



Appeal Decision

Site visit made on 9 August 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/L1765/W/21/3273150

Mountview, Church Lane, Sparsholt SO21 2NJ

- 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 and Mrs M Conroy against the decision of Winchester City Council.
 - The application Ref 20/00771/FUL, dated 16 April 2020, was refused by notice dated 22 October 2020.
 - The development proposed is change of use of existing highway verge to ancillary amenity land for Mountview, Church Lane, Sparsholt.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing highway verge to ancillary amenity land for Mountview, Church Lane, Sparsholt at Mountview, Church Lane, Sparsholt SO21 2NJ, in accordance with the terms of the application, Ref 20/00771/FUL, dated 16 April 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Sparsholt Conservation Area.

Reasons

3. The site lies within the Sparsholt Conservation Area near the junction of Church Lane and Home Lane. It comprises an area of grass verge between the metalled carriageway and the front boundary hedge belonging to the property known as 'Mountview'. A number of low wooden posts spaced evenly along the edge of the verge prevent use by vehicles. The land is owned by Hampshire County Council and has the status of publicly maintained highway. Despite this, I am told that the site has been regularly mowed by the appellant for the last 35 years.
4. The grass verge in front of Mountview is not referred to explicitly within the Village Design Statement or Sparsholt Conservation Area Character Appraisal. Nevertheless, it is common ground that the site is a positive characteristic which adds to the distinctiveness of the Conservation Area in conjunction with the grass traffic island at the western end of Home Lane.
5. The application seeks a change of use from highway verge to ancillary amenity land for Mountview. There are no proposals to alter boundary treatments, erect buildings or structures or to use the land as domestic garden. At present, the site

lies outside of the residential curtilage. As ancillary amenity land, this would remain the case. The land is under separate Title, is not attached to the house and does not form an enclosure around the house. It would continue to provide an attractive setting for Mountview behind, but would not benefit from permitted development rights available under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended¹. There would be no physical changes to the land and its positive contribution to the street scene would be maintained.

6. Particular concerns are raised over the potential for inappropriate placement of garden furniture and ornaments. Depending on its nature, any domestication of the land could be deemed a material change of use needing a grant of planning permission. Permission is not being sought to use the land as residential garden and the appellant's stated intention is to retain it as grass verge. This would be consistent with the description of amenity land.
7. The Council contends that the proposal fails to respect the qualities, features and characteristics which contribute to the distinctiveness of this part of the Conservation Area, and argues that the loss of this highway land results in harm to the public benefit. However, in my judgement, the change of use would preserve the character and appearance of the Sparsholt Conservation Area. There is no conflict with Policies DM15, DM16 and DM27 of the Winchester District Local Plan Part 2 (2017) insofar as these policies seek to protect conservation areas and townscape character.

Other Matters

8. The appellants have openly stated their intention to apply to extinguish highway rights on the land. This is a separate process which has no bearing on my determination of this appeal. However, it is necessary for me to consider the implications for highway safety and I note in this regard that the Highway Authority has no objection to the proposal. I concur with its assessment. The submitted plans maintain a 1 metre service margin around the outer edges of the site as highway verge, thereby enabling pedestrians to seek refuge from passing vehicles. Subject to the imposition of a condition to prevent obstructions to visibility, there would be no highway grounds to dismiss the appeal.
9. The appellants have indicated that they will continue to look after the site in the same manner as they have previously. Whether or not this happens is immaterial to my consideration of the planning merits. The planning application does not affect landownership and as it stands the County Council retains ultimate responsibility for the upkeep of the land.
10. Objectors argue that the site is required to provide access for large vehicles and machinery to a nearby field. The manicured condition of the land and existence of timber posts around the edges suggests that the site is not routinely used for this purpose, and moreover the Highway Authority has not indicated that the verge is essential to the functioning of the highway. Whilst I have taken the concerns into account, I do not consider that they would justify dismissal of the appeal.

¹ These relate specifically to development within the curtilage of a dwellinghouse.

Conditions

11. In addition to the standard commencement condition, I have attached a condition specifying the approved plans to provide certainty. As I have explained above, a condition is also required to secure visibility, in the interests of highway safety. To preserve the character and appearance of the Sparsholt Conservation Area, a condition is necessary to remove permitted development rights for gates, fences, walls and other means of enclosure.
12. A further condition has been suggested to remove permitted development rights under Classes E and F of Schedule 2, Part 1 of the Order, but this is unnecessary as such rights do not apply to land outside of the curtilage of the dwelling.

Conclusion

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 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 and Boundary Plan.
- 3) Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no fence, gate, wall or other means of enclosure, other than that which existed on the date of this planning permission (or any like-for-like replacement), shall be erected, constructed or established on any part of the site.
- 4) There shall be no obstruction to visibility between 0.6 m and 2.0 m above adjoining carriageway level.

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