
Appeal Decision

Site visit made on 1 February 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/U1105/W/16/3161989

Tale Head Cottage, Road from Tale Head Cottage to Tale House Cottage, Payhembury, Devon EX14 3HL

- 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 Richard and Maria Hazell against the decision of East Devon District Council.
 - The application Ref 16/1461/FUL, dated 21 June 2016, was refused by notice dated 6 September 2016.
 - The development proposed is the "change of use from agricultural to garden land including removal of field hedgerow and replacement boundary hedgerow (resubmission of planning application 14/2797/FUL)".
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Decision

1. The appeal is allowed and planning permission is granted for change of use from agricultural land to garden land including removal of field hedgerow and replacement boundary hedgerow at Tale Head Cottage, Road from Tale Head Cottage to Tale House Cottage, Payhembury, Devon EX14 3HL in accordance with the terms of the application, Ref 16/1461/FUL, dated 21 June 2016, subject to the schedule of conditions below.

Preliminary Matter

2. I have revised the description in my decision from that used on the planning application form to set out more precisely the act of development.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding countryside including whether it would preserve the setting of Tale Head Cottage which is a grade II Listed Building.

Reasons

4. The appeal site includes the detached listed cottage and a detached garage within a triangular shaped landscaped garden. The site is on a level area adjoining a field to the north. Part of the field is at a similar level but it also slopes away towards the north east. The surrounding countryside includes gently rolling fields of varying sizes defined by a network of hedgerows including some larger trees and the occasional building.
 5. The road that runs along the front, south side of the site leads into Lower Tale,
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a small settlement. It is possible to see into the front and side gardens from that road. The site is on the outskirts of Lower Tale and although there are some other buildings along the road, it is clearly within open countryside. The eastern roadside boundary is defined with dense vegetation which provides a robust screening of the site and the fields further along to the north.

6. The existing northern boundary of the site is a well-established hedgerow that is angled across the side of the cottage and behind the garage. When looking from various points to the north and north east including from the road leading towards Clyst William I could see the rear hedgerow along the northern boundary. I could also see the western boundary from a farm gate entrance along the road leading into Lower Tale. Domestic activity within the garden from those directions is well screened.
7. These public view points are at a significant distance from the site and it is difficult to appreciate the detailed position of the hedgerows which are indistinct from the background of other landscape features. I gained a general appreciation of the importance of the existing line of the hedgerows as a screen to domestic activity. The hedgerows also visually break up the view of the cottage which contributes to giving the building a pleasant rural setting, helping it integrate with the surrounding countryside.
8. The removal of 25m of hedgerow to the side of the cottage as well as 40m of the hedgerow which defines the boundary of the field to the north of the site is proposed. Much of the existing hedgerow to the north east of the dwelling would be retained and would run between the old and proposed parts of the garden. New sections of hedgerow would be planted to square-off the garden to the west and north of the cottage. The proposal would therefore result in 2 sections of newly planted hedgerow on presently undeveloped fields at a similar level as the existing hedges. This would open up the garden to the side of the cottage and give the dwelling a much greater external area. It would also bring about a more regular shaped field pattern close to the cottage.
9. The Council is concerned about the visual and intrinsic impacts of these changes in terms of the difference in form and position of the well-established hedgerows as well as the intrusiveness of domestic activity. However, from the general viewpoints from where I could see the site, the new hedges if suitably specified could provide a similarly robust boundary to the increased garden area. It would be difficult to notice the squaring off of the boundary. Such new planting may take some time to provide a similar level of screening. The retention of a section of the old hedgerow between the new and old garden would limit the short term impacts. Furthermore, given the distance of public viewpoints from the site, the extension of the garden along with domestic paraphernalia would cause very little change to the rural scene and setting of Tale Head Cottage.
10. The Council has referred to the presence of the existing hedgerows since the 19th century. The proposal would lead to a loss of a small part of that well-established hedgerow which would not cause any noticeable harm to that particular distinctive feature. Furthermore, very limited short term harm that may occur would then be overcome when the additional planting becomes established. The key characteristics, special and distinctive qualities of the area would be conserved, respected and not harmed.

11. In relation to the main issue, the proposal would not have a harmful effect upon the character and appearance of the surrounding countryside and would preserve the setting of the grade II Listed Building. This would comply with strategies 7 and 46 as well as policy D1 of the East Devon Local Plan¹. The natural environment would be conserved and potentially enhanced by the additional hedgerow planting, thereby complying with paragraph 17 of the National Planning Policy Framework.

Conditions

12. I have attached a condition regarding landscaping details slightly varied from the Council's suggestion to ensure it meets the advice in the Planning Practice Guidance. I have included a separate condition requiring the implementation of the agreed scheme. I have also imposed a condition specifying the relevant drawings as this provides certainty that the development will be implemented as proposed.
13. The Council has suggested a further condition to remove permitted development rights. Even if an increased garden area could be considered to extend the "curtilage" for these purposes, Tale Head Cottage is a Listed Building where such rights are limited. Furthermore, advice in Planning Practice Guidance is that such conditions should only be used exceptionally and those circumstances have not been demonstrated. A condition is unnecessary.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the submitted and approved block and location plans.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping showing the details of the new hedge planting proposed on the approved block plan. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

¹ East Devon Local Plan 2013 to 2031, adopted 28 January 2016