



Appeal Decision

Site visit made on 7 September 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/C1760/W/20/3246112

Upper Eldon Farm, Eldon Road, Kings Somborne SO20 6QN

- 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 J Dugdale of Eldon Farm Developments Ltd against the decision of Test Valley Borough Council.
 - The application Ref 19/02026/FULLS, dated 31 July 2019, was refused by notice dated 9 December 2019.
 - The development proposed is change of use of land to residential (C3) use and construction of detached carport (retrospective).
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Decision

1. The appeal is allowed and planning permission granted for the change of use of land to residential (C3) use and construction of detached carport at Upper Eldon Farm, Eldon Road, Kings Somborne SO20 6QN in accordance with the terms of the application, Ref 19/02026/FULLS, dated 31 July 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Following submission of the planning application to the Council, the development description was revised from '*Extension of approved residential curtilage and erection of detached carport*' to the description of development set out in the banner heading above, which has been taken from the Council's decision notice and the appellant's appeal form. The evidence before me confirms that the revised description of development was agreed by the Council and the appellant and the Council dealt with the development on that basis and so shall I.
3. I also note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - The principle of the development, having regard to the location of the site in the countryside; and
 - The effect of the development on the character and appearance of the area and users of the adjacent public footpath.

Reasons

Principle of development

5. In regard to the appeal site the Test Valley Borough Revised Local Plan DPD, 2016 (RLP) identifies it as countryside, which comprises those areas of land outside of defined settlement boundaries. Policy COM2 of the RLP states that development outside the boundaries of these settlements will only be permitted if it is appropriate in the countryside (in accordance with various RLP policies), or it is essential for the proposal to be located in the countryside.
6. The supporting text to Policy COM2 (Settlement Hierarchy) of the RLP explains that the purpose of the hierarchy, is to provide a basis for the distribution of development across the Borough in sustainable locations. In seeking to direct development to sustainable locations Policy COM2 reflects the aims of one of the core planning principles of the National Planning Policy Framework, which is to recognise the intrinsic character and beauty of the countryside. The objectives of the RLP also include conserving and enhancing the countryside and the landscape. This is reflected in Policy E2 of the RLP which seeks to protect, conserve and enhance the landscape of the Borough.
7. Thus, read in context, I consider that Policy COM2 of the RLP has two overarching functions. First, to direct development to the most sustainable locations and second to protect the countryside.
8. I have not been presented with any compelling evidence to indicate that the development can be regarded as either appropriate or essential in the terms of Policy COM2. However, while technically the development is contrary to the policy, it seems to me that, in this case, so long as it does not result in any material harm to the countryside it would not conflict with the overarching aims of the policy. I address this matter below.

Character and appearance

9. The residential garden area has been extended from the approved curtilage under the previous planning permission¹. It adjoins a public footpath that runs along its south eastern boundary, beyond which are open fields. The area is characterised by open fields with trees and hedgerows and paddocks to the north east of the former farmyard at Upper Eldon Farm. The Council indicate that the resultant extended residential land is more than double that which was previously approved. The carport is an open sided timber framed structure and has been erected to the rear of the dwelling and within the extended garden area.
10. The Council's Landscape Officer considered that the original garden area of the property was very small and disproportionate to the size of the dwelling. Furthermore, the Landscape Officer considered that the boundary of the enlarged garden area aligns with that of the neighbouring field and is a logical boundary which provides a suitable amenity space to the size of the dwelling. I saw at the time of my site visit that the extended garden area sits comfortably within the wider development of the former farmyard at Upper Eldon Farm, which contains three converted dwellings. It does not encroach into the adjacent open countryside and so does not erode the rural character of the area or result in the loss of open rural farmland.

¹ Planning application reference number: 17/02335/FULLS

11. As a result of intervening hedges, trees and other foliage the appeal site is not readily visible from Eldon Road, although the increased size of the garden area and the carport are visible from the public footpath. However, the carport, although detached from the dwelling, is open on all sides and so does not represent a dominant or imposing structure within the extended residential garden area.
12. The appellant indicates a willingness to strengthen the south-eastern boundary with planting, which could be secured by planning condition. It would help reinforce the delineation between the appeal site and the adjoining field. Indeed, the appeal proposal includes, by way of landscape and ecological enhancements, further planting along the boundary of the site/public right of way as indicated on the submitted plan². Thus, taking into account the proposed further planting and the relationship between the appeal site and the neighbouring field, in the context of the scale of the existing dwelling and wider built form at Upper Eldon Farm, the development would not cause any material harm to the landscape setting of this countryside location.
13. Furthermore, for the same reasons, the development would not have an adverse impact on the users of the public footpath, even if the garden area would have associated residential paraphernalia. The proposed planting of native hedging and trees would fit in with the landscape characteristics of the area, and with maturity would contribute to the landscape setting of the countryside. Thus, notwithstanding the proximity of the site to the public footpath, I do not consider that the development would materially harm its users experience of the countryside.
14. Overall, for the reasons outlined above, and subject to a planning condition to secure the further planting, I conclude that the development would not cause any material harm to the landscape setting of the countryside or to the users of the adjacent public footpath. Consequently, in this regard, it would accord with Policies E1 and E2 of the RLP. These policies, amongst other things, seek to ensure development is of a high quality in terms of design and local distinctiveness, and protects, conserves and enhances the landscape of the Borough.

Other Matters

15. The Council point out that it has refused planning permission for other recent proposals for change of use/extensions to residential land. However, the cases that the Council has referred me to would not appear to be directly comparable to the one before me insofar as they would appear to relate to proposals at sites within settlement boundaries and not within the countryside. In any event, I have determined the appeal proposal based on the circumstances of the site, on the evidence before me and on its individual planning merits. None of the other matters raised alter or outweigh my overall conclusion on the main issues.

Conditions

16. I have considered the Council's suggested planning conditions and where necessary I have amended the wording in the interests of precision and

² 'Landscaping Proposals / Ecological Enhancements', drawing number 893-SW-01 Rev A.

enforcement. The appellant was given the opportunity to comment on the Council's suggested planning conditions.

17. As the development has already begun the standard three-year time limit condition is not required. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty.
18. Condition 2 is imposed to ensure that the scheme for the implementation of landscaping and for landscape management and maintenance is submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the scheme for landscaping and landscape management and maintenance before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
19. In the interests of controlling the effect of future development on the character and appearance of this countryside location and in light of the larger plot size it is necessary to impose a condition requiring the removal of specified permitted development rights.
20. The Council's officer report notes that the site has undergone previous ecological survey work which established that there were limited ecological concerns. Thus, in light of this, and taking into account that the development is supported with biodiversity enhancements in the form of the landscaping proposals and ecological enhancements, which the officer report states are considered to be acceptable, the Council's suggested biodiversity condition is not necessary.

Conclusion

21. While I have found that the development technically breaches Policy COM2 of the RLP, in this case, for the above reasons, I find that it accords with its general aims which includes the protection of the countryside. Moreover, I find no conflict with Policies E1 and E2 of the RLP. The proposal therefore meets the requirements of the development plan insofar as the relevant policies that have been brought to my attention. Accordingly, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Andrew Bremford

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Site Location Plan' TV-JH-637.1.01 Rev A; 'Block Plan' TV-JH-637.1.02; 'Site Plan' TV-JH-637.1.03 Rev A; and 'Landscaping Proposals / Ecological Enhancements' 893-SW-01 Rev A.
- 2) Unless within one month of the date of this decision a scheme for the implementation of landscaping as shown on the approved plan 'Landscape Proposals / Ecological Enhancements' 893-SW-01 Revision A and for landscape management and maintenance for a minimum period of five years is submitted in writing to the local planning authority for approval, and unless the approved landscaping scheme is implemented within the current or first available planting season of the local planning authority's approval, the occupation and use of the carport and the extended residential land hereby approved shall cease and all equipment and materials brought onto the land for the purposes of such occupation and use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the occupation and use of the carport and the extended residential land shall cease and all equipment and materials brought onto the site for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme for the implementation of landscaping specified in this condition, that landscaping shall thereafter be maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building, structure, walls or fences of any kind shall be erected without the prior written permission of the Local Planning Authority.