



Appeal Decision

Site visit made on 1 February 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 2 March 2022

Appeal Ref: APP/X0360/W/21/3284579

29 Meadow View, Winnersh RG41 5PD

- 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 Mrs Amanda Cracknell against the decision of Wokingham Borough Council.
 - The application Ref 210606, dated 20 March 2021, was refused by notice dated 17 May 2021.
 - The development proposed is change of use of land to the rear of the property from agricultural to residential curtilage (Use Class C3)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the land was in use as a residential garden, including an area of grass, an outbuilding and a chicken shed enclosed by a fence within the area of site edged red. Notwithstanding what has been carried out on site, my determination of the appeal has been based on the drawings submitted and the description of the development on the application form as a proposed use of the land as residential garden. The lawfulness of structures at the site and any potential enforcement action at the site are not matters for this appeal.

Main Issue

3. The main issues in this appeal are: -
 - Whether the appeal site would provide a suitable location for the proposed development, having regard to the local development strategy.
 - The effect of the proposal on the character and appearance of the area.

Reasons

Suitable location

4. The appeal site is land to the rear of 29 Meadow View. 29 Meadow View and its private garden are within but adjoin the defined settlement boundary limits of Winnersh. However, the site subject of the appeal is land to the rear of the garden, which is outside of the settlement limits, as defined within Policy CCO2 of the Wokingham Adopted Managing Development Delivery Local Plan 2014 (LP).
5. Policy CP11 of the Wokingham Core Strategy 2010 (CS) refers to development that would be permitted outside the settlement limits. The policy states that

development will not normally be permitted outside the limits, except where they meet certain exceptions. These include sustainable rural enterprises or other countryside-based enterprises and activities, replacement dwellings, extensions to existing dwellings, essential community facilities and affordable housing on rural exception sites.

6. The proposed residential garden use would not apply to any of the specified criteria set out within Policy CP11 of the CS. One of the requirements of the policy does refer to when the proposed development does not lead to excessive encroachment or expansion of the dwellings away from the original buildings, but this is only when the proposed scheme contributes to diverse and sustainable rural enterprises or other countryside-based enterprises and activities. As such, the proposed development would not comply with the excepted uses permitted by this policy.
7. I, therefore, conclude that the appeal site would not be a suitable location for the development subject of the appeal, having regard to the local development strategy. The proposed scheme would be contrary to Policies CC02 of the Wokingham Core Strategy 2010 and CP11 of the Wokingham Adopted Managing Development Delivery Local Plan 2014. These policies seek to encourage new development to occur within the existing settlement boundaries, to achieve a sustainable pattern of development and to protect the character and appearance of the countryside, limiting development outside of settlement boundaries to justified exceptions.
8. The Council cite Policy CP9 of the CS. This policy refers to the scale of the proposed development being reflective of the levels of facilities and services at the location together with their accessibility. Due to the nature of the proposal as an extended garden, the issue of accessibility and the level of services and facilities to serve the proposed development would not change in this case. As such, the proposal would not be contrary to the objectives of Policy CP9 of the CS.

Character and Appearance

9. Typically, the rear gardens adjoining the undeveloped land are consistently sized and shaped, with a fairly uniform rear boundary line. The existing gardens of Meadow View are generally appropriate in size, shape and function. The land to the rear of the garden is adjoined by residential boundaries and a busy A road to the north. Paragraph 174 of The National Planning Policy Framework 2021 (the Framework), amongst other things, seeks to maintain and enhance the natural local environment, protecting and enhancing valued landscapes as well as to recognise the intrinsic character and beauty of the countryside. Although the site is not subject to a designation such as an Area of Outstanding Natural Beauty, that does not mean that there is no value to the undeveloped space. In this instance, the area is a pocket of undeveloped space that helps breaks up otherwise continuous built form, contributing positively to the character and appearance to the area.
10. The land beyond the established garden is undeveloped and has the appearance of paddock, which would significantly contrast to the proposed character and appearance of a formal garden space and any associated domestic paraphernalia. Although the garden extension would not be substantial in size, doubling the length of the existing rear garden would result in a significantly larger garden than the adjoining residents, which would appear awkward and excessive when

compared to predominate layout and plots sizes on Meadow View. The fact that the garden of this house would be the only garden in this section to do so would represent an incongruous incursion into this agricultural paddock land, at odds with the consistent northern boundary line of the houses in Meadow View.

Accordingly, the introduction of a garden use would result in urban features and domestication beyond the existing development boundary, which would fail to integrate into the surrounding undeveloped field, damaging the character and appearance of the area.

11. The garden extension would not be highly prominent from public vantage points, with most views being from neighbouring gardens and windows. Furthermore, this scheme alone would also not coalesce with neighbouring gardens or the A road. Although this does not exacerbate the harm, it does not lessen the impact of the proposed development to the character and appearance of the area. I acknowledge that planning conditions could be imposed to remove permitted development rights and introduce landscaping. Nevertheless, this would not prevent domestic landscaping and paraphernalia being introduced, which would contrast with the appearance of the undeveloped field. Furthermore, although conditions could require landscaping, additional planting should not be introduced to hide a development, which is fundamentally unacceptable.
12. I, therefore, conclude that the proposal would have a harmful impact upon the character and appearance of the area, contrary to the character and landscape protection aims and objectives of Policies CP1 and CP3 of the CS and Policy TB21 of the LP. These policies, amongst other matters, seek to ensure proposals maintain or enhance the high quality of the environment, are of an appropriate development, which integrates into its surrounding. The proposal would also be contrary to the Framework, where it seeks to secure high quality design that reflects the character of the area.

Other Matters

13. Although I appreciate that the appellant has introduced flowers, plants and shrubs and a small tree, any benefit to the biodiversity from an undeveloped field would be small given the scale of the development. When balanced with the potential impact of the change of use, this uplift to biodiversity does not outweigh the harm to the character and appearance of the area.
14. The appellant has suggested that because the house has been extended, the garden has been increased in line with the Wokingham Borough Design Guide advice and guidance. Although I appreciate the desire to have a larger garden space to serve the dwelling, this is principally a private benefit, as opposed to the public planning harm that would result from the proposed development undermining the Council's local development strategy and its impact upon the character and appearance of the area.
15. My attention has been drawn to a previous appeal decision¹ by the appellant in support of their case. I have had regard to that appeal decision, referenced and submitted with the evidence. However, due to the differences between the appeal sites, this is read in a different context. As such, the allowing of that appeal does not, therefore, alter my conclusion on whether the use of the land as garden is acceptable in this instance.

¹ APP/X0360/W/20/3263761- 20, Swift Close, Wokingham

16. There is no certificate of lawfulness before me for the structures on site and I have no substantive evidence to indicate that they represent a fall-back position. Therefore, this has been given limited weight in the determination of this appeal. In addition, although I accept that the Council might have known of the development for several years, the conduct of the Council and their decision to pursue the matter is not an issue that affects my findings on the main issues.

Conclusion

17. I recognise that by dismissing this appeal the appellant may not be able to use this land as garden in association with his residential property. In this regard, I have taken into account Protocol 1, Article 1 of the European Convention on Human Rights, as enshrined in the Human Rights Act (1998), which refers to the peaceful enjoyment of property. Dismissing the appeal would interfere with the appellant's rights under Article 1. Having regard to the legitimate and well-established planning policy aims to protect the character of the countryside, the dismissal of the appeal, in respect of the change of use of the land for residential use, would be proportionate and necessary. It would not unacceptably violate the rights of the appellant under Article 1. The protection of the public interest cannot be achieved by means that are less interfering of the appellant's rights.
18. For the reasons given above, the proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. Therefore, I conclude that the appeal is dismissed.

M. P. Howell

INSPECTOR