

Appeal Decision

Site visit made on 28 August 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2024

Appeal Ref: APP/C1625/W/24/3338648

11 Howmead, Berkeley, Gloucestershire GL13 9AR

- 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 B Price against the decision of Stroud District Council.
 - The application Ref is S.23/1378/FUL.
 - The development is the change of use of parcel of land to rear of 11 Howmead from agricultural to domestic (C3) garden and erection of storage shed.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use has taken place, and the storage building has been constructed, the appeal is therefore retrospective in nature. For the avoidance of doubt, I have determined the appeal based on the submitted drawings. However, I have omitted the word 'retrospective' from the description of development above as this is not an act of development under Section 55 of the Town & Country Planning Act 1990 (as amended).

Main Issues

3. The main issues are whether the development is in a suitable location, with particular regard to the Council's spatial strategy and the effect on the character and appearance of the area.

Reasons

4. The appeal property at 11 Howmead (No 11) comprises a dwelling which sits in a row of similar properties fronting the highway, with open land beyond the gardens to the rear. A public right of way runs across the open land to the rear of the properties a short distance from the site. Despite the adjoining residential development and post and rail fencing which subdivides the plots, the largely open nature of the land to the rear of the dwellings, together with the presence of mature trees and open countryside beyond, make a positive contribution to the rural character and appearance of the area.

5. The appeal relates to the change of use of an area of land immediately beyond the original rear boundary of the property, from agricultural use to garden, and the erection of a brick outbuilding. The land, for the most part, extends beyond the identified settlement development limit and is therefore in the countryside in planning policy terms. Policy CP15 of the Stroud District Local Plan adopted November 2015 (SDLP) sets out that, to protect the separate identity of settlements and the quality of the countryside (including its built and natural heritage), development will only be permitted in the countryside where it complies with specific principles. Notwithstanding the size of the area of land in relation to the wider parcel of land directly behind No 11, the change of use from agricultural land to garden land beyond the settlement limits, does not fall within the circumstances listed and, in that regard, fails to accord with Policy CP15.
6. The development extends the existing rear garden of No 11 into the adjacent field. While it cannot be seen from the road, it is highly noticeable from the adjoining residential properties and the public footpath. The position of the extended garden boundary fails to follow any natural feature, and as such, the land appears as a somewhat arbitrary projection into the field, at odds with the established boundary line of the adjoining properties on the edge of the settlement. Nevertheless, it comprises a relatively modest area of land and although the outbuilding is outside the established garden, it is not far from the host dwelling. Moreover, it does not compete visually with the host dwelling, due to its clearly subordinate scale and height.
7. Furthermore, the development is not dissimilar to the various domestic paraphernalia, including outbuildings, sheds, greenhouses and washing lines in a similar position beyond the defined garden boundaries to the rear of neighbouring properties. For these reasons, the use of the land as garden does not represent a significant visual intrusion into the adjoining agricultural land or detract from the predominant rural character of the surrounding area.
8. In light of the above considerations, the development is in clear conflict with Policy CP15 of the SDLP insofar as it is not a type of development considered appropriate in the countryside, and is therefore not in a suitable location, with particular regard to the Council's spatial strategy. However, I have found that the development does not harm the character and appearance of the area. In that regard, it is not inconsistent with the aims of Policy CP15 of the SDLP in so far as it seeks to protect the separate identity of settlements and the quality of the countryside, Policy CP14 of the SDLP, in relation to the provision of high quality development which, among other things, is of an appropriate design and appearance, and is respectful of the surroundings, and Policy ES7 of the SDLP which supports development where the location, materials, scale and use are sympathetic and complement the landscape character.
9. Policy CP3 of the SDLP sets out that new development will be located in accordance with the settlement hierarchy, so as to concentrate housing growth in settlements with a range of services and facilities to reduce the need to travel. As such, it is not directly relevant to the appeal before me which does not generate additional vehicular movements. Given Policy HC1 of the SDLP relates to housing growth, specifically meeting small-scale

housing need within defined settlements, it is unclear from the Council's submissions as to how conflict with this policy would arise.

10. I note the brick outbuilding is used to securely store garden tools and equipment, which would accord with aims of Policy CP14 of the SDLP, which require the design and layout of development to assist crime prevention. Nonetheless, there is no clear evidence before me that such provision could not be achieved by a different means within the existing rear garden space at No 11. Accordingly, any benefits in that regard are of limited weight.
11. Paragraph 225 of the National Planning Policy Framework (the Framework) states that due weight should be given to existing policies according to their degree of consistency with the Framework. Policy CP15 of the SDLP accords with the broad aims of the Framework and thus can be afforded full weight. As such, given that there is clear conflict with the relevant up to date policy of the SDLP, this weighs significantly against the development.
12. Consequently, based on the evidence before me in this case, there are no material considerations which justify a decision other than in accordance with the development plan.

Other Matters

13. Reference has been made to several examples of proposals for the change of use of land to garden for which planning permission has been granted by the Council, which are said to be like the appeal scheme. However, I do not have full details of such works so cannot be sure of the circumstances of the cases. In any event, I have determined the appeal on its own merits, based on the evidence before me.
14. My attention is drawn to the fact the land formed part of a wider site identified as an alternative site for development in the Stroud District Council Local Plan Review – Emerging Strategy 2018. However, given that the appeal site does not form part of a formal allocation, this does not alter my assessment of the proposal.
15. Even if it could be demonstrated that the agricultural use of the land was abandoned, planning permission would be required for the use of the land as garden. Moreover, there is no clear evidence that the land is not suitable for agricultural use in terms of its quality.

Conclusion

16. For the reasons set out above, the appeal is dismissed.

E Worley

INSPECTOR