



Appeal Decision

Site visit made on 15 November 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/X1355/W/22/3306151

Oakwell Lodge, C31 (from C30 Bedburn Road Junc to C30 Junc at Harada Cottage), Hamsterley DL13 3PP

- 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 Bellamy against the decision of Durham County Council.
 - The application Ref DM/22/00935/FPA, dated 29 March 2022, was refused by notice dated 16 June 2022.
 - The development proposed is the change of use of 110sqm of grazing land into domestic curtilage.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of 110sqm of grazing land into domestic curtilage at Oakwell Lodge, C31 (from C30 Bedburn Road Junc to C30 Junc at Harada Cottage), Hamsterley DL13 3PP in accordance with the terms of the application, Ref DM/22/00935/FPA, dated 29 March 2022, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the site and the surrounding area.

Reasons

3. The appeal site is situated in Hamsterley and comprises of a modern detached dwelling and its extensive residential curtilage. The area of land to which the proposal relates is a small wedge of land, with an area of approximately 110sqm, to the rear of a detached garage located towards the southeast corner of the site.
4. The site's existing southern boundary, described by the Council as being part of a historic field boundary, was at the time of my visit to the site delineated by a decorative wooden fence and a retaining wall and fence around the rear of the garage linking with the retaining wall of the adjacent property. The area of land to be taken within the extended residential curtilage of Oakwell Lodge includes part of the adjacent field as well as part of an area of land within which the ruined remains of a former building can be seen. A stone wall and fence would mark the relocated boundary to the appeal property's residential garden area.
5. Although little remains of the field boundary itself in terms of vegetation, the historic field pattern to which it contributed nevertheless remains evident. However, whilst the proposal would alter the appearance of the field pattern this must be seen in the context of the character and appearance of the surrounding area.

6. The modern detached dwelling on what was formerly an open paddock between houses to the east and west of it is a substantial building and its residential garden area is extensive. In comparison, the area of land to be enclosed is limited. Moreover, the appellant's stated purpose of 'squaring off' the property boundary seems to me to be apt. It would not extend the garden area significantly or incongruously into the surrounding fields and pleasantly rolling countryside but would instead amount to a subtle realignment of it in a manner that would relate well to the existing residential property, its neighbours and this part of the Hamsterley settlement.
7. County Durham Plan (CDP) Policy 6 and Policy 10 set out the Council's approach to development within and adjacent to settlements, and within the open countryside, respectively. In both cases, consideration of the effect of the proposal on a range of factors which contribute to wider character and appearance is required. CDP Policy 39 states that proposals will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views.
8. The Council are concerned that the residential use of the land in question, together with associated domestic residential paraphernalia, would not be compatible with the established agricultural use of the land. Were the area of land in question larger or more incongruously shaped and located relative to its surroundings, that may be true. However, the area of land is of limited size, as is the extent to which it is more widely visible. The residential use of this area would not be harmful to the character or appearance of the surrounding area, nor would it be incongruously at odds with the agricultural use of land to the south of the site. Moreover, in the context of the residential setting within which it, and the wider appeal site, lies, this small residential garden extension would not detract from the wider rural landscape character of the rolling agricultural land.
9. Neither the prevailing ground levels, nor the watercourse within the enlarged garden area, or the stone wall bounding it, would appear incongruous within, or harmful to, the rural character and setting of the appeal site, notwithstanding its change to residential garden area. Any impact on the qualities of the Area of Higher Landscape Value would be limited and would avoid harm to the values identified by the Council. Furthermore, given the area of land involved and its relationship with the appeal site and the settlement of Hamsterley, I do not find that it would harmfully erode the countryside in the manner advocated by the Council.
10. Whilst I have carefully considered the Council's comments regarding the care with which Oakwell Lodge was developed, and the use of existing historic field boundaries to define residential curtilage, I am not persuaded that the incorporation of this additional piece of land would cause unacceptable harm in the manner set out by the Council or compromise those earlier efforts. The use of suitably worded conditions would ensure appropriate boundary treatments and reinstatement of a native species hedge so that, in time, the southern boundary becomes an integral and positive part of the local landscape. For the reasons set out, there would be no conflict with CDP Policies 6, 10 or 39, or with the aims and provisions of the Framework in respect of achieving well-designed places and conserving and enhancing the natural environment.

Other Matters

11. The appeal property and the area of land to be enclosed as residential garden area lie close to a number of listed buildings. It is common ground between the parties that the proposal would not affect the setting of these heritage assets. From all that I have seen and read, I do not disagree.

Conditions

12. I have considered the conditions suggested by the Council against the Framework and Planning Practice Guidance. I agree that a plans condition is necessary and reasonable to give certainty. Conditions to ensure that the materials and height of the proposed boundary treatment are appropriate is also necessary in the interests of the character and appearance of the surrounding area. A condition to ensure the proposed native hedge planting is carried out and maintained is also necessary in the interests of the appearance of the proposed development.

Conclusion

13. For the reasons given, having had regard to the development plan as whole and all other matters raised, I conclude that the appeal should succeed.

KL Robbie

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 approved shall be carried out in accordance with the following approved plans: L014033-020; L014033-021; L014033-022; L014033-023.
- 3) Before the stone boundary wall indicated on plan L014033-022 is commenced details of its construction shall be submitted to the Local Planning Authority and approved in writing. The details shall indicate the height of the wall in relation to the ground level, the boundary wall of Pear Tree Cottage and the post and rail fence on the southern boundary. The boundary treatment shall then be erected and retained in accordance with the approved details.
- 4) The stone boundary wall shall be constructed of natural stone, and the stone, the coursing, pointing and stone coping stone shall match the boundary wall to the east of the site.
- 5) Notwithstanding the submitted details the south boundary shall form a hedgerow of native species. Before the use of the land commences details of the hedgerow shall be submitted to the local planning authority and approved in writing. The details shall include the species, height of plants, spacing of plant, maintenance including the replacement of any plants dead or dying within 5 years of the hedgerow being planted. The hedgerow shall then be implemented in accordance with the agreed details in the first planting season from when the use commences.