
Appeal Decision

Site visit made on 25 August 2020

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 1st September 2020

Appeal Ref: APP/Y2003/W/20/3253995

Champions Gate, 25 Burnham Lane, Thornton Curtis DN39 6XH

- 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 David Walkington against the decision of North Lincolnshire Council.
 - The application Ref: PA/2017/1985, dated 27 November 2017, was refused by notice dated 7 January 2020.
 - The development proposed is the change of use of part of a paddock to extend the garden.
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Preliminary Matter

1. The description of development set out above is a more concise version of that included on the planning application form. It adequately describes the proposal, which has already been carried out.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of part of a paddock to extend the garden at Champions Gate, 25 Burnham Lane, Thornton Curtis DN39 6XH in accordance with the terms of the application, Ref: PA/2017/1985, dated 27 November 2017, and the plans submitted with it.

Main Issue

3. The main issue in the appeal is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. I am told that the development limits for Thornton Curtis have been identified in a development plan document, albeit that I have not been provided with a copy of a plan showing those limits. Nonetheless I accept, as indicated in the Planning Officer's report, that the limit is drawn immediately to the west of the existing dwelling. As noted in the report it fails to include an area of land which was granted planning permission for a garden extension in 2005.
5. Neither the original garden boundary, nor that approved in 2005 (helpfully identified on plans provided as part of this appeal) are delineated on the ground. Instead there is a boundary fence, with a slight dogleg, on the garden boundary now sought. Part of that fence is clearly of some age and may well have been in place for more than 10 years, as suggested by the Appellant,

- though I make no judgement on whether or not use of the land enclosed is immune from enforcement action as that is not a matter before me.
6. Be that as it may it is clear from the Policy CS3 of the development plan¹ with which I have been provided, that it is intended to control development in open countryside around villages in order (amongst other things) to protect and enhance settlement character. Development outside boundaries is to be restricted to that which is essential to the functioning of the countryside. This flows from the spatial strategy set out in Policies CS1 and CS2.
 7. The small area of garden land beyond the original and approved garden extension seems to me to bear little relationship with the wider countryside setting. It abuts a narrow and overgrown area of land which runs a short distance to the west. It has no functional relationship with the arable land to the south. Indeed, its current functionality is wholly associated with the dwelling at 25 Burnham Lane. In my judgement the countryside would not function any differently here if the boundary fence which currently exists were to be move a few metres to the east. In fact, it is probable that such a change would not even be perceived by the vast majority of observers.
 8. The fence and garden area as they exist today are hardly visible from Burnham Lane or any vantage point locally. Retention of the current situation would have no material impact on the character of the locality, which would remain as an edge of village location in an agricultural landscape. There would be no adverse visual impact for any users of the lane. In short, it is my judgement that the development does not result in any harm to the character or appearance of the surrounding area.
 9. This is an unusual case where there is conflict with the development plan (which seeks to restrict development outside settlement limits) but where no harm would ensue from retaining a small development of that nature. The objectives of the development plan are to avoid harm to the countryside by implementing a defined spatial strategy, and those objectives are met in this case. Hence, based on the individual circumstances of the case, I find that there are material considerations which justify a decision other than in accordance with the development plan. It is worth stressing that my judgement is made in the light of the particular merits of this development and should not be taken to be indicative of any wider applicability.
 10. The Council has suggested that in the event of planning permission being granted a condition should be imposed restricting permitted development under Class E of Schedule 2, Part 1 of the General Permitted Development Order. However, that class already contains restrictions on buildings positioning, ground coverage and heights amongst other matters. I do not consider that circumstances here are sufficient to justify further restrictions.
 11. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

¹ From the North Lincolnshire Core Strategy of 2011