



Appeal Decision

Site visit made on 7 February 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2023

Appeal Ref: APP/V0510/W/22/3301495

63 Aldreth Road, Haddenham, Cambridgeshire CB6 3PN

- 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 Jason Williams against the decision of East Cambridgeshire District Council.
 - The application Ref 22/00360/FUL, dated 23 March 2022, was refused by notice dated 17 May 2022.
 - The development proposed is described as 'Proposed change of use of land from open countryside to part of residential curtilage. Retention of existing storage shed, pool wall and plant building.'
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Decision

1. The appeal is allowed and planning permission is granted for the proposed change of use of land from open countryside to part of residential curtilage. Retention of existing storage shed, pool wall and plant building at 63 Aldreth Road, Haddenham, Cambridgeshire CB6 3PN in accordance with the terms of the application, Ref 22/00360/FUL, dated 23 March 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PRJ/22/003/100, PRJ/22/003/101 and PRJ/22/003/102.
 - 2) Within 3 months of the date of this permission a scheme of biodiversity enhancement measures to be carried out on the site, including a timetable for implementation, shall be submitted to and agreed in writing with the local planning authority. The approved scheme shall be fully implemented in accordance with the agreed timetable and shall be retained in perpetuity.
 - 3) Within 3 months of the date of this permission there shall be submitted to and approved in writing by the local planning authority a scheme of landscaping. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. All planting, seeding or turfing comprised in the approved scheme shall be carried out in accordance with the approved details in the first planting and seeding seasons following its approval; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. In addition to the development set out in the description in the banner heading above, the appeal submissions indicate that the proposals also include an extended area of vehicular hardstanding, a pathway to the shed and a 1.8m high air source heat pump enclosure which are shown on the plans but not specifically referred to in the description. The construction of these elements has taken place. The plans before me appear to reflect the development constructed, as such the appeal is determined on the basis of the submitted plans.
3. The description of development is somewhat anomalous, as strictly speaking a 'curtilage' is not a use of land. Nevertheless, given the circumstances of this case, I consider that the proposal is sufficiently clear despite this shortcoming. I have therefore dealt with the appeal on this basis.
4. It has been brought to my attention that the Haddenham and Aldreth Neighbourhood Plan 2019-2031 (NP) was formally agreed on 20 October 2022 which post dates the submission of the appeal. The Council refer specifically to Policies HAD1 and HAD9, the appellant has been given the opportunity to comment.

Main Issue

5. The main issue is whether the appeal proposal constitutes an acceptable form of development in this location having regard to the effect on the character of the countryside.

Reasons

6. The appeal site is located in an area of open countryside between Haddenham and Aldreth. It comprises a rectangular piece of land alongside the recently completed replacement dwelling and detached garage at 63 Aldreth Road (No 63). The appeal proposal relates to the change of use of the land and the carrying out of various development as set out above.
7. Policy GROWTH2 of the East Cambridgeshire Local Plan 2015 (the LP) sets out the locational strategy for new development within the district. It seeks to strictly control development outside defined development envelopes, having regard to the need to protect the countryside and the setting of towns and villages, with development restricted to the specific types listed. In addition, GROWTH2 sets out that development in such areas may be permitted as an exception, providing there is no significant adverse impact on the character of the countryside and that other LP policies are satisfied. Development in areas beyond defined envelopes is therefore not limited exclusively to that which is listed.
8. The change of use from agricultural land to garden land does not fall within the categories listed, and as such is only acceptable in this location provided it does not give rise to significant adverse impact on the character of the area or conflict with other Local Plan policies. Whatever the original intended purposes of the development envelopes the site is clearly outside the defined areas and in an area of countryside where GROWTH2 seeks to control development.
9. In addition to the absence of significant adverse impact on the character of the countryside, Policy GROWTH2 requires other LP policies to be satisfied. The

Council allege conflict with LP Policy ENV1. Policy ENV1 seeks to protect landscape and settlement character, in particular the space between settlements, and their wider landscape setting; visually sensitive natural and man-made skylines, hillsides and geological features; key views into and out of settlements; and the unspoilt nature and tranquillity of the area.

10. The land to which the appeal relates is a strip of land between the existing side boundary of the dwelling and the neighbouring paddock and stable block. It is well contained by the existing development on either side, which includes buildings and boundary treatment. The site is smaller in size than the area of land on which No 63 sits. Moreover, the resulting plot size at No 63 is not dissimilar to others in the vicinity and is commensurate with the size of the existing generous detached dwelling at the site.
11. The appeal site forms part of a larger parcel of land on which the dwelling at No 63 sits. The land extends to the rear and sides of the dwelling and comprises mowed grass separated from the countryside beyond it by a native hedge to the field boundary. The extent of the original garden area of No 63, as approved as part of the earlier application for the replacement dwelling, is not physically denoted on the ground by any boundary treatment to the side or rear boundaries. The land surrounding No 63, while it is beyond the extent of the formal garden, is well maintained and in that regard differs in character from the agricultural land beyond.
12. The extended driveway, air source heat pump enclosure, pool wall and plant building are modest in size and located close to the original garden boundary. As such, due to the scale and siting of these elements they do not represent a significant encroachment into the countryside. Whilst the pathway and garden shed extend further beyond the side boundary of No 63, due to the size of the site and its contained nature, these elements would nevertheless be well related to the existing development. Furthermore, the shed, which is a low profile, timber building is domestic in scale and appearance and is set back from the highway to the front boundary of the site. As a result, it is not visually prominent in the rural landscape and does not appear as an anomalous feature in the countryside setting.
13. The development which has taken place can be seen from the road to the front of the site, however due to the scale and siting, these features do not appear as unduly dominant in the street scene. For the foregoing reasons, the use of the land as garden, including the addition of these features, does not substantially change the character and appearance of the land or unduly encroach into the open countryside. Furthermore, the development does not have a significant adverse effect on the open space which frames the existing dwelling, given that the open space immediately to the opposing side and rear of the dwelling will be maintained as such and any impact in terms of the appeal site would be limited.
14. The appeal submissions indicate that the site is likely to remain mainly as an open lawned area, with items such as seating to be located to the rear of the dwelling, where it would not be seen from the highway, and would offer a greater degree of privacy. However, future occupiers of the land should be considered not just the intentions of the current owner.
15. I note the Council's concern that the use of the land as garden may include domestic paraphernalia associated with the residential use. This could include

the potential for ornamental plantings, children's play equipment, garden buildings and structures, to the detriment of the character of the area. Whilst a planning condition to remove permitted development rights would provide a degree of control over subsequent development on the land, this would not include paraphernalia which is beyond the scope of planning control.

16. Nevertheless, given the size of the site and its well contained nature, any paraphernalia would be unlikely to have a significant effect of the character of the countryside. I note the appellant's willingness to carry out landscaping of the site which would further safeguard the character and appearance of the area in terms of harm caused by ancillary paraphernalia. This can be secured by a planning condition.
17. Policy HAD9 of the NP sets out that development which would have the effect of reducing the gaps between settlements indicated on the Policies Map, or the perception of those gaps, will not be permitted. The appeal submissions indicate that the site is located within one such designated settlement gap, the purpose of which is to protect the distinctiveness of settlements. For the reasons set out above the proposal does not result in a significant encroachment into the countryside. As a consequence of the width of the site and nature of the development proposals, it would not significantly impede views of the open countryside beyond the site from Aldreth Road and in particular long-distance views across the fens.
18. Moreover, the appeal site lies some distance from the development boundaries of Haddenham and Aldreth so as not to extend the settlements or lead to coalescence of the settlements.
19. I conclude therefore that the proposal does not give rise to significant adverse impacts on the character of the countryside. In that regard the proposal complies with LP Policy ENV1 and as such is an acceptable form of development in this location, in accordance with Policy GROWTH2 of the LP. In addition, the proposal does not conflict with NP Policy HAD9, in so far as it seeks to safeguard the gaps between settlements.
20. Policy HAD1 of the NP also seeks to control development in the countryside. However, whilst HAD1 sets out that development will normally only be allowed for agriculture, horticulture, forestry, outdoor recreation and other uses which can demonstrate a need to be located in the countryside, it implies there may be exceptions and does not amount to an outright ban on all other development. Given that the proposals do not result in demonstrable harm to the character of the countryside, any conflict with Policy HAD1 would be of limited weight.

Other Matters

21. Whilst not specifically referred to in the reason for refusal the Council indicates in its submissions that the proposal would conflict with LP Policy HOU8, which supports proposals for replacement dwellings only where the proposal is within the existing curtilage. However, the appeal proposal before me now, does not form part of the scheme for the replacement dwelling, and is to be assessed on its own merits.
22. Furthermore, I note the Council's comment that, due to the size of the existing garden area the development for which permission is sought could have taken

place within it, subject to meeting the relevant permitted development criteria or planning permission being granted. Whilst this may be the case, I am required to determine the appeal on the basis of the proposal before me.

Conditions

23. I have considered the Council's suggested conditions against Paragraph 56 of the Framework and the Planning Practice Guidance. I have made some revisions to the conditions in the interests of clarity and to ensure compliance with the Framework.
24. Since the development that is the subject of the appeal has commenced, I have omitted the suggested condition which set a time limit for commencement of the development. A drawing numbers condition is necessary for clarity. A condition to secure a scheme of biodiversity enhancement measures is necessary, in accordance with LP Policy ENV7 which requires development proposals to maximise opportunities for creation, restoration, enhancement and connection of natural habitats.
25. A condition has been put to me which would restrict Permitted Development rights for the land under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (the GPDO). The reason given is to safeguard the character and appearance of the area. The PPG states that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
26. Class E of the GPDO restricts the development which could take place without planning permission on the land between the front elevation of the dwelling and the highway. It also sets out thresholds pertaining to the height, siting and size of such development, which may include outbuildings, enclosures, pools or containers. I therefore agree with the previous Inspector in the earlier appeal¹ that any ancillary development that would constitute permitted development would be domestic in scale and in keeping with the scale of the house. Moreover, whilst the circumstances of the case differ from that in the earlier appeal, there are similarities. Therefore, in light of my findings in relation to the main issue, development permitted under Class E would not cause unacceptable harm to the character and appearance of the area. A condition to removed permitted development rights is therefore not necessary.
27. In addition, for the reasons set out above a condition to secure an appropriate scheme of landscaping of the site is necessary.

Conclusion

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the Framework reflects this and makes it clear that the development plan is the starting point for decision making. Whilst there is some tension with NP Policy HAD1, the extent of the conflict is small, furthermore given there is no demonstrable harm to the countryside, the development would not conflict with

¹ APP/V0510/W/21/3267097

the development plan when read as a whole. The appeal is therefore allowed subject to conditions.

Emma Worley

INSPECTOR