



Appeal Decision

Site visit made on 7 February 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/F1040/W/22/3306278

The Grange, Main Street, Church Broughton, Derby DE65 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Andrew Johnston against South Derbyshire District Council.
 - The application Ref DMPA/2021/1442, is dated 19 September 2021.
 - The development proposed is described as *To construct a greenhouse (4m long, 3m wide, 3m high) with an adjoining potting shed (3m long, 3m wide, 3m high). To be constructed within land that is currently a meadow adjacent to the bottom of the existing garden. The meadow being owned by the applicant.*
-

Decision

1. The appeal is allowed and planning permission is granted to construct a greenhouse (4m long, 3m wide, 3m high) with an adjoining potting shed (3m long, 3m wide, 3m high) at The Grange, Main Street, Church Broughton, Derby DE65 5AS in accordance with the terms of the application, Ref DMPA/2021/1442, dated 19 September 2021, subject to the following 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 and photograph/image:
 - *Location Plan; Proposed Greenhouse Details; Potting Shed Details; Hand Drawn Site Plan; and Aerial Photograph and Image.*

Preliminary Matters

2. Relevant planning applications include the approval of planning permission for two dwellings in 2014¹ and a later application in 2016². Whilst I have no information as to which permission The Grange was built under, the application site for both applications indicates a rear boundary much shorter than that on the appeal site subject to this appeal. The submitted location plan and aerial photograph state a change of use from meadow to garden however, regardless as to whether or not the area of existing garden beyond that shown on the plans for the original approval has a lawful use as garden land, which remains disputed, there is no indication of the appellant's intent for any consideration under this appeal as to whether or not that existing garden is lawful.

¹ Planning Application Ref: 9/2014/0492 granted 21 October 2014.

² Planning Application Ref: 9/2015/0990 granted 12 February 2016.

3. From what I saw and from the details submitted with the appeal documents, the proposed buildings would be partly within the land indicated as being for a change of use and part in the existing garden referred to above. I have determined the appeal on that basis.
4. The proposed development is described on the application form as being constructed within land that is currently a meadow adjacent to the bottom of the existing garden, owned by the appellant. I have omitted this additional description when describing the proposal in the interests of clarity.
5. Since the submission of this appeal the Council has indicated that it would have granted planning permission subject to conditions.

Main Issue

6. On the basis of the information submitted, I consider that the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. The Council has indicated that it would have approved the planning application given that the increase in garden land compared with that authorised by the previously mentioned planning approvals would not encroach significantly beyond the gardens of adjoining houses to the east. Notwithstanding the use of the land which I have clarified above, the Council accept that the proposal would have a minimal impact on the countryside and the general character of the area. I concur with this assessment.
8. Taking the above into consideration, I find that the greenhouse and potting shed would be modest structures and in terms of their height, size, materials and overall appearance would not appear out of keeping with this area. Their location in relation to the existing garden to The Grange and the adjacent field/meadow would not be unduly intrusive and I consider that they would not have a harmful effect on the character and appearance of the area.
9. As such, the proposed greenhouse and potting shed would not conflict with Local Plan³ Policies BNE1, BNE4 or BNE5 which, amongst other things, seek to protect landscape character. Furthermore, they would satisfy Local Plan Policy H27 in that they would not be out of scale or character with The Grange or have an adverse effect on the character and appearance of the area. Furthermore, the proposal would not result in detrimental domestication of the countryside and would not therefore conflict with Local Plan Policy H26.

Other Matter

10. The Appellant requests that this decision should lead to the reimbursement of planning application fees from the Council in a timely manner. However, this is a matter between the Council and the Appellant.

Conditions

11. The Council has suggested a condition restricting permitted development rights for the erection of buildings, other than as hereby approved, which I have

³ South Derbyshire District Council – South Derbyshire Local Plan – Part 1, Adopted 13 June 2016 & Part 2, Adopted 2 November 2017.

considered in the light of the Planning Practice Guidance⁴. However, given that the area of land shown on the submitted location plan and aerial photograph as proposed change of use from meadow would be modest, and in any event, mostly taken up by the greenhouse and potting shed, I do not consider it necessary to restrict development as suggested. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

J D Clark

INSPECTOR

⁴ Planning Practice Guidance, Published 6 March 2014 – Updated 23 July 2019.