



Appeal Decision

Site visit made on 7 March 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22ND May 2023

Appeal Ref: APP/C1625/W/22/3300808

30 Upthorpe, Cam, Dursley, Gloucestershire GL11 5HR

- 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 & Mrs Martin & Vanessa Weaver against the decision of Stroud District Council.
 - The application Ref S.22/0297/COU, dated 9 February 2022, was refused by notice dated 6 April 2022.
 - The development proposed is described on the application form as, "Change of use of existing agricultural land to domestic curtilage (retrospective). Resubmission following withdrawal of S.21/2627/COU at 30 Upthorpe, Cam, Dursley, Gloucestershire, GL11 5HR".
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Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to residential use (C3) at 30 Upthorpe, Cam, Dursley, Gloucestershire, GL11 5HR in accordance with the terms of the application, Ref S.22/0297/COU, dated 9 February 2022, and subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the change of use as shown on the supporting plans as, "Change of use of agricultural land to residential use (C3) (retrospective). Resubmission of S.21/2627/COU". Apart from the word 'retrospective', which is not an act of development, and the words 'Resubmission of S.21/2627/COU', which are superfluous, I have used this description in my consideration of the appeal and in my decision since it best describes the change of use in precise and concise terms.

Main Issue

3. The main issue is whether the appeal site is suitably located for the change of use, having particular regard to the Council's spatial strategy and the effect of the change of use on the character and appearance of the area.

Reasons

4. The appeal site comprises a parcel of land to the rear of 30 Upthorpe (No 30), stated in the application form to cover approximately 0.085 hectares. At the time of my site visit it was enclosed by a fairly insubstantial post and rail fence. At the rear of the site are open fields and accordingly whilst residential

- development is nearby, to the rear of the site the wider area has an open and rural character. The change of use to residential has already occurred.
5. The site is located outside any settlement boundary and therefore it is in the open countryside in planning policy terms. In this respect, Policy CP15 of the Stroud District Local Plan (adopted 2015) (Local Plan) provides that, amongst other things, in order to protect the separate identity of settlements and the quality of the countryside (including its built and natural heritage), proposals outside identified settlement development limits will not be permitted except where certain specified principles are complied with.
 6. Whilst the appellants consider that Policy CP15 is geared towards new housing development and have highlighted its supporting text which refers at paragraph 6.9 of the Local Plan to preventing the proliferation of development in areas away from existing settlement development limits, the change of use does not fall within any of the 6 principles listed in Policy CP15. Hence, the change of use conflicts with Policy CP15 of the Local Plan.
 7. Turning to the effect of the change of use on the character and appearance of the area, the land in question is positioned directly behind the rear of No 30, with No 30 being broadly perceived in nearby views (including from the nearby public rights of way) as being part of the long run of residential development which stretches along Uphorpe. As such, rather than being clearly associated with the open countryside, the site appears virtually as part-and-parcel of the private amenity areas surrounding No 30.
 8. Whilst the change of use necessarily involves a degree of domestication within the site, its presence as a residential parcel of land located near to stretches of other residential dwellings along Uphorpe, its close affinity with those dwellings in visual terms, and its modest size, all ensure that it has not resulted in any meaningful erosion of, or incursion into, the open countryside, which is characterised by strong field patterns that are medium to small in scale in the vicinity of the site.
 9. Moreover, I observed that it is very difficult to distinguish the appeal site from any other specific parcel of land, when attempting to view the site from Valued View 7 (Ashmead) as defined in the Neighbourhood Plan¹, due to the distance of the site from Valued View 7 and the topography of the area surrounding the site. As such, the residential use of the land has a negligible impact on the character and appearance of the wider area and the surrounding landscape. Hence, no conflict arises with Policy CAMES3 of the Neighbourhood Plan which provides that, amongst other things, development proposals which have a significant adverse impact on any of the valued views, which cannot be mitigated, will not be supported.
 10. Furthermore, a planning condition could be imposed to remove relevant permitted development rights, which would ensure that the Council would maintain long-term control over the erection of any intended built structures on site which would otherwise be permitted development.
 11. I therefore find that, whilst the change of use has an acceptable effect on the character and appearance of the area, the site is not suitably located for the change of use, having particular regard to the Council's spatial strategy.

¹ Cam Parish Neighbourhood Development Plan 2019 – 2031 (Referendum Version 2020) (made 2021)

12. The change of use complies with criterion 5 of Policy CP14 of the Local Plan which provides that, amongst other things, development will be supported where it achieves an appropriate design and appearance, which is respectful of the surroundings, including the local topography, built environment and heritage. The change of use also complies with Policy ES7 of the Local Plan which provides that, amongst other things, in all locations development proposals should conserve or enhance the special features and diversity of the different landscape character types found within the District.
13. The change of use conflicts with Policy CP15 of the Local Plan, the relevant parts of which have been summarised above.

Planning Balance

14. I have found on the main issue above that the change of use conflicts with an up-to-date development plan and in these circumstances the National Planning Policy Framework (the Framework) advises that planning permission should not usually be granted. However, I must consider whether other material considerations indicate that the plan should not be followed.
15. I am mindful that the Framework provides at paragraph 15 that, amongst other things, the planning system should be genuinely plan-led. Nonetheless, in the specific circumstances of this appeal, and based on the evidence before me, whilst the change of use conflicts with Policy CP15 of the Local Plan, as for the reasons given in the main issue the change of use protects the separate identity of settlements and the quality of the countryside, and taking account of the total size of the site which is modest, the conflict with Policy CP15 has been given limited weight.
16. The change of use offers benefits to the current and future occupiers of No 30, in that it provides a larger area of private amenity space, and thereby contributes towards their health and well-being. Whilst these benefits are mainly private in nature, they nevertheless provide support for the change of use. In the context of paragraph 130 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places which promote health and well-being, I accord no more than moderate weight to the benefits of the change of use in planning terms.
17. Therefore, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), in this particular case as a matter of planning judgement I find that the benefits of the change of use indicate that the appeal must be determined otherwise than in accordance with the development plan.

Conditions

18. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance (PPG).
19. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plans. A condition is necessary removing relevant permitted development rights to safeguard the character and appearance of the area. In the interests of precision, the Council's suggested condition relating to the removal of permitted development rights has been altered to ensure that only

those rights directly related to the change of use are specified within the condition.

20. As the change of use has already occurred, the standard commencement condition is not necessary.

Conclusion

21. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (1:1250) (dated 1 February 2022), Block Plan (drawing No. 002) (Rev A) (dated January 2022).
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes E and F of Part 1 of Schedule 2 of that Order or Classes A, B, C, D, E and F of Part 2 of Schedule 2 of that Order shall be carried out on the site.