



Appeal Decision

Site visit made on 9 December 2019 by Hilary Senior BA(Hons) MCD MRTPI

by P Willows BA MRTPI

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

Decision date: 19th February 2020

Appeal Ref: APP/R0660/W/19/3237240

Pump Cottage, Kings Lane, Cranage, CW10 9LX

- 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 John Halstead against the decision of Cheshire East Council.
 - The application Ref 19/2423/N, dated 19 May 2019, was refused by notice dated 25 July 2019.
 - The development proposed is "The area in question was a part of Pump Cottage garden until 1996 when the then owners of Pump Cottage sold it to a third party. The area became home to dilapidated sheds, vermin, brambles, dead and unproductive apple trees and building rubbish. Over the following years the area was not maintained or used. At some time in the intervening years it was classified as "open countryside", a singularly inappropriate title because it was neither open or countryside. I now want permission to use the area as garden, as it was used up to 1996."
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to garden at Pump Cottage, Kings Lane, Cranage, CW10 9LX in accordance with the terms of the application Ref 19/2423/N, dated 19 May 2019 and the unnumbered Location Plan and Site Plan submitted with it.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The description of development set out in the Council's decision notice differs from that in the banner heading above. In the formal decision above I have used the shorter more concise description from the decision notice and removed reference to the application being retrospective as this is not necessary.

Main Issue

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

Reasons

5. Pump Cottage is one of two detached dwellings positioned on Kings Lane, in an area defined as open countryside in the Cheshire East Local Plan Strategy 2010-2030 (2017) and the Congleton Local Plan (2005).
6. An approximately rectangular area of land running the width of the existing garden to the rear of the dwelling has been cleared of scrub and is being used as a domestic garden. Beyond the extended garden is an area of trees and scrubland which is covered by a Tree Preservation Order and to the side are open fields in agricultural use.
7. The adjacent dwelling known as Birchways has an extended residential garden, granted on appeal¹ and is bounded by a fence between the two properties. The extension to Pump Cottage garden corresponds with the extended garden at Birchways, giving a consistent boundary to the woodland beyond.
8. Saved Policy H17 of the Congleton Local Plan (2005) and Policy PG6 of the Cheshire East Local Plan Strategy 2010-2030 (2017) seek to protect the countryside from incremental encroachment. This proposal to extend the garden area of Pump Cottage conflicts with these policies as none of the exemptions within the policies apply in this case. Planning law² requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
9. However, the visual impact of the proposal is very limited in this case. The extended garden is not visible from either Kings Lane or other local public vantage points and does not encroach into the wider countryside. The treed area to the rear screens the appeal site from wider views and provides a clear boundary to the extended garden area. The proposal is also a similar size to the garden extension at the neighbouring property and results in a continuous rear boundary at the two properties. With these points in mind, I find that there is little visual harm to the countryside as a result of this proposal.
10. Drawing these matters together, I conclude that, whilst there is conflict with the development plan, the change of use has not caused substantive harm to the character of the countryside. Consequently, in this particular case, material considerations indicate that the appeal should be allowed due to the lack of harm to the countryside.

Conditions

11. No conditions have been suggested by the parties and none are necessary in my view.

Conclusion and Recommendation

12. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

Hilary Senior

APPEAL PLANNING OFFICER

¹ APP/R0660/W/16/3158701

² S38(6) Planning and Compulsory Purchase Act 2004

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Peter Willows

INSPECTOR