



Appeal Decision

Site visit made on 8 November 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/K0425/W/23/3321496

Cherry Tree House, Westfield, Medmenham, Buckinghamshire SL7 2HE

- 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 William Butler-Adams OBE against the decision of Buckinghamshire Council
 - The application Ref 22/05825/FUL, dated 21 March 2022, was refused by notice dated 12 January 2023.
 - The development proposed is change of use from agricultural land to residential curtilage and new fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site comprises Cherry Tree House, a large two-storey dwelling, the garden space surrounding it, and some agricultural land, which was previously part of a larger field. I understand that a fence and hedge that demarcated the boundary of the original garden space serving Cherry Tree House and separated it from the agricultural land has been removed. In any case, the garden space, and the agricultural land now both sit within a post and rail fence. The appellant's statement confirms that it is the agricultural land, shown shaded green on the submitted plan, Drawing No: CTH PA 01 Rev A, which is subject to the change of use as part of this appeal (hereon referred to as the appeal land). It is the intention of the appellant to use the land as garden. I have determined the appeal on this basis.
3. I note that the Council's Officer Report confirms that permitted development rights have not been removed from the site. Given this, and from my observations on site, it is highly likely that the proposed new fencing, which is already in place, would be permitted development. This is the view of the appellant and has not been challenged by the Council. I have therefore determined the appeal on this basis.
4. Notwithstanding the recent announcement that all designated Areas of Outstanding Natural Beauty (AONBs) are to be renamed National Landscapes. I have referred to these designated landscapes as Areas of Outstanding Natural Beauty in my decision below, which is the existing terminology that is referred to in the National Planning Policy Framework.

Main Issues

5. The main issues are the effect of the proposal on:

- The integrity of the open countryside and whether the proposal would preserve or enhance the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty; and
- Biodiversity, with particular regard to protected species, habitats and ecological connectivity.

Reasons

Open Countryside and Area of Outstanding Natural Beauty

6. There is no dispute between the parties that, in terms of planning policy, the appeal site is located beyond defined settlement limits within the open countryside. Policy DM44 of the Wycombe District Local Plan (2019) (Local Plan) permits certain types of development in the countryside outside of the Green Belt, including extensions and alterations to existing dwellings. However, it does not specifically permit the extension of a domestic curtilage and it is unclear from Policy DM44 whether this exclusion is intentional.
7. Nonetheless, the objective of Policy DM44 is to ensure that new development is located where it is capable of contributing to sustainable development. It would seem to me that the extension of a domestic curtilage would contribute to sustainability in a similar way to an extension to an existing dwelling. Therefore, in this case, while the proposal is not a type of development specifically permitted by Policy DM44, it would not conflict with the overarching aims of the policy.
8. The appeal site is in the Chilterns Area of Outstanding Natural Beauty (AONB). This part of the AONB comprises a valley, close to the River Thames, and includes a large number of agricultural fields that vary in their size and shape. I understand that fields account for over half of the land within the AONB, and its landscape and scenic beauty is in part formed by the historic boundaries and field patterns.
9. The appeal site is positioned at the end of a relatively narrow highway, known as Westfield Bungalows, which is lined predominantly by semi-detached dwellings. This includes six pairs of semi-detached estate cottages, known as Westfield Cottages, which are Grade II listed. The host dwelling, Cherry Tree House, is set on a large plot. It does not front the highway like the other houses in the immediate area, rather it is surrounded by garden space and accessed by a short driveway.
10. The agricultural field that the appeal site previously formed part of, runs from the appeal site behind the houses on the west side of the highway to the edge of an area of woodland. The wooded land then begins to rise, which provides a verdant backdrop to the wider area. There are also views from the appeal site of wooded hills on the opposite side of the river and, despite some of the boundary hedges in the immediate area obstructing some medium distance views, these longer views create a great sense of openness. Overall, the area has an open and rural character, which is largely agricultural.
11. I appreciate that Cherry Tree House forms part of a group of development that includes the nearby houses, a relatively small industrial estate, and a fishery. However, there is a distinction between this development and its open agricultural setting, with only a few houses on the western side of the highway being visible from the appeal land.

12. On my visit, the appeal land, despite being included within the boundary fence of Cherry Tree House, was relatively open. While most of the land was roughly mowed, there was a section of land close to Cherry Tree House that had been more finely mowed. There were several young trees and some small ornaments, as well as a small metal pergola type structure. On the whole, the more manicured land and limited number of domestic items did not have a significant impact on the open character of the immediate area.
13. Nonetheless, and while I note that the Council's enforcement team consider the land in its current form to not constitute a change of use, it does already blur the distinction between the residential properties and their open agricultural setting. Thus, in its current form the appeal land makes a neutral contribution to the character and appearance of this part of the AONB, as well as the open countryside.
14. The appeal land is substantial and would more than double the amount of residential curtilage belonging to Cherry Tree House. It would extend into the open countryside beyond the historical field boundary with the gardens of the houses on the western side of the highway. The proposal would allow the unrestricted placement of residential paraphernalia on this land, which could further erode the distinction between the residential properties and their open, agricultural setting. This would result in moderate harm to the integrity of the open countryside and the landscape and scenic beauty of the AONB, albeit this harm would be localised.
15. I recognise that the Council could control future development on the appeal land by removing the permitted development rights pertaining to development incidental to the enjoyment of a dwellinghouse, for example Classes E and F of Part 2, Schedule 2 of the General Permitted Development Order (GPDO). Nevertheless, the Council would be unable to control the amount of residential paraphernalia placed on the land. I appreciate that many domestic items associated with gardens are fairly modest in size and temporary in nature. However, larger items, such as large rotary washing lines and trampolines would harm the open agricultural character of the immediate area. While these items would likely be smaller than the fencing associated with the previous application for the construction of an outdoor tennis court, ref: 21/07044/FUL, it is my view that they could lead to a similar level of harm. The appellant considers that given the size of the resulting curtilage, it would be highly unlikely that the additional land would be crammed with domestic paraphernalia. However, in this case, fewer larger and more opaque items would be likely to have a more detrimental effect than a plethora of smaller, more transparent ones.
16. Some of the houses in the immediate area have already extended their gardens into the surrounding fields. I saw on site that the gardens of Nos 9 and 12 Westfield Cottages extend past the historical field boundary into the field that the appeal land previously formed part of. Like the appeal land, they are demarcated by post and rail fences and were relatively free from any significant residential paraphernalia during my visit. Notwithstanding this, these garden extensions, by disrupting the historical field pattern, have already eroded the landscape and scenic beauty of the AONB to a degree.
17. The resulting curtilage of Cherry Tree House with the appeal land incorporated would have a similar depth to the existing garden extensions at Nos 9 and 12

Westfield Cottages. However, these garden extensions are both smaller and closer to the wooded area flanking the open field than the proposal, which helps reduce their impact. More development of this type, particularly of the size of the appeal proposal, which is in a more outlying location, would result in further harm to the integrity of the open countryside and landscape and scenic beauty of the AONB, which cumulatively would be considerable. Moreover, the Council's Officer Report explains that the existing garden extensions are unauthorised but immune from enforcement action. I therefore afford them limited weight in my decision.

18. The appellant also refers to the large linear curtilages of the properties on Ferry Lane, which lie to the east of Westfield Bungalows. However, these houses are quite a distance from the group of development surrounding the appeal site and are separated from it by open fields. While they are set in similar surroundings, their existing pattern of development is different, particularly in terms of plot size, and their deeper gardens are relatively well contained by trees. Given this, they are not directly comparable to the proposal, and they afford limited weight in my decision. In any event, I have determined the appeal on its own planning merits.
19. Notwithstanding the above, the inclusion of the appeal land within the boundary fence of Cherry Tree House has not, to date, resulted in the adjacent agricultural land becoming unviable to farm. Although the resulting field would be an unusual shape and there is no substantive evidence that allowing the appeal would further compromise its viability.
20. The appellant is willing to take guidance from the Council with regards to landscaping the appeal land and to provide a landscape strategy as a condition of approval. However, while landscaping could be used to integrate the garden area into the existing residential curtilage, it would also harm the open and agricultural character of the land. Given this, it would not fully address the harm that I have identified. Furthermore, landscaping should not be used to screen development that fails to contribute positively to its surroundings.
21. Accordingly, for the reasons above, the proposal would harm the open agricultural character of the area and the integrity of the open countryside. It would also neither conserve nor enhance the landscape and scenic beauty of the AONB. While I have found that it would not conflict with the overarching aims of Policy DM44 of the Local Plan, it would conflict with Policies CP1, CP9, DM30 and DM35 of the Local Plan. These seek to conserve and enhance the natural environment, including the AONB, by ensuring new development improves the character and quality of the area.
22. DM36 relates to extensions and alterations to existing dwellings. The supporting text states that it applies to house extensions and extensions to small scale Houses in Multiple Occupancy. Therefore, in this case, it does not appear to be applicable.

Biodiversity

23. I have before me several aerial photos of the appeal site from the years between 2003 and 2020. These show that, during this time, most of the appeal land was open grassland. It is not possible from the photos to understand the condition of the grassland. However, it appears to be managed. Given this, the Council's Ecology Officer considers there to be a chance that the land could be

historic meadow and advises that a phase 1 habitat survey is undertaken to inform whether there are any ecological constraints and conditions to ensure biodiversity net gain.

24. While it may be that if the land had not been sold to the appellant, it would have been ploughed, this has not been the case. There is no ecological information before me, and in the absence of a preliminary ecological appraisal, whether or not there is any pre-existing ecology, potential for protected species, habitats or ecological connectivity is unknown. Given the absence of any baseline, it has also not been demonstrated that the proposal would result in a net gain or enhancement of biodiversity.
25. In the event that the appeal was allowed, a landscaping condition could provide a measurable net gain in biodiversity. However, as identified above, any substantial landscaping of the appeal land could harm its open and agricultural character.
26. Accordingly, in the absence of sufficient information and evidence, it has not been demonstrated that the proposal would not result in harm to biodiversity, and I must take a precautionary approach. It would therefore conflict with policies CP10 and DM34 of the Local Plan, and Policies DM11, DM13 and DM14 of the Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development (2013). These seek to protect and enhance biodiversity, including protected species.

Other Matters

27. The large field, which the appeal land forms part of, also provides the setting for the listed cottages, particularly Nos 7-12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to give special regard to preserving the buildings or their setting or any features of special architectural or historic interest which they possess. The significance of these cottages derives from their architectural value, which includes tympana depicting labours of the month, many that have an agricultural association. With regards to this appeal, the open and agricultural setting of the cottages positively contributes to their significance.
28. Nevertheless, the intervisibility between the appeal land and the listed cottages is significantly limited. This is due to their positioning, almost at a right-angle to one another, and intervening trees and bushes within the rear gardens of the properties on the western side of the highway. Given this, while the proposal would erode the historic field pattern and associated boundaries, I am of a similar view to the Council's Conservation & Listed Buildings Officer, that in the event the appeal was allowed, the effect of the proposal could be minimised by imposing a condition removing some of the permitted development rights pertaining to development incidental to the enjoyment of a dwellinghouse, for example Classes E and F of Part 2, Schedule 2 of the GPDO. Subsequently, the proposal would not result in any appreciable harm to the setting or significance of the listed cottages. It would therefore accord with the provisions of chapter 15 of the Framework, which is required by Policy DM20 of the Local Plan.

Conclusion

29. Overall, I have found that the proposal, similar to a house extension, would contribute to sustainability and therefore would not conflict with Policy DM44 of the Local Plan. Nonetheless, this would neither outweigh nor address the moderate harm to the integrity of the open countryside and the landscape and scenic beauty of the AONB. Thus, it would conflict with the development plan read as a whole.
30. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR