



Appeal Decision

Site visit made on 22 December 2021

by Richard Newsome BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/G2713/W/21/3281758

Land to the east of Back Lane, Newton-on-Ouse YO30 2DF

Grid Ref Easting: 451271 Grid Ref Northing: 459856

- 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 Susan and David Perrett against the decision of Hambleton District Council.
 - The application Ref 21/00848/FUL, dated 1 April 2021, was refused by notice dated 2 July 2021.
 - The development proposed is the change of use of agricultural land to domestic use as a garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the Council's determination of the planning application and prior to the submission of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2021 version of the Framework.

Main Issue

3. The main issue is the effect of the development upon the character and appearance of the countryside, including its openness.

Reasons

4. The appeal land is located in the corner of a large agricultural field. It is bounded on two sides by low timber fencing forming the rear boundaries of adjacent dwellings. This boundary treatment is consistent with those of other dwellings adjacent to the agricultural field. The surrounding countryside is subdivided into fields by hedgerows.
5. The proposal is to change the use of the appeal land from agricultural to a domestic use as a garden in relation to the property at 3 Jaken Fold. The appeal land would be enclosed on the boundaries to the retained field by a new low-level hedge.
6. The proposal would result in a single anomalous incursion into the agricultural field. It would represent an incongruous change to the current uniform boundaries between residential development and the countryside in the

immediate locality. The encroachment into the countryside would diminish its open character and appearance.

7. I acknowledge that some of the residential boundaries between properties in the locality and the field where the appeal land is located have been established through similar previous planning permissions for changes of use. However, they have resulted in a regularisation of boundaries to create uniform edges. This includes the approval of the previous extension of the rear gardens for the three properties on Jaken Fold which has established a regular and consistent boundary treatment which relates well to the character of the countryside area. In contrast, the proposal would incongruously mar the regular established boundary between the rear gardens and the adjacent field.
8. I acknowledge that the proposal is in the corner of the field and bounded on two sides by existing gardens and there is a developed backdrop to the appeal land when viewed from certain locations. However, the proposal would still result in the introduction of an incongruous change of use of the countryside which would cause unacceptable harm to its overall character and appearance, and its openness.
9. I recognise that a low-level hedge on the boundary of the appeal land with the retained field would provide a softer landscape boundary than a fence and there is soft vegetation in nearby rear gardens. However, it would be inconsistent as the main boundary treatment in the context of adjacent properties and the character of the area. Having observed the height of the hedge at the time of my site visit I consider that it would not offer any significant screening in the short-term making the use of the appeal land for domestic use as a garden more obvious during this time. Notwithstanding this, whilst the appellants have provided an indicative plan showing how they propose to use the appeal land it would not be possible to control the form, retention, and maintenance of the hedge through any planning permission for the change of use.
10. The appellants state that there is no appreciable difference in nature between agricultural and garden uses as both are open and soft in appearance and perception. However, the potential for the intensification of a domestic use of the appeal land and the erection of a different boundary treatment are relevant concerns. The Council has suggested that if the proposal was to be approved that a potential condition to restrict permitted development rights for the appeal land should be imposed. However, paragraph 54 of the Framework states that such restrictions should not be used unless there is a clear justification to do so.
11. Even if I was minded to allow the proposal with the application of such a condition there would still be the potential for domestic paraphernalia to be used within the appeal land which would not be subject to the restrictions. Therefore, I do not consider that the application of a condition restricting permitted development rights would remove the risk of unacceptable intensification of the land for domestic use as a garden and the potential for associated harm to the open appearance and character of the land. Therefore, the imposition of such a condition would not make the proposal acceptable.
12. The appellants have provided details of a separate planning application for a change of use from paddock to residential garden land in Milton Keynes. However, I do not have full details relating to this proposal and so cannot be

sure of the circumstances involved, and in any event, I must consider the appeal scheme on its own merits. Notwithstanding this, the existence of similar changes of use elsewhere in the country do not justify the harm that I have identified in this case.

13. I appreciate that the appellants have permitted development rights to erect a fence around their wider land holding and that this would be more obtrusive than the proposal before me. However, that does not diminish the unacceptable harm that the proposal would cause to the open character and appearance of the countryside. I also note that even if any fence was erected the appeal land would have to remain in agricultural use and not domestic use as a garden.
14. Consequently, I conclude that the proposal would have a detrimental effect upon the character and appearance of the countryside and its openness. The proposal would be contrary to Policy CP16 of the Hambleton Local Development Framework Core Strategy (2007) and Policy DP30 of the Hambleton Local Development Framework Development Policies document (2008). These policies respectively state that development or activities which will have a detrimental impact upon the interests of a natural asset will not be supported, and the openness, intrinsic character, and quality of the District's landscape will be respected and where possible enhanced. The proposal would also not accord with the principles for conserving and enhancing the natural environment set out in the Framework.

Other Matters

15. I acknowledge that the appellants revised the proposal in response to discussions with the Council during the determination of the application and also discussed the revised proposal with occupants of neighbouring dwellings. I note that there is correspondence from an occupant of a neighbouring dwelling supporting the change of use. However, this support does not justify or outweigh the harm which the proposal would have on the open nature of the countryside and its character and appearance.

Conclusion

16. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Richard Newsome

INSPECTOR