



Appeal Decision

Site visit made on 27 September 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/A2470/W/22/3298868

Manton Lodge Farm, Lodge Lane, Manton LE15 8SS

- 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 H Barnaby Atkins against the decision of Rutland County Council.
 - The application Ref 2021/1147/FUL, dated 21 September 2021, was refused by notice dated 16 November 2021.
 - The development proposed is described as "resubmission of refused application number 2021/0503/FUL, change of use of part of a field to a tennis court with surrounding fence".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the proposal from the planning application form as I am obliged to do. That description uses terms which are not directly related to acts of development. The act of development proposed is a material change in use of the land although operational developments would also be involved as shown on the submitted plans.
3. Both of the main parties refer in various documents, including the Council in their decision notice, to the proposal involving an extension to the domestic curtilage. The term 'curtilage' does not describe a use of land. However, it seems clear from the submissions that the proposed change of use to a 'tennis court' would involve the use of the site as outlined in red on the submitted plans, for recreational purposes related to existing activities at Manton Lodge which include occupants of that dwellinghouse and guests within holiday units at the site, as confirmed within the appellant's appeal statement.

Main Issues

4. The main issues are: (a) the principle of the proposed development with specific regard to its location and need; and (b) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Principle of the Proposed Development

5. The proposed tennis court would be sited within part of an existing paddock. The court would be located on a north-south axis with the southern end bordering part of the host dwelling's garden, from which access would be

gained. The size of the appeal site has been limited to the dimensions required for a tennis court, plus the associated perimeter space to allow play.

6. Manton Lodge Farm comprises a substantial detached farmhouse set within extensive grounds. The garden of the dwelling comprises formal landscaped areas, a levelled grass area with goal posts, informal grass areas to the north surrounding a large parking/turning area, a gravel driveway that provides access to the farmhouse and also a circular driveway located centrally. The host dwelling therefore has an extensive garden, with areas for different activities to take place for the various occupiers at the site. I have limited information regarding the extent to which the appellant has considered utilising land within the existing unit for the proposed tennis court. Policy SP6 of the Rutland County Council Site Allocations and Policies Development Plan Document, adopted 2014 (DPD) applies strict control over the provision of additional land in the countryside for what it describes as "extensions to the curtilage of dwellings". The proposed development is not necessary to provide for any inadequacy in terms of the levels of amenity for the dwelling or the site in general.
7. The tennis court would be utilised by the appellant and their family and could be used by the occupiers of two holiday lets that form part of the host dwelling. It would enhance the different sports that could be played at the host dwelling which may have some health benefits to those individuals. However, this is a desire of the appellant rather than being an essential need which Policy CS4 of the Rutland County Council Core Strategy, adopted 2011 (CS) and Policy SP7 of the DPD make clear is necessary to demonstrate given their strict limitations on development in the countryside.
8. Insufficient information has therefore been provided to demonstrate that the court is essential for the provision of sport, recreation and visitors' facilities in the countryside. In relation to this main issue, the principle of the proposed development with specific regard to its location and need, has not been established. For the reasons set out above, the proposed development would therefore conflict with CS Policy CS4 and DPD Policy SP6 as well as SP7. It would also conflict with the Supplementary Planning Document: Garden Extensions, adopted 2015 (SPD) that supports Policy CS4 of the CS and seeks to protect the countryside from inappropriate development.

Character and Appearance

9. The proposed tennis court would result in the domestic garden of the host dwelling extending into part of an adjacent paddock. It would comprise a hard surface of two-tone green macadam with black mesh fencing to the perimeter that would vary in height. The proposed colour and materials would likely reduce the visual impact of the court on the surrounding landscape. Furthermore, the boundaries of the appellant's landholding are planted with mature tree belts that would screen the court from the surrounding area. The court would be partially visible in the wider landscape, particularly from the unnamed road on the higher ground to the south. However, the separation distance and materials would mean that the court would be barely perceptible. This is supported by the appellant's Landscape and Visual Assessment.
10. The existing paddock is currently devoid of development, consisting of a grass field with post and rail fences and hedgerows to the boundaries. It is irregular in shape and as such, the siting of the court on a north-south axis and wholly

within the paddock, would result in the court projecting into the paddock at an unusual angle. The remaining paddock would have an unusual shape, with the western-most section between the proposed court and the existing garden boundary unlikely to be suitable for any meaningful agricultural or equestrian use. The court would be located some distance from the farmhouse and Manton Lodge Cottage and would appear as an isolated feature rather than an integral part of the domestic garden. The siting of the proposed court would result in a prominent and intrusive incursion into the countryside, which would be harmful to the rural character of the locality.

11. In relation to this main issue, the proposal would have a harmful effect on the character and appearance of the surrounding area. The proposed development would therefore conflict with Policies CS4, CS19 and CS21 of the CS and Policies SP6, SP7, SP15 and SP23 of the DPD that together, amongst other things, require new development in the countryside to be designed to be sensitive to its landscape setting, is integrated and well located in relation to existing development, and respect and where appropriate enhance the character of the landscape. It would also conflict with the SPD that seeks to protect the countryside from inappropriate development.

Other Matters

12. My attention has been drawn to various planning decisions that Rutland County Council has determined in respect of developments that the appellant considers are similar to the proposed court. Limited information has been provided in respect of these applications and therefore I am unable to determine whether they are applicable, or otherwise, to the appeal before me.
13. The appellant considers that the approval of similar developments by the Council has set a precedent for the approval for the appeal proposal. The policies referred to by the Council do not prevent such developments from being approved, subject to compliance with the development plan. However, for the reasons detailed above, I have found that the appeal proposal conflicts with the development plan in respect of the main issues.
14. My attention has also been drawn to appeal examples for the construction of a tennis court within the Green Belt and an Area of Outstanding Natural Beauty (AONB). I have been provided with the AONB appeal's¹ decision letter. The appeal is for a different local planning authority, and I have not been provided copies of the relevant policies in respect of the appeal decision. Furthermore, there are fundamental differences between the appeal decision and the proposed development as the Inspector concluded that the tennis court would have a close relationship with the existing dwelling, and it would not be perceived as a harmful domestic encroachment into the field. The Green Belt extracts submitted relate to the effect of the proposed development on openness, which is a different policy test and is therefore not comparable. Notwithstanding this, each development must be determined on its own individual merits.
15. Covid-19 has raised the importance of private outdoor facilities for health and wellbeing and that at times during enforced lockdowns, public tennis courts closed. However, the domestic garden associated with the host dwelling is extensive and, together with the surrounding paddocks, they provide ample

¹ APP/F1230/W/19/3233804

- opportunity for the appellant and his family to undertake sporting and recreational activities, albeit not tennis. Whilst it was unfortunate that public tennis courts closed, this was not for an extensive period of time, and I have not been persuaded that such closures led to the appellant's health and wellbeing being disadvantaged. I therefore attach limited weight to this matter.
16. The proposed court, if constructed, would cease the appellant's need to travel to use other similar facilities. However, no information has been provided as to the location of other tennis courts, or the frequency of trips made by the appellant and their family to such a facility to gauge the current level of travelling that would cease. The provision of a tennis court for use by guests of the holiday lodges could encourage visitors to stay that would not otherwise. However, this assertion has not been substantiated. I therefore attach little weight to these matters.
17. I have been provided with a 1977 plan of the host property, which the appellant directs my attention to a small black rectangle close to the appeal site, to demonstrate that the current fence line cannot be relied upon to define the property's curtilage. The black rectangle is likely to comprise a former building, but I have not been provided with evidence about the use of this building or how its presence demonstrates that the extent of the domestic garden previously differed. Notwithstanding this, the former building is located outside of the appeal site.
18. The appellant has stated that the proposed development would result in a small overall percentage increase in the size of the existing residential curtilage of the host dwelling, to demonstrate that the garden extension would not be excessive in scale and size. No details have been provided as to how this was calculated and therefore, I am unsure of its accuracy. Notwithstanding this, it would not outweigh the harm I have identified in terms of the main issues. I therefore attach little weight to this matter.
19. The appellant suggests that the appeal site represents a partial infill of a larger area that could "round-off" the garden boundary, with the added benefit of reinstating a regular, geometric field pattern which is typical of the High Rutland Landscape Character Area. The area of rounding-off falls outside the appeal site and therefore it is not a matter for this appeal. Furthermore, the manège would fall outside the scope of a domestic garden, and I am not persuaded that the appeal site is adjacent to the rear garden boundary.
20. The Parish Council has no objection to the proposed development and no objection has been raised by third parties or statutory consultees. I have also been directed to the appellant's tree planting within their wider landholding. However, these are all neutral matters.
21. Although not referred to in the reason for refusal, the Council also raised concern regarding the impact of the proposed development on the living conditions of the occupiers of an adjacent property in their Officer Report. However, as I am dismissing the appeal based on my findings in relation to the main issues, there is no need for me to consider this matter further, as it would not alter the outcome of the appeal.

Conclusion

22. For the reasons given above, the appeal scheme would conflict with the development plan as a whole and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

A Berry

INSPECTOR