

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: 5 September 2024

Appeal Ref: APP/C1625/W/24/3339394

Land Adjacent to 28 Upthorpe, Cam, Gloucestershire GL11 5HR

- 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 S Angell against the decision of Stroud District Council.
 - The application Ref is S.23/1411/FUL.
 - The development is the change of use of agricultural land to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's Decision Notice, as it is more precise, and I note that the revised description has been used on the appeal form. However, I have omitted the word "retrospective" and reference to previous planning applications, as these are not acts of development.
3. At the time of my site visit the land within the site to which the appeal relates, was being used and maintained as part of the garden to the property, I am therefore considering the development retrospectively. In these circumstances, I have determined the appeal based on the submitted drawings.

Main Issues

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

Reasons

5. The appeal site comprises a detached dwelling and ancillary outbuildings which lie at the end of a row of residential properties on the edge of the settlement. Notwithstanding the nearby houses, the open and undeveloped nature of the adjoining agricultural land to the rear and side of the site, contributes positively to the rural character and appearance of the surrounding area.

6. The appeal relates to the change of use of agricultural land beyond the original side and rear boundaries of the property to garden land. At the time of my site visit these areas of land had been incorporated into the garden and a post and rail boundary fence erected to denote the site boundary. While I am sympathetic to the fact that the appeal scheme is a resubmission taking into account issues previously raised by the Council, I can only assess the development on the information before me.
7. The land to which the change of use relates 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 in specific circumstances. The change of use from agricultural land to garden land does not fall within the types of development listed and therefore conflicts with SDLP Policy CP15.
8. The site is visible in localised views from the nearby residential properties and the public right of way which crosses the adjoining agricultural land close to the site. The strip of land along the side boundary of the site is narrow in width. The area of land to the rear, although greater in depth, extends to a point level with the existing rear boundaries of the other dwellings in the row, which share the same boundary treatment. The resulting plot size is not dissimilar to others in the vicinity and is commensurate with the size of the existing detached dwelling, having a close physical and visual association with it and the adjoining residential development. Consequently, the use of the land as garden does not appear as a significant encroachment into the adjoining agricultural land or diminish the qualities of the open countryside setting.
9. I note the Council's concern that the use of the land as garden would have a domesticating effect on the appearance of the site. However, permitted development rights for any incidental building, or enclosure, swimming, or other pool as well as walls, fences and other means of enclosure can be controlled by planning condition. As such, subject to a suitably worded condition to remove such rights, the development would not give rise to any tangible harm in terms of the visual qualities or open character of the area. In light of the foregoing considerations, I find that the development does not harm the character and appearance of the area.
10. For the above reasons, 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 change of use of the land does not harm the character and appearance of the area. In that regard there is no conflict with Policy CP14 of the SDLP which, among other things, supports high quality development, which protects, conserves, and enhances the built and natural environment, through appropriate design and appearance, and Policy ES7 of the SDLP which sets out that development should conserve or enhance the special features and diversity of the different landscape character types.

11. My attention is drawn to a recent appeal¹ for a similar development comprising the change of use of land to garden at a site nearby which was allowed. In that case the Inspector found that the benefits put forward by the appellant outweighed the policy conflict. The appellant indicates benefits arising from the change of use including increased health and well-being because of the extended garden space. However, while I am mindful of the importance of consistency in the planning process, there is no substantive evidence before me as to why these benefits are greater than those derived from the existing outdoor space at the property. For these reasons I attribute such benefits limited weight.
12. The change of use is not inconsistent with the aims of Policy CP15 of the SDLP in terms of the protection of the separate identity of settlements and the quality of the countryside. However, the appeal site lies outside of the identified settlement development limits and the change of use therefore conflicts with Policy CP15 of the SDLP in that regard. Consequently, there is clear conflict with the relevant policy of the up-to-date development plan and thus this conflict weighs significantly against the development.
13. The absence of harm to the character and appearance of the area is a neutral matter in the planning balance.
14. Therefore, given the particular circumstances of this case, based on the evidence before me, there are no material considerations of sufficient weight which justify a decision other than in accordance with the development plan.

Conclusion

15. For the foregoing reasons the appeal is dismissed.

E Worley

INSPECTOR

¹ APP/C1625/W/22/3300808