



Appeal Decision

Site visit made on 6 July 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Appeal Ref: APP/E0915/W/20/3250546

25 Whiteclosegate, Carlisle CA3 0JA

- 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 N Monkhouse against the decision of Carlisle City Council.
 - The application Ref: 19/0588, dated 30 July 2019, was refused by notice dated 17 October 2019.
 - The development proposed is a change of use of agricultural land to garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the Council's description of the development proposed in the banner heading above as it is more precise.
3. I observed on my site visit that the change of use of the land has taken place and that it has been enclosed by a fence. I have therefore determined the appeal on the basis that the development has already occurred and with regard to the plans submitted with the application.

Main Issue

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

Reasons

5. The appeal site is a small rectangular parcel of land, of approximately 55m², adjoining the rear garden of No 25 Whiteclosegate (No 25). Around three sides of its perimeter is a fence made up of concrete gravel boards, concrete posts and solid wooden panels which are stated by the appellant to vary in height from about 1.2m to about 1.8m.
6. Although some of the occupants of houses along this side of Whiteclosegate have extended their rear gardens from the original boundary line, the majority have not. In this respect, the original demarcation of the rear residential curtilages in this area still remains substantially defined.
7. The prevailing character and appearance of the area is quite different on either side of the original rear boundary line. The area to the east is characterised by medium density residential development, comprising detached and semi-detached houses within generous and mature plots which are enclosed to

- the rear by a variety of boundary treatments. Whereas the area to the west is characterised by open agricultural fields that are interspersed by isolated trees and field boundaries of hedges and/or post and wire fences.
8. The development extends the manicured domestic garden of No 25 beyond the original residential curtilage into agricultural land. In doing so it detrimentally forms a suburban incursion into an open, semi-rural landscape. This combined with the domestic nature and very solid appearance of the concrete frame and wooden panels which border the appeal site, creates a discordant feature which is out of keeping with the prevalent characteristics of the area.
 9. Whilst the size of the garden extension is modest, given the topography of the land, the change of use and its enclosure cause it to be unduly conspicuous when viewed from the nearby public footpath accessed from Brampton Road. This emphasises its incongruity within the open landscape setting of this side of Whiteclosegate and its adverse effect on the character and appearance of the area.
 10. The appellant has highlighted the inconsistency of the Council in its decisions, and has drawn my attention to the grant of recent planning permissions for similar proposals¹, along with an example of a close boarded fence to the curtilage of another property in the wider area. Nevertheless, I do not know the full details or exact circumstances that led to these permissions being granted. From the information before me and my observations on site, the permission and other example within the wider area which incorporate close boarded fences, relate to either a different use of the land or the enclosure of an original residential curtilage. While, the permissions to the rear of other properties along Whiteclosegate incorporate post and rail or post and wire fences of a more open and agrarian form. On this basis, I do not consider any of these developments to be directly comparable to the appeal before me.
 11. Additionally, in my judgement and notwithstanding the form and materials of the enclosures permitted, the examples along Whiteclosegate referred to further demonstrate the harmful impact that sporadic, domestic interruptions into open agricultural land can have on the intrinsic character of a semi-rural landscape. Therefore, the presence of apparently similar proposals is not, in itself, a reason to allow more inappropriate and unacceptable development. I have determined the appeal before me on its own planning merits and found that it causes harm.
 12. Drawing the above points together, I conclude that the development has a harmful effect on the character and appearance of the area. This is contrary to Policies SP 6 and GI 1 of the Carlisle District Local Plan 2015-2030 (CDLP) insofar as they seek development to respond to local context, respect local landscape character and to be fully integrated into its surroundings; and to protect the intrinsic character of landscapes from excessive, harmful or inappropriate development.
 13. It also conflicts with provisions within the National Planning Policy Framework (the Framework) which aim to achieve well-designed places, along with

¹ Application Ref: 19/0682 Change Of Use Of Agricultural Land To Garden at 7, 9 and 15 Whiteclosegate, Carlisle, CA3 0JA; Application Ref: 18/0504 Change Of Use Of Agricultural Land To Garden at 29 Whiteclosegate, Carlisle, CA3 0JA; and Application Ref: 15/1142 Change Of Use Of Part Field To Provide Horse Arena (Manege) For Private Use.

guidance in the National Design Guide which advocates the need for development to respond to and be integrated into its context.

Other Matters

14. I have had regard to the fact that the appeal property is located within Hadrian's Wall Vallum, which is designated as a World Heritage Site and Scheduled Monument, and given consideration to any impact of the development on its significance.
15. The Framework declares that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to advise that significance can be harmed or lost from an asset's alteration or destruction, or from development within its setting and that this should require clear and convincing justification².
16. World Heritage Sites and Scheduled Monuments are identified within the Framework as designated heritage assets of the highest significance, which substantial harm to or loss of should be wholly exceptional³.
17. From the evidence before me and insofar as it pertains to this appeal, I consider that the significance of Hadrian's Wall Vallum to be largely derived from its historical illustrative value and evidential value, as an internationally significant asset of one of the frontiers of the Roman Empire and Roman military planning. The wider landscape setting of the Vallum also contributes to its significance.
18. Taking into account the relatively modest size and nature of the development and noting the comments made by Historic England, I consider that the development has a neutral impact on the identified significance of this designated heritage asset and its setting. As such, the change of use of the land and its enclosure does not conflict with Policy HE 2 of the CDLP which states that development will not be permitted where it would cause substantial harm to the significance of a scheduled monument. It also complies with provisions within the Framework which seek to protect the significance of designated heritage assets. Nonetheless, a neutral impact in this regard does not amount to a consideration in support of the appeal.
19. Whilst no objections to the development were submitted regarding highways or flood risk and no concerns were raised in relation to any impact on the living conditions of neighbours, these are neutral considerations in the planning balance. Furthermore, although the appellant contends that no verbal or written complaints or comments have been made in the two years since the fence was erected, this does not denote a lack of harm. Therefore, these matters do not alter my conclusion on the main issue.
20. I am aware of the clause within the legal contract entered into by the appellant when the land was purchased, requiring a fence of a minimum height of 1.5m to be erected and maintained around the appeal site. I also note the appellant's concerns in relation to the use of the adjacent and neighbouring field to hold livestock (horses) and the effectiveness of a post and rail fence to enclose his land. However, these are legal and/or civil matters and not for me to consider

² National Planning Policy Framework Paragraphs 193 and 194.

³ National Planning Policy Framework Paragraph 194 (b).

in the context of an appeal under Section 78 of the Town and Country Planning Act 1990.

21. I note the appellant's comments regarding alleged procedural impropriety by a Councillor who sits on Stanwix Rural Parish Council. However, it is not within the remit of the appeals process to comment on the internal procedures of the Parish Council or the Council. Consequently, this matter is not determinative in this appeal.
22. I recognise that a decision to dismiss the appeal may well cause inconvenience and expense to the appellant. However, unauthorised development has been undertaken and I must deal with the appeal having regard to the development plan and all other material considerations.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR