



Appeal Decision

Site visit made on 1 May 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/P3040/W/23/3328765

**Pleasant View, 20 Landcroft Lane, Sutton Bonington, Nottinghamshire
LE12 5PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Wilson against the decision of Rushcliffe Borough Council.
 - The application Ref is 22/01689/FUL.
 - The development proposed is change of use to create private garden; creation of new gravel walkway; erection of single storey outbuilding; extension to raised patio; creation of private garden with associated landscaping and access works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice as this is more precise than the one given on the application form. The appellant raises no specific objection to that description, which they have used in their appeal form and statement.
3. During my site visit I observed that the change of use to private garden, and some of the works associated with it, had been carried out but the development has not been completed. The works undertaken correspond to the details shown on the submitted plans. I have therefore determined this appeal on the basis of it being partly retrospective.
4. The appellant submitted additional plans and a 3D visual rendering of the proposal with the appeal, which include further detail on the proposed greenhouse. Although these plans did not form part of the scheme that the Council made its decision upon, they do not change the substance of the proposal that was considered by the Council. Accordingly, having regard to the "Wheatcroft" principles¹, the Council and interested parties would not be prejudiced by my consideration of them.
5. The revised National Planning Policy Framework (Framework) was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.

¹ Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

Main Issue

6. The main issue is whether or not the appeal proposal is an appropriate form of development in this location, having regard to the development plan, and its effect on the character and appearance of the area.

Reasons

7. The appeal site relates to land to the rear of Pleasant View, a detached dormer bungalow on the southern side of Landcroft Lane. The dwelling, which is of relatively recent construction, was allowed on appeal², with the subsequent reserved matters application having been approved in 2017³. The plans indicate that the appeal site was to be used as a paddock separate to the tightly drawn domestic curtilage of the dwelling, with a fence and hedgerow in between and access provided via a gate.
8. There are neighbouring dwellings on either side of the site with a mixture of fencing and hedgerows on the side boundaries. The rear boundary of the site consists of a fence and an established hedgerow with agricultural land beyond. The spacious and verdant rural character of the site complements this part of the countryside.
9. The appeal proposal consists of three distinct areas. Land immediately to the rear of the dwelling comprises of a lawn and paved area with a garden studio and store located towards the eastern side boundary. The lawn then slopes down to a kitchen garden which is bounded by picket fencing and includes gravel paths, planting beds, a pergola and the base for a greenhouse which is yet to be erected. Beyond the kitchen garden there is a further grassed area where several trees have been planted and the submitted plans indicate that a pavilion structure would be erected in this area close to the rear site boundary.
10. Land beyond the Green Belt and the physical edge of settlements is identified as countryside. Policy 22 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) (LP2) does not identify the settlement boundaries for the settlements listed, of which Sutton Bonington is one. Policy 22 sets out that the location of the proposal and its relationship to neighbouring buildings and the physical edge of the settlement will determine whether the application is within the settlement or within the open countryside. This is therefore a matter to be considered on a case-by-case basis.
11. The appellant contends that the site is within a settlement formed between properties on Landcroft Lane and Melton Lane and the development does not extend beyond the physical edge of the settlement. However, while the site is located within an existing ribbon development, the surrounding area has a distinctly rural character. The site is a considerable distance to the east of the main body of the settlement of Sutton Bonington, with a swathe of farmland in between. I am therefore satisfied that it is within the countryside for the purposes of the development plan, and I note that this conclusion is consistent with the observations of the previous Inspector.
12. Policy 22 of LP2 is therefore applicable to the appeal proposal. It sets out the types of development acceptable in countryside areas, which is restricted to that which requires a countryside location, meets an essential rural need or

² Appeal Ref. APP/P3040/W/16/3162248

³ Council Ref. 17/02349/REM

supports rural diversification. The proposal meets none of those requirements and therefore conflicts with Policy 22.

13. The proposed enlargement of the garden, which according to the Council increases its depth by around 87 metres, represents a significant encroachment into the countryside. It extends a considerable distance further than the domestic curtilage approved as part of the previous applications and well beyond the rear gardens of other dwellings on this side of the lane, including those on either side of the site. Consequently, the change of use would not reflect the pattern of development in the surrounding area.
14. The design and appearance of the proposed garden studio and store are typical of domestic outbuildings serving a large dwelling in the countryside. These structures and the adjacent extended paved area and upper terrace are well related to the host dwelling and seen in that context are not harmful to the character and appearance of the area.
15. However, that part of the garden that extends beyond the upper terrace and garden studio/store covers a large area and is a substantial distance from the host property. The works associated with the change of use, including the kitchen garden with surrounding fencing, pergola, greenhouse, planting beds and paths, create a formal and domesticated appearance that is at odds with the character of the countryside. Although the works have been carried out to a high specification and are of modest scale, cumulatively the works are harmful to the character of the area. While the development is hidden from Landcroft Lane to the front, it is partially visible from open land and a public footpath to the rear.
16. The appellant has suggested that the size of the domestic curtilage of Glebe Farm sets a precedent for the appeal proposal. However, Glebe Farm does not adjoin the appeal site and is located some distance south of Landcroft Lane with farmland surrounding it, rather than being set within the ribbon development, and the curtilage of that property appears to have been established for many years. The application for the housing development at land south of Landcroft Lane⁴ was withdrawn and in any case is not directly comparable with the appeal proposal for an extension of the garden of an existing dwelling. The properties to the south of Sutton Bonington village and their rear gardens do not appear to extend beyond the physical edge of the settlement and are not comparable to the appeal site. Therefore, the other cases referred to by the appellant do not provide justification for the proposal.
17. While I also note the Council's concerns that the acceptance of the appeal proposal would create an undesirable precedent for other such proposals, any future applications would need to be considered on their own merits. Therefore, this matter has not been determinative in my consideration of the appeal.
18. I conclude that the development is harmful to the character and appearance of the area and conflicts with the requirements of the development plan in relation to development in the countryside. As such, the proposal is contrary to Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (2014), Policy 22 of the LP2, and the aims of the Framework. Amongst other things, these policies require development to conserve and enhance the countryside and make a positive contribution to a sense of place and reinforce local characteristics.

⁴ Council Ref. 19/02079/OUT

Other Matters

19. I note that there is some support for the proposal from interested parties. However, I have found the proposal to be harmful and therefore the weight of support is not a determinative matter in favour of the proposal.
20. There is no dispute between the parties that the development does not result in the loss of best and most versatile agricultural land and it has not adversely affected the living conditions of neighbouring occupiers or highway safety. I have no reason to disagree with that assessment, though these are neutral factors rather than benefits of the scheme.
21. It is put to me that the appeal proposal reduces standing water and flooding issues on the site and improves its biodiversity value, but there is no convincing evidence before me to show that the proposed change of use to a garden and associated works is the only means of achieving these benefits. The proposal also enhances the appellant's enjoyment of the garden and enables them to grow fruit and vegetables. However, these are private benefits. Therefore, the weight attributable to these matters is limited. Even taken together these benefits are insufficient to outweigh the harm that I have identified above.

Conclusion

22. I conclude that the proposal does not accord with the development plan as a whole and there are no other material considerations of sufficient weight that indicate that I should take a different decision other than in accordance with this. For these reasons the appeal is dismissed.

M Ollerenshaw

INSPECTOR