



Appeal Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Appeal Ref: APP/V2255/W/22/3302925

Cripps Farm, Plough Road, Minster-on-Sea, Kent ME12 4JH

- 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 D Buckley against the decision of Swale Borough Council.
 - The application ref. 22/501078/FULL, dated 1 March 2022, was refused by notice dated 24 June 2022.
 - The proposed development is for a detached double garage to dwelling and change of use of agricultural land to residential.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. At my site visit, I saw that the development has been completed and I note that the application has been submitted retrospectively.

Main Issue

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

Reasons

4. The appeal site consists of a detached, two-storey house in a short row of other residential properties. To the north is open countryside, whilst towards the southwest on the opposite side of Plough Road is an estate of modern dwellings.
 5. Policy ST3 (5) of Bearing Fruits 2031: The Swale Borough Local Plan July 2017 (LP) states that in the open countryside development will not be permitted unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
 6. The result of the proposal is to extend residential development into the open countryside. The new domestic curtilage juts out into the neighbouring field, creating an unnatural distortion in the boundary between the two different land uses. The location of the garage beyond the existing residential garden, by its very nature, leads to an adverse, urbanising impact on the rural land. To my mind, this would not contribute to protecting the intrinsic value and setting of the countryside as outlined in LP policy ST3 (5).
-

Appeal Decision APP/V2255/W/22/3302925

7. I am aware that planning permission has been granted under Council reference 19/502305/FULL for various works on the appeal site, including a detached garage of similar size and appearance, albeit approximately seven metres to the south and therefore within the residential curtilage. The appellant states that the garage had to be relocated due to the effect of the garage on the root system of a nearby mature tree.
8. Whilst I appreciate that the appellant was attempting to ensure the retention of the tree in perpetuity, I have not been provided with any compelling evidence to justify the new location of the garage beyond the residential curtilage. The rear garden of Cripps Farm is substantial in extent, and I have no robust argument before me as to why the garage could not have been constructed elsewhere within the grounds of the main house.
9. Although policy DM13 of the LP relates to proposals to extend the gardens of dwellings in the rural area, the supporting text to the policy makes clear that in cases approved by the Council, a planning condition would normally be imposed to remove permitted development rights for garden buildings and other domestic works, to protect the landscape from further harm. With this in mind, I agree with the Council that the application is not supported under this policy as it has been used to construct a large detached outbuilding, and includes no landscaping proposals.
10. I acknowledge that the site is not within a designated landscape as set out at policy DM24 of the LP. I also note that minimisation and mitigation of adverse landscape impacts could be secured, however there are no details before me in this regard to suggest that the harm I have identified above could be offset.
11. Overall, I recognise that the relocated garage is in close proximity to the position of the approved garage, and is some distance from the public highway. However, this does not counterbalance the in-principle harm that arises to the rural character and appearance of the area. In my view, to allow this appeal would be to set aside countryside strategy as the primary method of directing development within this part of Swale Borough. In the absence of any overriding justification, it would potentially lead to similar arguments being made for other residential sites in close proximity to countryside boundaries, which would diminish the relevance of countryside strategy, and would be the antithesis of sustainable development.
12. I therefore conclude that the proposal would result in harm to the character and appearance of the surrounding area. It would be contrary to Policies ST3, DM13 and DM24 of the LP, which collectively seek to secure new development of acceptable scale and appearance and to contribute to protecting the intrinsic value and setting of the countryside.

Conclusion

13. Having regard to the above and all other matters raised, I conclude that the appeal should be dismissed.

C Hall

INSPECTOR



Costs Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Costs application in relation to Appeal Ref: APP/V2255/W/22/3302925 Cripps Farm, Plough Road, Minster-on-Sea, Kent ME12 4JH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Buckley for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for a detached double garage to dwelling and change of use of agricultural land to residential.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant states that the Council has acted unreasonably, in that it has prevented the development when it should have been permitted. Consequently, the appellant has been put to unnecessary expense of having to pursue the appeal, causing delay and distress.
4. Whilst I understand the sense of frustration which this may cause, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal. The reason for the refusal set out in the decision notice relating to the character and appearance of the development and the adverse impacts on the countryside is complete, specific and relevant to the application. The officer report sets out an assessment of the indicated harm in these respects and how, amongst other things, the location of the garage beyond the residential curtilage conflicts with relevant adopted planning policies.
5. Accordingly, the information before me indicates that the Council did not behave unreasonably in relation to its conduct during the decision-making process, and I do not consider that there has been a failure to properly evaluate the application to the extent that the appeal could have been avoided. The Council's position has been further clarified in its costs response statement, providing adequate and clear explanation of the various issues raised by the appellant.

Costs decision APP/V2255/W/22/3302925

-
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

C Hall

INSPECTOR