



Appeal Decision

Site visit carried out on 29 September 2020

by Mrs J A Vyse DipTP Dip PBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/D0515/W/20/3254494

Land north east of 24 Feldale Lane, Coates, Cambridgeshire PE7 2ED

- 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 John Butt against the decision of Fenland District Council.
 - The application No F/YR20/0107/F, dated 29 January 2020, was refused by a notice dated 2 April 2020.
 - The development is described on the application form as *Retrospective planning application for change of use of agricultural land to domestic garden land and the erection of a garden shed and greenhouse, including the proposed wildflower meadow with wildlife pond.*
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Decision

1. For the reasons that follow the appeal is dismissed.

Preliminary Matters

2. Whilst the shed and green house are in place, the pond and, as I understand it the wildflower meadow, had not been implemented at the time of my visit.
3. Whether or not the appellant was aware of possible amendments suggested by the Council in earlier correspondence, I am required to deal with this appeal on the basis of the plans that are before me. Any alternative scheme would need to be the subject of a separate application, which would be considered by the Council in the first instance.

Main Issue

4. The main issue in this case is the effect of the development on the character and appearance of the surrounding rural area.

Reasons for the Decision

5. The appeal property is one of a row of substantial new dwellings with generous rear gardens in an edge of village location backing onto long grassed paddocks, each the width of the garden behind which it lies. The appeal site comprises the first 63 metres or so of the much longer paddock lying behind No 24. Most of the paddocks are separated by post and rail fencing, with some planting having taken place along the fencing that bounds the appeal site.
6. For villages, part A of policy LP12 of the Fenland Local Plan (May 2014) is generally supportive of new development, subject to various criteria. A footnote to the policy confirms that the developed footprint of a village is defined as the continuous built form of the settlement and excludes, among other things, gardens, paddocks and other undeveloped land within the

curtilage of buildings on the edge of the settlement where the land relates more to the surrounding countryside than the built-up area of the settlement. Criterion (c) of the policy requires that any development should not have an adverse impact on the character and appearance of the surrounding countryside and farmland.

7. In terms of visual context, the ends of the landscaped rear gardens to the new houses provide a well-defined boundary, creating a clear demarcation between the domestic properties and their well-maintained gardens and the open countryside beyond, the paddocks having a quite different character and appearance from the gardens.
8. The appeal scheme has extended what might reasonably be considered as domestic curtilage buildings - one a shed measuring 4.88 x 3.05 metres, with an overall height of 2.7 metres used for the storage of machinery and tools, including a ride on mower and trailer, to maintain the wildlife/food producing areas, and a smaller greenhouse with a footprint of 2.5 x 1.9 metres - into the countryside. In my view, use of the appeal site as domestic garden land, including the erection of the two buildings (whether or not they are temporary as asserted in the appeal statement) combined with the vegetable garden etc has altered the character and appearance of this part of the paddock, emphasising the encroachment of a residential use into the countryside with a consequential negative effect on the rural character of the area. There would be conflict in this regard with Local Plan policy LP12(A).
9. For the reasons set out above, there would also be conflict with Local Plan policy LP16(d) and policy DM3 of the Council's Delivering and Protecting High Quality Environments in Fenland SPD (2014) which together and among other things require that new development makes a positive contribution to the local distinctiveness and character of an area, enhances its local setting, improves and reinforces positive features of local identity and does not impact adversely the landscape character of the surrounding area.
10. It is suggested that the development plan should be considered as out of date, given the age of the Local Plan, which was adopted before the current version of the National Planning Policy Framework which, it is maintained, means that it does not have regard to the aims of the Framework or the Government's target to become carbon neutral by 2050.
11. It is well established that age alone is not a sufficient basis for reducing the weight to be given to development plan policies. Indeed, paragraph 213 of the Framework confirms that policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. The policies most important for determination of this appeal are those cited above. They are positively worded and are criteria based. The thrust of those parts relied on by the Council in its Decision Notice is on all fours with the policy set out at paragraph 170(b) of the Framework, which requires that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The policies are not out of date therefore, in terms of any tension with the Framework.
12. Framework paragraph 148 specifically recognises that the planning system should support the transition to a low carbon future in a changing climate. As such, I consider that it does have regard to Britain's aspiration in terms of

becoming carbon neutral and again is not out of date on this basis. I recognise that the planting and creation of a pond are likely to increase the biodiversity of the site and that home grown produce contributes towards self-sufficiency, sustainability and climate change, for instance by reducing food miles. Those are benefits to be weighed in the overall planning balance, albeit countered by the need, as set out at Framework paragraph 9, for sustainable solutions to take local circumstances into account to reflect the character of the area.

13. It is suggested that if the buildings were sited a few metres nearer the house, within the garden, they could have been erected under permitted development rights. That is not disputed by the Council. I do not agree however, that they would have a similar impact in such a location. Domestic-type structures such as those on the appeal site are characteristic of residential gardens. Indeed, I saw a shed at the end of the garden to the adjacent property, No 26. Its location there did not intrude into, or materially alter the character and appearance of the open countryside. Moreover, given the extent of the rear gardens here, there is no reason to suppose that there would be any harm to the residential amenity of adjoining residents, as asserted by the appellant.
14. The submitted plans showing a steel and container and shed located within the paddock to the rear of No 26. However, they have since been removed following refusal of an application for use of the land for domestic purposes and the erection of the structures they had been removed at the time of my site visit. An application for works to the rear of No 30 Feldale Lane, including change of use of the land to domestic, a 2.4 metres high fence, hardstanding and brick piers, has been withdrawn. I am advised that the Council is currently considering taking enforcement action in relation to development there. The same applies to other unauthorised works beyond the rear garden boundary to No 20. None of those works therefore, provide any sort of precedent for domestic development beyond the rear garden boundary at the appeal site.
15. An outdoor manège is located to the rear of No 16, together with what is described by the Council as a former agricultural building that is used as a hay store. Whilst they lie beyond the line of the rear garden boundaries here, both the building and the use are compatible with the countryside and do not set a precedent for the appeal scheme.

Conclusion

16. The harm and the conflicts with the policies that I have identified are such that the proposal should be regarded as being in conflict with the development plan when read as a whole. There is conflict too with the Framework. To be weighed against that harm are the benefits to the appellants in being able to grow their own produce, and the biodiversity and sustainability benefits set out earlier. I recognise that the scheme is supported by the occupiers of No 26 but, in the overall planning balance the benefits, which are small in scale given the modest size of the appeal site, do not outweigh the material harm that I have identified. Accordingly, for the reasons set out above, I conclude on balance that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR