



Appeal Decision

Site visit made on 3 June 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th June 2019

Appeal Ref: APP/L3245/W/19/3223925

Rose Cottage, Primrose Lane, Prees SY13 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs A White against the decision of Shropshire Council.
 - The application Ref 18/04556/COU, dated 27 September 2018, was refused by notice dated 13 December 2018.
 - The development proposed is the change of use of grassed area to residential garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit the change of use had already taken place. However, retrospective as referred to in the application form and decision notice does not constitute an act of development. I have dealt with the appeal on the basis that planning permission is being sought for the change of use of grassed area to residential garden, which is reflected in my description of the development.

Application for costs

3. An application for costs was made by Mr and Mrs A White against Shropshire Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site is located within the open countryside and currently forms part of the extensive plot associated with Rose Cottage. It is largely lawned with sporadic tree planting and shrubbery. There is an existing timber stable on the site surrounded by a post and rail fence, which provides a small paddock. The site is surrounded by open, verdant fields and is bounded by well-established hedging and trees, which overall make a positive contribution to the rural setting.
6. There is a dispute between the parties as to what the current use of the land is. The Council suggest that there is an element of grazing due to the stable and paddock area. However, the appellants contend that the stable and paddock

have not been in use for its intended purpose for some time. Based on the evidence before me, it would appear that the appeal site is currently used as a garden area associated with Rose Cottage, but there is no indication as to how long it has been in sole use as this. Nevertheless, this is somewhat of an irrelevant argument as there is no evidence that the lawful use of the land is for a garden/residential use. Whilst it is not entirely clear from the evidence before me what the lawful use of the appeal site is, given the location of the site and being surrounded by agricultural fields, on the balance of probabilities, it is likely that it would be agriculture.

7. The site is well screened from public views due to the high hedge boundary with Primrose Lane, although it can be seen through the north eastern access gate to the site directly off the Lane. The site is very much read as a garden area, with the well-maintained lawn and planting being in contrast to the surrounding agricultural fields. Moreover, it is not just the appearance of the land itself that defines it as residential, the potential introduction of domestic paraphernalia, eg. garden furniture and play equipment, and its use for general domestic activities, eg. playing games and outdoor domestic activities, would introduce a land use and treatment which would appear overly domestic. This encroachment of residential development erodes the agricultural characteristics of the surrounding area and the overall rural setting, therefore causing significant harm to its character and appearance.
8. I have had regard to the imposition of a condition to effectively remove certain permitted developments on the land. However, this would not adequately mitigate the harm caused by domestic activities and paraphernalia that do not amount to development.
9. I note the appellants' argument that the appeal site has no future use as agricultural land due to its restricted size, shape and proximity to the existing dwelling. However, I do not agree. Whilst it is relatively small compared to other surrounding fields, it is large enough to graze a small number of animals and has its own access off the Lane. It need not be linked with adjacent fields, physically or in terms of ownership for it to be used for agricultural purposes. It is not uncommon for farming enterprises to utilise land away from the main farming base and/or rent land. Furthermore, whilst it is close to Rose Cottage, it would be no closer than the field to the west of the dwelling or be an uncommonly close relationship in general.
10. I also note the numerous planning permissions granted by the Council, as referred to me by the appellants. Based on the limited evidence before me, by reason of their size, location and site constraints, these sites were unlikely to be capable of being used for agricultural use. As I have found that the appeal site could be used as such, I do not find that there are any direct comparisons with the proposal before me. In any event, I have determined the appeal on the basis of the proposal's individual planning merits. Whilst the Council objects to the proposal, there is no indication that they outright prohibit the change of use of land to residential garden.
11. I find therefore that the proposal would significantly harm the character and appearance of the area, contrary to Policies CS5, CS6 and CS17 of the Shropshire Core Strategy 2011 and Policy MD2 of the Shropshire Site Allocations and Management of Development Plan, which, amongst other things, seek to ensure that development maintains and enhances countryside

character; respects and enhances local distinctiveness; and, protects the local character of Shropshire's natural environment.

Other Matters

12. I acknowledge that the appellants wish to regularise the use of the land in case they wish to sell the property in the future. However, this has had no bearing on my consideration of the planning merits of the proposal.
13. I have had regard to the appeal decision¹ referred to me regarding the appeal site and find no conflict between the Inspector's and my own findings'.

Conclusion

14. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR

¹ Appeal Ref APP/L3245/W/17/3191701