
Appeal Decision

Site visit made on 3 January 2018

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22nd January 2018

Appeal Ref: APP/V2635/W/17/3185584

Old Farm House, Market Lane, Walpole St Andrew, Kings Lynn PE34 4HR

- 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 Human against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/02013/CU, dated 26 September 2016, was refused by notice dated 29 June 2017.
 - The development proposed is the use of land at Old Farm, Walpole St Andrew for a garden to improve existing residential amenity.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. These are a) the effect of the proposed development on the character and appearance of the area; and b) whether the proposed development would represent the loss of the best and most fertile agricultural land.

Reasons

Character and Appearance

3. The appeal site is part of an area of wide flat land to the north of Market Lane and directly adjacent to what the evidence suggests is the lawful residential curtilage to the dwelling known as Old Farm House. It is laid to grass with some ornamental planting. There is a line of trees to the southern boundary (abutting the back edge of the highway verge) and post and rail fencing to the north. It is open to the east where it falls adjacent to the dwelling and further planting marks the boundary closest to Milagrita. There is clear evidence on the appeal site that it is currently used as a garden area and there is a small enclosed children's play area immediately north of Market Lane which includes a trampoline and play house/climbing apparatus.
4. The proposed development seeks planning permission to use just less than half of the total area of the land as a larger garden area for the dwelling. This has followed previous unsuccessful attempts to secure the same for the whole area. The parcel of land sought as garden would be demarcated by low level post and rail fencing. The open agricultural land to the north would be unaffected.

5. The planning history to the appeal sets out concern from both the Council and an appeal Inspector of how the use of the wider site had resulted in material harm to the character and appearance of the area. Specifically how there had been an encroaching domesticating effect on the countryside. I would not disagree with this assessment looking at the extent of land initially proposed and currently annexed to the dwelling. Prior to the garden use of the land, it had evidently been part of the countryside and related strongly in character terms to the larger fields it abuts to the north. I understand what has gone before and indeed what the land bears a resemblance to now. However, the use of the land is currently unlawful and it is important to point out that the scheme before me is not one to reduce the size of a garden but as before, to consider the use of an area of a field in the countryside as part of a garden.
6. I am not persuaded that the reduction in the size of the land that is to be subsumed into the garden is sufficient for the harm that its change of use would cause to the open and undeveloped countryside to accordingly reduce. At least to the point that it would render the proposed development acceptable. The scheme would still represent the change of use of what would remain a substantial parcel of formerly agricultural land into garden and fundamentally change the character of the immediate area as a result. Whilst I acknowledge that garden sizes vary locally, they are contained around their respective buildings and do not on the whole sprawl or elongate in the manner that the appeal scheme would. In addition, what appears on the basis of the evidence to be the lawful residential curtilage terminates roughly level with the western boundary of the agricultural complex to the north which defines, in character terms, how buildings sit alongside open and undeveloped fields. The appeal scheme would, it would seem no doubt, clearly encroach into what were formerly open fields.
7. There is a principle point at play here and that is less the enclosure of land but more how it would be used. In this case grassed areas would become more managed and manicured, domestic paraphernalia and other structures not requiring planning permission could proliferate and in essence the open and undeveloped character would give over to domestication. Both the Framework¹ and the development plan clearly set out that the character and intrinsic beauty of the countryside should be recognised and protected for its own sake and the use of the land proposed would run contrary to this objective.
8. The appellant has advanced a number of reasons to justify the effective extension of the garden. In the case of need for space for children to play unimpeded and away from disturbance associated with the adjacent farm shop I remain to be convinced that this is sufficient. Mainly since the enlarged garden would itself abut the back edge of a main road verge and the appellant has elected to largely fill the space to the rear (north) of the dwelling with outdoor cooking facilities, a fire pit and a large patio which has at least played some part in forcing the need for more open space elsewhere. The appellant also suggests that by living adjacent to the farm, there are sustainability benefits to reducing the need to travel as well as security and good husbandry practices relating to live stock. However, I fail to seek the link between this and the need for a larger garden.

¹ The National Planning Policy Framework 2012

9. I could indeed remove permitted development allowances for further development in any enlarged garden. Indeed this would reduce harm but in actual fact only really where new buildings are concerned. The larger area of land would still relate to a domestic use and there are many structures and equipment that would not be development on which the removal of rights under permitted development would not have an effect. In essence, the annexing of the land to what appears to be the lawful residential curtilage would have a harmful effect on the character and appearance of the area for the reasons I have set out and there is nothing else that I have before me, including the use of planning conditions that would sufficiently ameliorate it.
10. For the reasons I have set out therefore, the proposed development would fail to accord with Policy CS06 of the Core Strategy² or one of the core principles of the Framework. The board aims of which I have set out above.

Loss of Agricultural Land

11. The evidence suggests that the appeal site comprises grade 1 agricultural land and therefore the best and most versatile. I have regard, in coming to a view on whether there is clear harm on this main issue, to paragraph 112 of the Framework. I have no direction before me from the development plan concerning new development and grade 1 agricultural land. Paragraph 112 follows from the Framework's policy approach to conserving and enhancing the natural environment. In this respect, it sets out a preference for the use of lower quality land but does so in the context of significant development. I cannot see any mention that higher grade land should be ruled out of being developed completely.
12. Whilst it would not be appropriate to downplay the importance of the protection of high grade agricultural land as a resource it is equally important to place the appeal scheme in a wider context. The appeal site would represent the loss of an area of high grade agricultural land from which some harm would arise albeit the amount lost, to my mind, would not be significant and consequently detrimentally affect overall provision greatly. In any event, the appeal scheme could not be described as significant development for the purposes of paragraph 112. With these factors in mind, I am not persuaded that the minimal harm that the loss of the land would cause would be significant enough a basis to withhold planning permission. The proposed development would not therefore be contrary to the aims of paragraph 112 of the Framework, the aims of which I have set out.

Conclusion

13. Whilst I have found that the harm arising out of the loss of high grade agricultural land would not be significant, this would not be enough to reduce the harm that it would cause to the character and appearance of the area and the resulting conflict with the development plan and the Framework. Whilst having regard to all other matters raised, it is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR

² Kings and West Norfolk Borough Council Local Development Framework – Core Strategy 2011



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Ruth Redding
King's Lynn and West Norfolk Borough
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Your Ref: 16/02013/CU
Our Ref: APP/V2635/W/17/3185584

22 January 2018

Dear Ruth Redding,

Town and Country Planning Act 1990

Appeal by Mr B Human

Site Address: Old Farm, Market Lane, Walpole St. Andrew, WISBECH, Norfolk, PE14 4HR

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Yours sincerely,

Latoya Blake-Griffths

Latoya Blake-Griffths

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Ruth Redding

From: Borough Planning
Sent: 23 January 2018 08:04
To: Ruth Redding
Subject: FW: Planning Inspectorate APP/V2635/W/17/3185584: Old Farm, Market Lane, PE14 4HR
Attachments: Despatch Cover Letter - Ruth Redding - 22 Jan 2018.pdf; APPEAL DECISION 3185584.pdf

From: west1@pins.gsi.gov.uk [<mailto:west1@pins.gsi.gov.uk>]
Sent: 22 January 2018 11:43
To: Borough Planning
Subject: Planning Inspectorate APP/V2635/W/17/3185584: Old Farm, Market Lane, PE14 4HR

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