



Appeal Decisions

Site visit made on 7 March 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal A Ref: APP/H0520/W/22/3305806

99 Sparrowhawk Way, Hartford, Huntingdon, Cambridgeshire PE29 1XY

- 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 Angus Skilling against the decision of Huntingdonshire District Council.
 - The application Ref 21/02088/FUL, dated 1 September 2021, was refused by notice dated 28 April 2022.
 - The development is described as “change of use of scrubland to dwellinghouse and erection of close boarded fencing”.
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Appeal B Ref: APP/H0520/W/22/3308659

97 Sparrowhawk Way, Hartford, Huntingdon, Cambridgeshire PE29 1XY

- 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 Michael Grout against the decision of Huntingdonshire District Council.
 - The application Ref 21/01838/FUL, dated 1 September 2021, was refused by notice dated 28 April 2022.
 - The development is described as “change of use of land to garden use”.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The description of the development in both Appeal A and Appeal B is unclear and refer to ‘change of use of scrubland to dwellinghouse’ and ‘change of use to garden use’. Neither of these descriptions accurately reflect the proposal. I have therefore assessed both Appeal A and Appeal B as a change of use to residential on the basis that that they seek to extend the gardens of 97 and 99 Sparrowhawk Way into the adjacent woodland.
4. In respect of Appeal B there is dispute between the Council and the appellant as to whether the fence forms part of the development. From my site visit I observed that there was a fence to the western boundary, however, this did not appear to be recently erected. The appellant’s submission is clear that the fence does not form part of the proposal and the fence is not referred to in the description of development. I have assessed Appeal B on this basis.

5. As set out above there are two appeals on neighbouring sites. They differ in terms of detail relating to boundary treatment, ground covering and structures, however, the main issues remain the same for both appeals. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
6. The development subject of Appeal A and Appeal B is complete, and I was able to view the development when I attended my site visit.

Main Issues

7. The main issues in both appeals are:
 - i) the effect on the character and appearance of the surrounding area;
 - ii) the effect on the availability of open space; and
 - iii) the effect on biodiversity.

Reasons

Character and appearance

8. 97 and 99 Sparrowhawk Way are both modern detached houses in an established residential area which back onto an area of woodland. The woodland includes informal footpaths and is part of a larger amenity area which provides a green buffer between the residential development, of which 97 and 99 Sparrowhawk Way forms part of, and the A141. Part of this woodland has been brought into the private residential garden area of the two properties.
9. For Appeal A the land is enclosed by a close boarded fence. A wood store and pergola are present with the ground covered in decorative aggregate. This represents a domestication of the land and results in a significant change to its character and appearance.
10. For Appeal B the appellant has planted laurel to the northern boundary.
11. The Council is concerned that over time trees would be lost as they become managed as part of a domestic setting. The appellants state that the land has not been managed by the Council for a significant period of time and that they could manage the area. Whilst a condition could secure a management programme for the trees the character of woodland within a domestic setting is intrinsically different and would not have the same public amenity value in terms of character and appearance.
12. If permission were given for the change of use, it would be reasonable to expect that a more intensive residential use would ensue with further ornamental plantings, domestic paraphernalia and other structures. This would add further to the incongruity of the use against the appearance of the woodland. I have considered restricting buildings on the land by way of planning condition; however, the Planning Practice Guidance (PPG) sets out that such a condition will rarely pass the tests of reasonableness and necessity and should only be used in exceptional circumstances; that is not the case here.
13. In respect of Appeal A the close boarded fences are approximately 2m in height supported on concrete posts. Similar boundary treatments are present in the

immediate vicinity of the site, however, the siting of a fence within an area of open space results in the domestication of the woodland and is an incongruous feature. The planting of wildflowers, bulbs and a non-native hedge species in a formal manner (e.g. hedgerows) would contribute to the domestication of the woodland area.

14. Both appellants see this change of use to be positive for the future management of the woodland. For both Appeal A and Appeal B I consider that the change of use from woodland to residential erodes the collective woodland value and consequently results in harm to the intrinsic character and appearance of the area.
15. The change of use and associated domestication would result in the erosion of the landscape buffer which provides an amenity function. This would lead to significant harm to the character and appearance of the surrounding area due to the incongruous encroachment of residential use into the woodland.
16. Accordingly, the change of use in both Appeal A and B would be contrary to Policies BE1, NE2 and NE3 of the Huntingdon Neighbourhood Plan adopted 2019 (the NP). I also find conflict with Policies LP31 and LP32 of the Huntingdonshire's Local Plan adopted 2019 (the LP) which seeks to conserve and enhance any existing tree, woodland, hedge or hedgerow of value and only supports the whole or partial loss of an area of open space of public value where there would be no significant adverse impact on the character of the surrounding area. The proposal conflicts with the National Planning Policy Framework (the Framework) and the provisions of the Huntingdonshire Design Guide Supplementary Planning Document (2017) and the National Design Guide (2021) with regards to achieving well-designed places.

Community land

17. Both appellants refer to the woodland in question having been fenced off from the wider area by chicken wire and that it was not publicly accessible like the majority of the woodland. I do not know the circumstances of the presence of the chicken wire, and I have no evidence before me that it prevented public access. Having regard to the Framework "all open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity", the woodland buffer formed part of the visual amenity value of the woodland. Consequently, the incorporation of both the appeal sites into the gardens of the houses results in the loss and fragmentation of an area of open space and I consider that Policy LP32 of the LP is applicable in this circumstance.
18. There is private benefit in providing additional garden space, however, both dwellings already enjoy a spacious garden, commensurate with the size of the dwelling. In the absence of any justification and taking account that the Council confirm that the land is not surplus to requirements, the development would be contrary to Policy LP32 of the LP which, amongst others, resists the whole or partial loss of an area of open space of public value.
19. Where there would be significant adverse impact on the character of the surrounding area Policy LP32 of the LP requires that the loss is minimised where possible, and that compensatory measures are put in place that provide a net benefit to the community that is served by the space that would serve

the community for the loss. As a compensatory measure the appellant for Appeal A initially proposed that a defibrillator be made available to the community. This offer was subsequently withdrawn during the processing of the appeal. Notwithstanding this, whilst the defibrillator would be of community benefit this mitigation is not fairly and reasonably related to the development.

20. For the reasons set out above the woodland is not replaced by an equivalent or better provision and there are no benefits which outweigh the loss. Accordingly, both Appeal A and Appeal B would be contrary to the Policy LP32 of the LP, Policies BE1, NE2 and NE3 of the NP which seek the loss of open spaces and require any loss to be mitigated by a net gain to the community.

The effect on biodiversity

21. The woodland has no designated ecological significance. Nevertheless, it is part of an extensive area of woodland buffer between the A141 and the residential estate and makes a positive contribution to biodiversity and ecology in the locality. Limited details have been provided with regards to either of the site's biodiversity value. However, the biodiversity value of contiguous woodland is likely to offer greater value to wildlife than a domestic garden as it would enable wildlife pathways and linkages to allow wildlife to move around the floor of the woodland. This is particularly so in the case of Appeal A which is cut off from the adjoining woodland on all its boundaries by a close-boarded fence.
22. Even though the sites, relative to Appeals A and B, are of a limited size compared to the woodland as a whole, the loss of this habitat to residential would harm the ecology and biodiversity of the area.
23. In the case of Appeal B the appellant states that there is no harm to biodiversity and emphasises that no trees would be lost as part of the proposal and that he has replaced trees which have fallen over the years to increase the ecological value. No further details of this have been submitted, however, it is noted that the appellant has planted laurel. As a non-native UK species this planting does not outweigh the harm to ecology and biodiversity identified as a result of the change of use and domestication of the woodland. Whilst a condition could ensure that no trees are removed this does not change my findings that the inclusion of the woodland within private rear gardens would be detrimental to the ecological value of the site.
24. I conclude for Appeal A and Appeal B that, due to the loss of an area of land which is part of the woodland habitat, the proposal would lead to undue harm to the ecological habitat of the area. The proposal would therefore be contrary to Policy LP30 of the LP and the Framework which seek to preserve and enhance the natural environment, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

Other Matters

25. The Council states that there is a strong possibility that roots from surrounding trees have already been damaged by the fence installation. Whilst footings of the concrete fence posts may be within the root protection area of some large trees, without further evidence, I am not convinced that this would be sufficient to pose any significant threat to the health of the trees.

26. Interested parties have raised concerns relating to the ownership of the appeal site. However, these are not matters for me to consider as part of this appeal.
27. It is noted that the proposal would not impact upon the footpaths within the woodland, however, this does not change my conclusion on the main issues.
28. I note the concerns of the appellants regarding some delays and difficulties in the engagement of the Council in determining the applications. However, I can only deal with the planning merits of the case.
29. I note references to permissions in the locality; however, limited details have been provided. In any event, I must consider the appeal schemes on their own merits.

Conclusion

30. For the reasons set out above and having regard to all other matters raised I conclude that both Appeal A and Appeal B should be dismissed.

R Gee

INSPECTOR