in the condition are not implemented.
5. Condition 7 has four parts. The Council considers that the details submitted regarding the landscaping scheme are acceptable to address the first

element of part i). The subject of this appeal is the second element of part i), which is that *the identification of a residential curtilage for the temporary dwelling hereby permitted shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.*

6. Within this context, the **main issues** are

- a) whether the details are acceptable in terms of safeguarding the character and appearance of the countryside, and
- b) whether or not the proposed residential curtilage would be proportionate to the needs of the temporary dwelling.

Reasons

Character and appearance

- 7. The appeal site comprises a two-bedroom, single-storey dwelling adjacent to a horticultural business. A grouping of dwellings is situated some 300 metres to the north/north-east as the crow flies. To the west of the appeal site, on the other side of Mareham Lane, lie open fields and to the east there is woodland. To the south of the site are fields.
- 8. Policy LP26 of the Central Lincolnshire Local Plan (2017) (CLLP) sets out that development proposals should take into consideration the character and local distinctiveness of the area, and enhance or reinforce it, as appropriate. Furthermore, the policy requires development to respect local landscape character and identity.
- 9. The Council considers that the existing windbreak line of young trees would be the reasonable southern extent of the residential curtilage. By contrast, the appellant's view is that a larger area, which extends south of the windbreak line, would be a reasonable residential curtilage.
- 10. I note the Council's account that the previous Inspector indicated verbally that the line of the existing windbreak line could form the southern boundary of the curtilage. However, such a position is not formally set out within the previous appeal decision, and I therefore attach limited weight to this consideration.
- 11. The appeal site lies in the countryside. The area is characterised by a flat, rural landscape with large arable fields and relatively few buildings. The landscape to the west, north and south of the site comprises open fields bounded by hedges. A woodland block lies to the east. The main structures and drive of the horticultural business and temporary dwelling broadly occupy a rectangular strip of land at the northern end of the site.
- 12. There are garden sheds and furniture, and a caravan on the appeal site, north of the windbreak line. As such, whilst permitted development rights have been restricted on the development site by planning condition No.10, I consider that there is a realistic likelihood of domestic paraphernalia being sited within the proposed residential curtilage area.
- 13. By extending south of the windbreak line, the proposed curtilage would be a prominent visual intrusion, beyond the grouping of the horticultural buildings and dwelling situated alongside the site's boundary. The hedged residential

boundary would occupy a corner of the wider field in which the site sits, contrary to the prevailing wider pattern of larger fields in the area. Along with anticipated paraphernalia and the dwelling, the proposed boundary would create a recognisably domestic character which would spatially encroach into the rural landscape, and have a harmful urbanising impact on the area's countryside identity.

14. I recognise that the proposed hedgeline around the curtilage, in combination with an existing stretch of hedging on its southwestern corner, would provide some screening of the proposed residential curtilage. However, from what I saw, likely domestic paraphernalia within the proposed curtilage would be visible from the dwelling to occupants and visitors. It would also be visible to customers and visitors, viewed from the driveway and the horticultural business area, through the entrance to the dwelling, and through the proposed perimeter hedgeline during periods of seasonal leaf drop.
15. Regarding the existing planting which I saw along the windbreak line, I see no reason why this could not be supplemented with additional hedgerow planting.
16. I note the appellant's argument that relocating the existing cycle store shed to north of the windbreak line would deprive it of screening from the existing established stretch of hedgerow, while proposed hedgeline planting establishes. The location of the septic tank south of the windbreak line is also noted. However, these considerations do not outweigh the harm to the character and appearance of the area, as described above.
17. It is recognised that longer distance views of the proposed curtilage would be limited by perimeter vegetation around the larger field in which the appeal site is located. Notwithstanding this, taking the above together, I conclude that, on balance, the proposed residential curtilage, with its inclusion of land to the south of the windbreak line, would result in harm to the character and appearance of the area. As such, it would conflict with Policy LP26 of the CLLP, which seeks to ensure that development respects local landscape character, and enhances or reinforces it, as appropriate.

Whether proportionate to the needs of the temporary dwelling

18. I saw that the part of the proposed residential curtilage north of the windbreak line contained a number of sheds as well as garden furniture and a caravan, in addition to open grass areas for garden recreation. As such, the area south of the windbreak line appears to contain adequate space for the modest temporary, two-bedroom single-storey dwelling.
19. I appreciate the appellant's wish to grow vegetables and keep chickens on site, in the interests of self-sufficiency. Moreover, the appellant's argument is that, given the need for fencing to protect against damage from wildlife including rabbits and deer, containment of such activities within the residential curtilage would minimise visual impact. However, such activities could be undertaken on agricultural land outside of residential curtilage. As such, there is no guarantee that the siting of such activities within the proposed residential curtilage would preclude them from taking place outside it.

20. The above factors, in combination, lead me to conclude that the proposed residential curtilage would be disproportionate for what is needed for the temporary dwelling.

Conclusion

21. Taken together, the above considerations lead me to conclude that the proposed residential curtilage would not be justified.
22. For the reasons given above, and having regard to all other matters raised, I conclude that details submitted to discharge the second element of part i) of condition 7 of the planning permission Ref: 17/0838/FUL, in respect of the identification of a residential curtilage for the temporary dwelling, should not be approved. Therefore, the appeal should be dismissed.

William Cooper

INSPECTOR