



Appeal Decision

Site visit made on 10 September 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/E3335/W/23/3332366

St Albans Cottage, Kingswood, Stogumber, Taunton, Somerset TA4 3TP

- 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 and Mrs M Childs against the decision of Somerset Council.
 - The application Ref is 3/07/23/010.
 - The development is the change of use of agricultural garden to domestic garden.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit, I saw that the development described in the banner heading above was complete. I also note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.

Main Issues

3. There are 2 main issues. These are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of the existing occupants of The Linhay and Hacketty Way, in regard to noise and outlook.

Reasons

Character and Appearance

4. The appeal site relates to a relatively flat parcel of land, which is mown grass, situated to the rear of St Albans Cottage, a detached property situated in the hamlet of Kingswood. The site is located within the open countryside, with the lawful use of the land being agricultural. However, the development uses the land for residential use for purposes incidental to the enjoyment of the dwellinghouse known as St Albans Cottage and contains a range of domestic paraphernalia, including children's play equipment, a seating area, and a large above ground swimming pool. A post and rail fence encloses the site from the agricultural land to the east of the site.

5. Doniford Stream separates the appeal site from the lawful private garden associated with St Albans Cottage to the west. The stream provides a natural separation between the dispersed built form of Kingswood and its rural setting. Consequently, the appeal site, in its lawful use as an open agricultural parcel of land, contributes positively towards the established character and rural setting of Kingswood.
6. The development has introduced a domestic formality into the countryside location, eroding the rural character of the area. The use, with mown grass and the domestic paraphernalia on the site, does not reflect the less formally maintained adjacent countryside use. It is an incongruous use of land on the eastern side of the stream and sits uncomfortably alongside the appearance of the surrounding open, agricultural land. Consequently, it has an urbanising impact in comparison to its rural setting, and the development has resulted in harm to the overall character and appearance of the area.
7. I recognise the appellant does not want to erect any buildings and that they understand they do not have domestic permitted development rights. However, despite the lack of buildings, even the use of the land as it currently is used results in a more intensive residential use of the land due to the domestic paraphernalia, harming the quality of the local landscape character.
8. I also recognise that the appellant wishes 'to extend their garden to provide space to grow vegetables, spend time outdoors and continue their interests in gardening by planting more which in turn will have a positive impact on the environment by improving the flora and fauna'. Nevertheless, alongside the lack of any landscape designations or protection, these matters do not outweigh the harm I have identified above.
9. Views from the surrounding public highways, including Nevys Lane, are restricted, and any views are only glimpses due to the topography of the site and existing established vegetation. Furthermore, the Public Right of Way (WL5/13) to the south appears to be currently closed to the public. Nevertheless, public views are not a prerequisite for harm to occur and does not make up for the unsuitable nature of the development.
10. Therefore, for the reasons set out above, the development harms the character and appearance of the area. It is contrary to Policy NH5 of the West Somerset Local Plan (Local Plan) (adopted November 2016) which requires development to be located and designed in such a way as to minimise adverse impact on the quality and integrity of the local landscape character area.

Living Conditions

11. The site adjoins the neighbouring property known as Hacketty Way to the west, which is situated at a higher ground level to the appeal site, on the western side of the stream, accessed from Nevys Lane. There is a further neighbouring property known as The Linhay, also accessed from Nevys Lane.
12. It is acknowledged that the appeal site as an agricultural field contributes to the 'peaceful setting of neighbouring properties', as alleged by the Council. However, the existing outlook from both The Linhay and Hacketty Way already, in part, includes looking out over both existing private garden areas associated with neighbouring residential properties and agricultural fields.

Therefore, whilst the development changes the outlook, it does not introduce an incongruous use and any change is not to such a degree that it is materially harmful. Therefore, the development does not result in a material loss of outlook currently enjoyed by The Linhay and Hacketty Way.

13. Furthermore, social gatherings and general play can already take place in the existing private garden area of St Albans Cottage. Hacketty Way in particular due to their proximity to the existing private garden associated with St Albans Cottage, are already affected by any activities and noise associated with the domestic use of this private garden. Whilst the development creates a larger private garden for such activities to take place, it is not considered that these uses are entirely incongruous in the context of the appeal site. The occupants of the neighbouring properties still enjoy a peaceful setting, one which involves both private garden areas and agricultural fields. Therefore, any activities and noise associated with the development does not significantly change the existing living conditions enjoyed by the occupants of the neighbouring properties, in regard to noise.
14. Therefore, for the reasons set out above, I am satisfied that the living conditions of the existing occupants of The Linhay and Hacketty Way, in regard to noise and outlook, are not harmed. The development is in accordance with paragraph 135 (f) of the National Planning Policy Framework 2023 (the Framework) which requires development to create places with a high standard of amenity for existing users.
15. The Council have only included Policy NH5 of the Local Plan in the reason for refusal. However, this policy relates to 'Landscape Character Protection' and does not appear to refer to the amenity of neighbouring residents. Thus, any alleged conflict with Policy NH5 is not determinative in these circumstances.

Other Matters

16. The appellant has expressed concerns regarding a lack of communication with the Council during the application process, and states that they 'have instead relied upon a neighbour's opinion to reach a decision despite all other public consultees supporting the proposal'. The appellant is also concerned that no site visit was made by the Council before determination of the application. Whilst these matters would have caused the appellant some frustration, they do not materially affect my consideration of the planning merits of the appeal development. I also recognise the support of the Parish Council and the lack of objection from other consultees. However, this does not alter or outweigh the harm I have identified.

Conclusion

17. In conclusion, whilst acceptable in some regards, the development conflicts with the development plan as a whole. There are no material considerations, including the Framework, worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR