



Appeal Decision

Site visit made on 5 March 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2024

Appeal Ref: APP/Y3940/W/23/3326426

Oak View, High Post Road, Netton, Wiltshire SP4 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr and Mrs Pottage against the decision of Wiltshire Council.
- The application Ref PL/2022/07816 was approved on 24 January 2023 and planning permission was granted subject to conditions.
- The development permitted is change of use of agricultural land to domestic garden.
- The conditions in dispute are Nos 2 and 3 which state that:
 2. *All boundary planting shall be of mixed native species of local provenance with no non-native Evergreen screen planting allowed within or around the site. Any boundary fencing (either around the site edge or within the site) shall be post and wire or post and rail agricultural style fencing. No panel or close-board fencing shall be used either in or around the edges of the site.*
 3. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no garages, sheds, greenhouses, pergolas and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans.*
- The reasons given for the conditions are:
 2. *In the interests of the amenity of the area.*
 3. *To safeguard the character and appearance of the area.*

Decision

1. The appeal is allowed and the planning permission Ref PL/2022/07816 for change of use of agricultural land to domestic garden at Oak View, High Post Road, Netton, Wiltshire SP4 6AP granted on 24 January 2023 by Wiltshire Council, is varied by deleting conditions 2 and 3 and substituting for them the following condition:
 - 1) No panel or close-boarded fencing shall be used on the external boundaries of the site.

Background and Main Issue

2. Planning permission was granted¹ for a replacement dwelling at the appeal site in 2013. There was a subsequent approval² in 2021 for the change of use of agricultural land to domestic garden, extending the garden of the property. This latter consent included a condition (3) controlling the landscaping and boundary treatments of the site, a condition (4) removing permitted development rights for ancillary domestic outbuildings, and a condition (5) to

¹ Application ref S/2013/0184

² Application ref 20/11293/FUL

restrict the erection of garden structures. A subsequent application³ in 2023 then sought to remove these conditions.

3. The Council permitted this application but reimposed the condition relating to landscaping and boundary treatments (now condition 2), and imposed an amalgamated condition (now condition 3) removing permitted development rights for ancillary domestic outbuildings and pergolas. The appellants have appealed against this permission.
4. The Council considers that condition 2 is necessary in the interest of the amenity of the area, with regard to the site's location within a Special Landscape Area. It also considers that condition 3 is necessary to safeguard the character and appearance of the area. The proposal before me is to remove both of the disputed conditions, which the appellants consider not to be reasonable or necessary.
5. The main issue is therefore whether the conditions are reasonable or necessary, having regard to the character and appearance of the area.

Reasons

6. Oak View is part of a linear pattern of development lining one side of High Post Road. Properties are varied in scale and form, but each has a relatively large, south-facing rear garden. The appeal property and its extended garden are consistent with this pattern. While the garden area is wider than many of its neighbouring plots, it benefits from a degree of visual enclosure from neighbouring boundary treatments. Occasional views from the south perceive the site as one of several residential gardens following a straight and consistent edge to the settlement.
7. The appeal site is within a Special Landscape Area, where, in accordance with saved Policy C6 of the Salisbury District Local Plan 2011 (the Local Plan) proposals for development are required to conserve the character of the Special Landscape Area. The open countryside surrounding the settlement includes parcels of agricultural land bound by native hedgerows and trees, and occasional woodlands. In this context, alongside its neighbours, the appeal site directly adjoins a large agricultural field. Residential boundaries with the field are predominantly formed by wire fences or planting. As perceived from within the site and from the surrounding area, the appeal plot is clearly a garden alongside its neighbours, and does not conflict with or otherwise erode the character of the agricultural field.
8. With reference to the first element of Condition 2, I observed on site that the neighbouring gardens contain a variety of planting, including a high proportion of non-native or evergreen vegetation. Varied planting to the boundaries of the site or within the garden would therefore not be uncharacteristic of the area, nor would it fail to conserve the character of the Special Landscape Area. I accept that within this context, very tall evergreen screen planting on the southern boundary of the site would be uncharacteristic and harmful to the rural character of the area. However, given the southerly aspect of the plot, the appellants would be very unlikely to introduce a boundary of a height which would unduly shade their garden space. As such, I am not convinced that such an outcome would need to be controlled by a condition.

³ Application ref PL/2022/07816

9. Turning to the second element of Condition 2, there is a noticeable lack of close-boarded and panel fencing in the surrounding context of the appeal site, and gardens are largely enclosed by vegetation or open fencing. This creates an attractive and sensitive edge to the settlement, consistent with its rural location. Close-boarded and panel fencing have an urbanising or sub-urbanising character, and can appear particularly stark and prominent in a rural countryside context.
10. The appeal site is visible across the field as part of the line of properties on High Post Road. Close-boarded fencing in this context would create a harmfully prominent and uncharacteristic feature on the edge of the rural settlement. While I accept that other properties may be able to enclose their gardens with such fencing, the appeal garden is noticeably wider than its neighbours. As such any visually prominent fencing installed on the boundaries of the appeal site would be significantly harmful and incongruous. Accordingly, I find that this element of the condition is reasonable and necessary in the interests of the character and appearance of the area, and in order to conserve the character of the Special Landscape Area.
11. With regard to Condition 3, the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) also advises that conditions of this nature may not pass the tests of reasonableness and necessity. The starting point is therefore that permitted development rights should remain in place, unless clear justification for their removal is advanced which is specific to the site.
12. I note the Council's condition to restrict permitted development in the extended area of garden was imposed to protect the character of the rural landscape, and in respect of the Council's concern that the erection of a number of smaller buildings or a large building would erode the green, rural character of the locality. I accept that permitted development rights can be extensive, however any built form would, by its nature, remain ancillary in form and use to the main dwelling.
13. Several ancillary buildings are visible in neighbouring plots, including greenhouses, sheds, and outbuildings. Given the contained and consistent nature of the appeal site with its neighbours, any such buildings or pergolas in the garden would be viewed within the context of the dwelling and adjoining residential properties, rather than being perceived as part of the agricultural field or open countryside beyond. Consequently, they would be unlikely to have a significant effect on the wider rural landscape or detract from the character of the Special Landscape Area. Accordingly, clear justification for the restriction on permitted development rights in respect of outbuildings has not been provided.
14. It follows that I find it is reasonable and necessary to retain a condition controlling the use of panel or close-boarded fencing to the site boundaries, in the interests of conserving the character and appearance of the area, including the Special Landscape Area. Without the condition, such fencing would create a stark and incongruous feature on the edge of the settlement, in conflict with Core Policies 51 and 57 of the Wiltshire Core Strategy (2015) (the Core Strategy) and saved Policy C6 of the Local Plan. Taken together, amongst other

matters these policies require development to protect, conserve and where possible enhance landscape character, and require a high standard of design and development to be complementary to the locality.

15. However, it has not been shown that a condition controlling planting within the garden would be necessary, or that there is clear justification for the removal of permitted development rights as set out in the Framework and PPG. I therefore conclude that the conditions in so far as they relate to these matters are not reasonable or necessary in the interests of protecting the character and appearance of the area or the Special Landscape Area. As such, the development without the aspects of the conditions in these respects would not be contrary to Core Policies 51 and 57 of the Core Strategy, or saved Policy C6 of the Local Plan.

Other Matters

16. While I acknowledge that native planting carries a biodiversity benefit, there is no substantive evidence to show that such planting was necessary mitigation for the approved change of use. Nor has it been shown that the development would result in a net loss of biodiversity, or otherwise conflict with Policy 50 of the Core Strategy. Accordingly, a condition securing native planting is not necessary on biodiversity grounds.
17. I note the letter of representation from an interested party, raising concerns regarding the enforcement of building regulations and the potential for overdevelopment of the site. In light of my reasons above, there is nothing compelling before me which indicates that the use of permitted development rights would result in the over development of the site. In terms of building regulations, I have found that the proposal is acceptable in planning terms, subject to the condition as detailed. My decision does not obviate the need for any development at the site to comply with building regulations.

Conditions

18. As I have concluded that a condition is reasonable and necessary to control the erection of panel or close-boarded fencing, I will replace the conditions subject to the appeal with one that refers solely to this. This condition is necessary in the interest of protecting the character and appearance of the area, and conserving the character of the Special Landscape Area.

Conclusion

19. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

K Jones

INSPECTOR