

Appeal Decision

Site visit made on 12 October 2011

by **Paul Jackson B Arch (Hons) RIBA**

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

Decision date: 20 October 2011

Appeal Ref: APP/J1915/A/11/2154544

1 Henderson Place, Epping Green, Hertford, Hertfordshire SG13 8GA

- 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 & Mrs Leonard against the decision of East Hertfordshire District Council.
 - The application Ref 3/10/1757/FP, dated 5 October 2010, was refused by notice dated 9 December 2010.
 - The development proposed is change of use of land from 'woodland' to 'garden'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed change of use on the character and appearance of the area; and the effect on biological diversity and wildlife/nature conservation.

Reasons

3. The appeal site comprises a plot of land to the east of the existing garden of 1 Henderson Place, a detached house and part of a former school. The character of the area is mixed agricultural with occasional copses and larger areas of woodland in which houses are intermittent. The property is on high ground relative to the surrounding countryside and is bordered on 2 sides by the unclassified road between Little Berkhamsted and Newgate Street and by Henderson Place. As such the part of the property subject of the appeal contributes to the predominant undeveloped rural character of the area.
4. The plot itself consists of an area of informal woodland about 100 metres long by around 60 metres at its widest point. There is no obvious boundary between it and the existing lawned garden. Bark covered paths, underlaid by a permeable membrane, have been laid informally between the trees. Lighting has been introduced by means of black bollards throughout the area. A large wooden play structure has been erected crossing the central part of the site, which includes a cantilevered tree house. This is a prominent feature seen from Henderson Place.
5. Although some selective felling has taken place, this in itself does not indicate a change of use; trees and vegetation need to be managed. However, the lit pathways and play structures have an urbanising effect that is characteristic of residential activity, giving the area the impression of being an extension of the

garden, albeit an informal one. The proposed garden use would encourage further changes to planting species and surface treatment with the result that the area would detract further from the rural character of the area that predominates. It is appreciated that the appellants have no desire to remove trees or to diminish the character of the countryside; and the Council recognises that extension of the curtilage of a domestic property may be permitted if it is not likely to result in an adverse effect on the local landscape. However, this site is an important feature in a prominent position relative to the local countryside. A grant of planning permission would be permanent and it would be difficult to control the way in which the land is used in the longer term.

6. I have considered whether conditions could overcome the Council's objections, but the removal of permitted development rights to erect structures or lay hard surfaces would not prevent more subtle changes with similar effects. For these reasons, the proposed change of use would conflict with the character and appearance protection objectives of policies ENV1, ENV2 and ENV7 of the East Herts Local Plan Second Review of 2007 (LP).
7. Turning to the effect on wildlife, the representations indicate that are protected species using the site. I have no reason to doubt that this area of woodland would be attractive to birds, badgers and bats in particular. The extension of domestic activity and changes to flora could make the area less attractive to native protected species. No wildlife survey information has been provided. Prior surveys are essential where there is a reasonable likelihood of legally protected species being present and there is a risk that they would be adversely affected by the proposed development. Whilst it may be possible to mitigate for harmful effects, the existing use of the site by protected species has not been properly assessed. In this respect, the development would be likely to conflict with the nature conservation objectives of LP policies ENV1, ENV16 and ENV17.
8. I have taken account of all the other matters raised. The retention of the area as countryside rather than garden does not prevent the entire curtilage of the property being seen as one visual entity. The proposed change of use would do nothing to enhance or preserve the setting of the adjacent listed building which is physically separated from it by the appeal property. I conclude that the appeal should be dismissed.

Paul Jackson

INSPECTOR

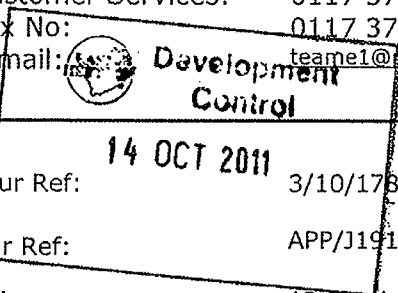


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Mr Glyn Day
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Development Control
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Hertford
SG13 8EQ


Your Ref: 3/10/1786/CL
Our Ref: APP/J1915/X/11/2152214
Date: 12 October 2011

Dear Mr Day

**Town and Country Planning Act 1990
Appeal by Mr Robert Woodcock
Site at The Abbots, 1 Warrax Park, Stanstead Abbots, Ware, SG12 8AR**

I enclose for your information a copy of a letter received on 11 October 2011, withdrawing the above appeal.

I confirm no further action will be taken.

The Hearing on **18 October**, has been cancelled. Please try to bring this cancellation to the notice of anyone who may have taken note of the Hearing arrangements.

Yours sincerely

Kate Parfrey

E208D(BPR)

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