



Appeal Decision

Site visit made on 17 November 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/J0405/W/21/3282189

Foxglove House, 3 Oakhall Court, Oakley, Buckinghamshire, HP18 9UE

- 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 S. Hawkins against the decision of Buckinghamshire Council.
 - The application Ref 20/03715/APP dated 3 September 2020, was refused by notice dated 5 March 2021.
 - The development proposed is described on the application form as "Change of use of land to residential garden".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to residential garden at Foxglove House, 3 Oakhall Court, Oakley, Buckinghamshire, HP18 9UE in accordance with the terms of the application, Ref 20/03715/APP dated 3 September 2020, subject to the conditions set out in the attached schedule.

Procedural matters

2. I have dealt with another appeal on the site which is the subject of a separate decision¹. The difference between both appeals is the size and shape of the land to be changed to residential garden.
3. Following determination of the application, a new Local Plan² was adopted, with Policies S1, BE2 and NE4 replacing Policy RA3 referred to on the Decision Notice from the District Plan³. I am required to consider this appeal on the basis of the development plan which is in place at the time of my decision, and I have accordingly determined it on that basis.

Main issue

4. The main issue is the effect of the development on the landscape character and appearance of the area.

Reasons

5. The appeal site consists of flat equestrian paddock land adjacent to the side and rear garden of Foxglove House, one of 6 attractive dwellings set on a small

¹ Ref: APP/J0405/22/3293974.

² Vale of Aylesbury Local Plan (VALP) 2013-2033, Adopted Plan, September 2021, Buckinghamshire Council.

³ Aylesbury Vale District Local Plan, Part 1, January 2004

modern cul-de-sac development in the open countryside. It is well screened by established boundary hedges on Worminghall Road to the north and is not prominent in the wider area.

6. The Council states that the extended garden would be larger than other properties in the cul-de-sac and change the character of the equestrian land upon which it is sited by becoming more residential in nature with ornamental planting, garden buildings and domestic paraphernalia.
7. However, the existing gardens to neighbouring properties vary in size and the scheme before me would be no different. Furthermore, the equestrian land is already maintained by mowing and hence its appearance is not dissimilar to that of a domestic garden lawn. I recognise that the site might include ornamental planting and domestic paraphernalia, but this would be viewed in the context of the existing residential property and not therefore look out of character. The garden extension would also be visually self-contained by a new hedgerow and post & rail boundary treatment and not therefore be harmful to the countryside landscape character and appearance of the area. A condition could also be imposed to restrict the construction of new buildings and structures.
8. Although the Council has raised concerns over the future development aspirations of the appellant in respect of the site and that the scheme would establish an unwelcome precedent, I have considered this appeal on its own individual circumstances as set out in my reasoning above. Any future planning applications would also be subject to similar individual assessment, on their own merits, at the time of submission.
9. In view of the above, I conclude that the development would accord with Policies S1, BE2 and NE4 of the Local Plan which seek, amongst other things, to ensure that new development proposals; (1) minimise impact on visual amenity; (2) respect local landscape character & distinctiveness in terms of settlement form, field pattern & ecological value; and (3) respect the natural qualities & features of the area.
10. I also find that the scheme accords with Paragraph 174 of the Framework⁴ which states, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Conditions

11. A condition has been imposed to ensure the scheme is carried out in accordance with the submitted plans. For the avoidance of doubt and because the exact details are not clear from the submission, a landscaping and post & rail boundary treatment condition is necessary to help integrate the development into the surrounding countryside and to ensure that the proposed hedgerows are of a native species to help increase biodiversity as advised by the Council's Protected Species Officer.
12. To protect the open character of this countryside location, a condition has also been imposed removing permitted development rights for buildings on that part of the garden subject to the change of use hereby permitted. This is

⁴ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

because its purpose is to provide additional private garden land for Foxglove House and as a consequence, it would extend the curtilage of this property.

Conclusion

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

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:- Drawing nos. P100 Site Location Plan and P101 Site Plan.
- 3) Notwithstanding the approved drawings, the land relating to the change of use hereby permitted shall not be used as residential garden until details of soft landscape and post & rail boundary treatment works have been submitted to and approved in writing by the local planning authority. These details shall include existing trees and/or hedgerows to be retained and/or removed accurately shown with root protection areas; schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the implementation programme. Development shall be carried out in accordance with the approved details. If within a period of two years from the date of the planting of any tree or shrub, that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity. All soft landscape works shall be carried out within the first planting season following the granting of this permission. The post & rail boundary treatments shall be fully installed prior to the use of the land as residential garden and thereafter be retained in that form.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no buildings or structures covered under Class E of Part 1 of Schedule 2 of the above Order shall be erected at any time on land hereby permitted for the change of use without the specific grant of Planning Permission from the Local Planning Authority.

End of Schedule