

42/10/0031

MR & MRS P M HUGHES

CHANGE OF USE OF PART OF PADDOCK TO FORM EXTENSION OF DOMESTIC GARDEN FOR CHILDREN'S PLAY AREA INCLUDING PLAY EQUIPMENT FOR A TEMPORARY PERIOD OF 5 YEARS AT LITTLE OAKS, STAPLEHAY, TRULL (RETENTION OF DEVELOPMENT ALREADY UNDERTAKEN)

Grid Reference: 321244.121845

Retention of Building/Works etc.

RECOMMENDATION AND REASON(S)

Recommended Decision: Refusal

Also that if refused the Committee authorise the serving of an Enforcement Notice to secure the removal of all play equipment and the cessation of the use of land for private domestic purposes and take prosecution action subject to satisfactory evidence being obtained that the notice has not been complied with.

- 1 The area of countryside to the west of Staplehay is rural in nature and the introduction of this garden land changes the rural ambience of the area to a domestic one. The change of use of this area for 5 years would still erode the countryside character and result in harm to the visual amenity of the area. Furthermore it would set an undesirable precedent for future development. As such, the proposal is contrary to policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review and policies S1 and EN12 of the Taunton Deane Local Plan.

PROPOSAL

Little Oaks is a large brick and tile detached dwelling, set in a row of properties fronting Honiton Road. The existing rear garden is approximately 17m x 20m without any extension. It backs on to open countryside and to the north, a public footpath passes the site.

A planning application was submitted earlier this year for the change of use of part of the paddock to the rear of the site to domestic garden and for the siting of children's play equipment. Within the site, beech trees have been planted along a bank, and a climbing frame and two goal posts have been sited. The boundary fence to the rear of the existing residential curtilage of Little Oaks has been removed, opening up the existing garden to the site in question.

The applicant sought to change the use of an area 16.5 metres by 28 metres, which lies to the rear of Little Oaks and stretches behind the rear of The Beeches by 2.5 metres and Arden by 7.5 metres. They stated that they did not intend to change the use of the remainder of the paddock.

That application was withdrawn and consequently a report was put to full planning committee seeking authorisation to take enforcement action. The committee

resolved not to authorise enforcement action, but instead suggested that a further application for temporary consent was submitted.

This application now seeks temporary consent for five years to retain the land as garden land with the siting of childrens' play equipment. The area in question has however been reduced to run along the line of the beech hedgerow and bank.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - No Observations

TRULL PARISH COUNCIL - Trull Parish Council supported the original application for a play area for the family's children. This second application has not materially changed except that a temporary five year limit has been imposed. The Parish Council are therefore still fully in support.

HERITAGE AND LANDSCAPE OFFICER -

In my opinion the proposals are contrary to EN12 and would have a detrimental impact on the rural character of the area and set a precedent for further garden extensions in the local area. The site is clearly visible from the footpath, which runs east-west to the north of the site.

Representations

4 letters of support on the grounds of:

- No detrimental affect on any surrounding property
- Relatively little space within the house for active, healthy play
- Site is properly and regularly maintained
- Do not believe use of equipment causes any undue harm to local landscape or private amenities of neighbouring properties
- Sweeping hedgebank is an established feature which will provide visual screening from the public right of way. Play equipment is difficult to see from footpath
- Equipment cannot be seen by neighbouring properties, except Arden.
- Respects agricultural nature of the paddock and surrounding area
- Attractive environment for applicants and neighbours
- Safe, secure and appropriate environment for children to play

15 letters of objection on the grounds of:

- Breaches should not be condoned, planning requirements are set to protect the environment for everyone. Proposal is contrary to local and national planning policies, within Landscape Character Area and alien/damaging to the character and appearance of the agricultural land
- Extension of garden land is inappropriate in this location and even for 5 years would set an unfortunate/dangerous precedent which would encourage similar proposals for the many similar settings and re-applications of previous refusals, making it difficult to resist them and resulting in further erosion of agricultural land, detracting from rural character of area
- Agricultural land should be protected from domestic encroachment and the

rural character and visual amenity of the area preserved for the enjoyment of the whole community. Protecting agricultural land and maintaining rural nature is for the benefit of all our families now and in the future

- Loss of prime agricultural land that could undermine the regional identity of Staplehay, eroding the farming area
- Request for temporary permission makes no difference, agree with previous reason for recommending refusal
- Planning permission was granted for the original dwelling with sufficient garden space for play areas, change of use of additional agricultural land seems unnecessary
- Refer to recent decision by Newcastle City Council on a similar case where it was decided that the land was designated for agricultural use and must be protected from development
- If granted for 5 years, it will allow 8 years of such use and could then be argued that a permanent change of use should be made. TDBC will then find themselves in a difficult position
- Suggests conditions to prevent any form of subsequent change of use, development or construction on the site if application is approved.
- Concerns over future use of the site
- Query what will happen to remainder of bounded area outside of proposed change of use site and whether any conditions will be imposed. Would like to see planning authority take appropriate steps to ensure that land is returned to it's proper use

Other matters raised including:

- Concerns that change of use will lead to further changes of use, possibly relating to the whole paddock in future if line of settlement is broken
- Surprised that application is submitted so quickly following refusal
- Surprised that councillors sought to encourage an application for temporary use, based on a supposed need for an extended area for children's play rather than viewing it strictly in planning terms.
- There is a well-equipped playing field within a short walking distance.
- Proposed development is contrary to the wishes of a large majority of local residents, who have expressed strong opposition to development of green spaces in the parish. Views recorded in Trull Parish Plan.

Letter received from applicant in response to objection letters:

- Latest application submitted at request of TDBC Planning committee
- Fence was erected to prevent children from injuring themselves on metal fence, TDBC confirmed this was acceptable.
- Planting scheme for the paddock was agreed by TDBC
- Climbing frame has remained on site with knowledge of TDBC.
- No evidence for speculative comments made.
- It is not intended to further change the use of the remaining paddock area and would accept a legal restriction to prevent any future applications.

PLANNING POLICIES

EN12 - TDBCCLP - Landscape Character Areas,
S&ENPP5 - S&ENP - Landscape Character,
S1 - TDBCCLP - General Requirements,

DETERMINING ISSUES AND CONSIDERATIONS

It is important to note that whilst the paddock as a whole lies within the control of the applicants, this application relates only to an area largely to the rear of Little Oaks, measuring 28 metres in length and contained within the beech hedgerow. Furthermore, there appears to be a great deal of confusion in representations submitted that the previous application was refused. Members will recall that the planning application was withdrawn and members resolved not to authorise enforcement action, but instead invited a further application for a temporary period.

Whilst this application now seeks temporary permission, it is for a period of 5 years. This is considered a very lengthy period, which would result in the same concerns as previously.

There is a well established line forming the rear boundaries of the row of dwellings, of which Little Oaks forms part. The garden area therefore 'juts out' significantly into the agricultural land to the rear and in area is more than double the size of the existing large garden. Although a bank with beech planting has been created, along with further tree planting, the site remains clearly visible from the footpath to the north.

This countryside is rural in nature and the garden land introduces a domestic and urban element into an otherwise rural environment, eroding the countryside character and resulting in harm to the visual amenity of the area.

Furthermore, the extended residential curtilage would set an undesirable precedent for other properties to do the same, resulting in an unacceptable level of harm to the surrounding landscape.

It should also be borne in mind that granting consent for a period of five years is a considerable length of time. If members are minded to approve the application for five years, it could be very difficult to resist a future application for a permanent change of use at the end of this period.

Whilst concerns have been raised regarding tree planting and fencing to the paddock, it should be acknowledged that planning permission is not required for those elements.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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