



Appeal Decision

Site visit made on 17 June 2024

by J D Westbrook BSc(hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024.

Appeal Ref: APP/G2435/W/24/3336405

152 The Moor, Coleorton, Leicestershire, LE67 8GE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs G Bijou against the decision of North West Leicestershire District Council.
 - The application Ref 23/01215/FUL, dated 18 September 2023, was approved on 29 November 2023 and planning permission was granted subject to conditions.
 - The development permitted is a change of use of land to a residential garden.
 - The conditions in dispute are Nos 3, 4 and 6 which state that:
 - 3. Notwithstanding the details shown on the approved plan, nor condition 2 above, the garden land hereby permitted shall be confined to the area shown shaded pink on plan no. LPA/23/01215/FUL.*
 - 4. Notwithstanding the details shown on the approved plan, nor condition 2 above, development hereby permitted shall not be brought into use until such time as a native hedgerow has been planted between points C and D as shown on the Amended Site Location Plan Drawing 27122023 received by the LPA on 27 November 2023.. The hedgerow shall consist of 70% Hawthorn/Blackthorn and interplanted with 30% mix of Hazel, Holly, Dog Rose, Field Maple and Dogwood planted at 5 plants per linear metre in a double staggered row. The above applies unless an alternative scheme of hedgerow planting and/or timetable for implementation is first submitted to and approved in writing by the Local Planning Authority. Any tree, shrub or plant within the hedgerow which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter from the first planting of the hedgerow in accordance with the planting details set out above, unless a variation to the landscaping scheme is first approved in writing by the Local Planning Authority*
 - 6. Before first use of the residential garden, hereby permitted, a post and rail fence measuring 1.2 metres in height shall be erected between points C-D, as shown on the Amended Site Location Plan Drawing Number 27122023 received by the Local Planning Authority on 27 November 2023, which shall thereafter be so retained.*
 - The reasons given for the conditions are:
 - 3. For the avoidance of doubt and because the Local Planning Authority consider that an extended residential garden between points A-B-C-D would represent unnecessary development and an unwarranted intrusion into the open countryside.*
 - 4. To ensure satisfactory boundary treatment and landscaping is provided within a reasonable period, in the interests of protecting the open countryside.*
 - 6. To preserve the amenities of the locality and to protect the open countryside.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed change of use on the countryside around Coleorton.

Procedural Matter

3. The application form states that current use of the site is agricultural land and that work on the change of use has not started. However, at the time of my site visit, the site appeared as an enclosed, uninterrupted residential garden.

Reasons

4. No 152 is a detached house situated on the western side of The Moor. It is located in generally open countryside to the north-west of Coalville. At the time of my visit, the property included a large rear garden, some 100 metres long, enclosed by a 2.5 metre high hedge. The garden runs for some 20 metres immediately behind the house and then widens out to include land behind the neighbouring properties at Nos 150 and 148 for a further 40 metres. It then widens again and runs for a further 40 metres behind part of what appears to be the rear garden of The Firs.
5. From the information before me, it appears that the property received planning permission in 2012 for an extension to the original garden to a depth of a little over 10 metres on the land to the rear of Nos 150 and 148. The rest of what now appears to be garden area was a paddock which included a stable block. Following a planning permission in 2017, the stable block was apparently removed to its present position, which is now at the bottom (western) end of the garden, where it has the nature of an outbuilding ancillary to the main house. There are other small outbuildings within the plot, nearer to the house.
6. Policy S3 of the North West Leicestershire Local Plan (LP) adopted in March 2021 indicates that land which is outside defined Limits to Development is identified as countryside where specified uses will be supported, subject to certain criteria. The appeal proposal does not fall into any of the specified uses. Policy EN3 of the LP indicates that within the National Forest new development should ensure that the siting and scale of the proposed development is appropriately related to its setting within the Forest; and that it respects and does not adversely affect the character and appearance of the National Forest or the wider countryside.
7. The appellants contend that the visual impact of the proposal would be acceptable and there would be no impacts on the surrounding countryside given the presence of the existing 2.5 metre high hedge. There would be no encroachment and no impact on the open countryside. In addition, the planning conditions imposed by the Council do not meet all of the tests as required by the National Planning Policy Framework (NPPF). Finally, they have provided examples of other garden extensions that have been deemed to be acceptable in relation to Policy S3 of the LP.
8. Coleorton is a largely linear settlement that runs north-south through open countryside. Most of the properties back onto farmland, woodland or other countryside areas. In the vicinity of the appeal site, to the west of the houses on The Moor, are fields and Coleorton Wood. The surrounding area is part of the National Forest. The appellants argue that the extended garden cannot be seen from the surrounding countryside by virtue of the 2.5 metre high hedge

that surrounds the property, and that it does not, therefore, adversely impact on the character or appearance of the countryside. However, mere screening does not mean that character or appearance is not affected, otherwise any use of land that is hidden from wider view could be said to be harmless. In this case, the neatly-trimmed, visually consistent hedge appears clearly as a residential boundary feature, and the large lawn area as a garden feature. They are uncharacteristic and not representative of the countryside around.

9. From plans contained within the submitted application and appeal documents, it would appear that the original gardens to Nos 148 to 158 were relatively short. Those of Nos 148 and 150, remain so. It would also appear that rear gardens of The Firs and the houses immediately to the north may have had longer gardens of around 60 metres. The permission granted at No 152 in 2012 to extend the garden, related to a very modest increase in length of only a little over 10 metres. Currently, it would appear that the rear gardens at The Firs and Nos 152 – 156 have been extended at some point in time by a large amount, but it would appear that these have not been authorised by any planning permission.
10. Correspondence between the appellants and the Council indicate that the principle of a more limited extension of the garden, beyond the 2012 limit but equating approximately to the length of the gardens of the houses to the north (ie around 60 metres), was accepted by both parties, and the appellants suggested conditions very similar to those used in the decision notice.
11. The appellants have also referred to other permissions for garden extensions to properties in Coleorton, where the Council has accepted that the proposals would not significantly conflict with Policy S3 of the LP. I have details of these and I have also seen some for myself. Each of these, of course, has its own site-specific circumstances, with variations in scale and location. In this case, I find that the principle of extension should be restricted to the limit as provisionally suggested by the appellants and subsequently set out in condition 3 of the Council's decision letter, in order to protect the countryside from encroachment by, what is effectively, residential development.
12. The existing boundary to the property is a high, regular, neatly maintained domestic style of hedge. I consider this to be harmful to the visual amenities of the surrounding countryside. Whilst public views of the hedge may be limited, nevertheless, the nature of tree planting in the vicinity, and the close proximity of Coleorton Wood, indicate that residential boundary treatments should be more in keeping with the character and appearance of the countryside in the vicinity. For this reason, I consider that conditions 4 and 6 are appropriate in order to protect the visual and landscape qualities of the area, where use of a range of native species and more traditional fencing would preserve and enhance local distinctiveness.
13. In conclusion, I find that the limitation of the extent of the proposed garden area to that shown on the submitted plans (area marked as c-d-e-f) and the plan with the decision notice (area coloured pink) is necessary and reasonable in order to protect the character and appearance of the countryside in this area. Condition 3 is relevant, precise and enforceable in this matter. Conditions 4 and 6 are necessary and reasonable in order to preserve and enhance the visual amenity and character of the countryside and the National Forest by use of native planting and traditional fence construction. They are relevant, precise

and enforceable. These conditions, as used by the Council, are very similar to those proposed by the appellants, and have been added to in a way that ensures that the landscaping and fence will continue to be maintained in perpetuity, again in order to protect the countryside.

Other Considerations

14. The appellants have noted reference in the officer's report to Policy E4 of the adopted Local Plan, a policy which does not exist. The Council acknowledges this error and I note that it is referred to only once whereas all other references are to Policy S3. I am satisfied that this is an unfortunate typographical or editing error that has no bearing on the wider considerations of the Council, which otherwise consistently refer to the correct policy.
15. The appellants also contend that conditions 4 and 6 are unreasonable owing to the fact that the boundary treatment will separate the ex-stables building from the rest of the plot. However, the building does not apparently have permission for a use other than as stables, and the appellants have provided no evidence that the remaining part of the plot would be used for equine activities in any way. The lack of any binding contract between the appellants and neighbouring landowners relating to access to the stables from off the site is not a matter pertinent to the main issue of the case. It remains an option for the appellants to submit a further application to deal with access to the land beyond the permitted garden area.
16. Finally, the appellants refer to the use by the Council of the word 'unnecessary' within the report and the reasons for conditions. They contend that the word does not reflect the wording of development plan policy and is imprecise. I have some sympathy with this viewpoint, but the general thrust of the Council's considerations, and the wording of the conditions themselves are clear and precise.

Conclusion

17. I find the disputed conditions 3, 4 and 6 to be necessary, relevant, reasonable, enforceable and precise with regard to the aims of protecting the character and appearance of the countryside around Coleorton. On this basis, the development, as subject to the conditions, would not conflict with Policies S3 or EN3 of the LP. Accordingly, I dismiss the appeal.

J D Westbrook

INSPECTOR

