



Appeal Decision

Site visit made on 18 January 2021

by Alison Partington BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2021

Appeal Ref: APP/R0660/W/20/3260766

Roddymoor MillHouse, Roughwood Lane, Hassall, CW11 4XX

- 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 Ms Marie-Louise Agius (Balston Agius Ltd) against the decision of Cheshire East Council.
- The application Ref 20/1657C, dated 21 April 2020, was refused by notice dated 13 August 2020.
- The development proposed is the erection of a recreational children's treehouse within the curtilage of Roddymoor Millhouse, consisting of a treehouse with deck, and play items including a fire man's pole, ladder and slide.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a recreational children's treehouse within the curtilage of Roddymoor Millhouse, consisting of a treehouse with deck, and play items including a fire man's pole, ladder and slide at Roddymoor MillHouse, Roughwood Lane, Hassall, CW11 4XX in accordance with the terms of the application, Ref 20/1657C, dated 21 April 2020, subject to the following conditions.
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 001; Block Plan Drawing No 002; Ground Floor Plan Drawing No 101; Proposed North Elevation Drawing No 201; Proposed East Elevation Drawing No 202; Proposed South Elevation Drawing No 203; and Proposed West Elevation Drawing No 204.
 3. The materials to be used in the construction of the development hereby permitted shall be in strict accordance with those specified in the Design and Access Statement (dated September 2019) and the drawings approved in condition 2, unless different materials are first agreed in writing with the local planning authority.
 4. The development hereby permitted shall take place in complete accordance with the measures set out in the Biora Arboricultural Impacts Assessment and Method Statement dated 20/4/20 with measures to be implemented under arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations.
 5. No external artificial lighting shall be installed on any part of the development hereby permitted.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the character and appearance of the countryside.

Reasons

3. The appeal site is a small parcel of land that is set within the wider country estate associated with a new dwelling. The house and the wider estate are currently under construction, with the latter including features such as a gatehouse, estate managers accommodation, tennis courts, stables, and a walled garden.
4. The proposed tree house would be located on land that slopes up from the main house and the adjacent lake. It lies outside the defined curtilage of the dwelling, which is drawn relatively tightly around the house itself, but forms part of the parkland area that is visible from the property. Nevertheless, being outside the curtilage, in policy terms, the site lies in the open countryside.
5. Unless it is for one of a limited number of exceptions, Policy PG6 of the *Cheshire East Local Plan Strategy 2010 – 2030 (adopted July 2017)* (CELPs), seeks to restrict development in the open countryside. The appellant has argued that the tree house would be for outdoor recreation which is one of the uses allowed in the open countryside. However, the policy indicates that it is developments that are essential for the purposes of outdoor recreation that will be permitted. So even if I did consider the tree house was an outdoor recreational facility, I would have to be persuaded that it was essential. In such an extensive estate, with many other opportunities for outdoor recreation, I am not persuaded this is the case. As a result, the proposal would be contrary to this policy.
6. The Council have stated that the proposal, which they indicate would be around 120m from the boundary of the curtilage would effectively result in the extension of the domestic curtilage to include this area. In order to avoid the incremental encroachment of residential areas into the open countryside Policy H17 of the *Congleton Borough Local Plan First Review (adopted January 2005)* (CBLP) states that extensions of residential curtilages into the open countryside will only be allowed when it is required to enable a minimum standard of residential amenity and would not adversely affect areas of nature conservation, landscape interest and areas of historic interest. In this case any such extension would not be necessary to achieve a minimum standard and so the proposal would not accord with this policy either.
7. However, the tree house would be located within a private estate over which there are no public rights of way. There would therefore be no visibility of the structure from the public domain and it would only be visible from certain parts of the estate. Its visual impact would therefore be very limited. Moreover, its size means it would have minimal impact on the openness of either the estate or the wider countryside. Nor would it alter the character of either to any significant degree.
8. The wider estate has been carefully planned and designed and contains many elements typical to country estates. I note the Council's concerns that the concept of its design could be weakened if there were to be domestic developments outside the curtilage. However, in my experience, such estates

often have a variety of structures scattered throughout the grounds for the enjoyment of occupants and so a tree house in a modern country estate would not necessarily be out of place or weaken the overall concept. Furthermore, as permitted development rights have been removed the Council retains control over any such further structures.

9. Thus, whilst the proposal would conflict with Policies PG6 of the CELPS and H17 of the CBLP, the proposal would not cause any substantive harm to the countryside. I consider that this lack of harm, in this instance is a material consideration that outweighs the conflict with the development plan.

Conclusion and Conditions

10. For the reasons set out above, I conclude the appeal should be allowed.
11. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord. A condition to control the external appearance of the development is necessary in the interests of visual amenity.
12. To ensure the protection of the trees around which the treehouse will be built a condition to ensure works are carried out in accordance with the Arboricultural Method Statement is necessary. However, as this does not require tree protection fencing, I have not imposed parts (b) and (c) of the condition suggested by the Council. For ecological reasons a condition to restrict external lighting is necessary.

Alison Partington

INSPECTOR