

Appeal Decision

Site visit made on 23 May 2017

by CD Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 26 June 2017

Appeal Ref: APP/K1128/W/16/3166274

14 Allotment Gardens, Kingsbridge TQ7 1NT

- 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 James Savage against the decision of South Hams District Council.
 - The application Ref 0996/16/FUL, dated 31 March 2016, was refused by notice dated 15 July 2016.
 - The development proposed is conversion of existing tractor and mower storage barn into 2 bedroom accessible annexe for family care purposes.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has proposed a number of amendments to the plans in order to address some of the Council's concerns. Although revised plans have not been submitted, it is suggested that conditions could be used in order to secure the proposed changes. Whilst I accept that alterations to the fenestration and the appearance of the flue may be appropriate to secure through the use of conditions, it is also proposed to remove the proposed garage and reduce the overall area of the site. It seems to me that these are relatively substantial changes to introduce through planning conditions. In the event of the appeal being allowed, this would lead to a situation where drawing PL02_Rev A was formally approved but key elements of the development, as depicted on the approved plan, would be amended by conditions. I am conscious that the National Planning Practice Guidance states that a condition that modifies a development in such a way as to make it substantially different from that set out in the application should not be used. My decision is therefore based on the assumption that the proposed double garage would be implemented and the site area remains as shown on the original plans.

Main Issues

3. The main issues in this case are:
 - whether there is an agricultural need for the storage building.
 - the effect of the proposal on the character and appearance of the area.
 - the effect of the proposal on the living conditions of neighbouring occupiers having particular regard to privacy.
 - whether adequate arrangements would be made for surface water drainage.

Reasons

Agricultural need

4. The appeal concerns an agricultural storage building situated in an open field immediately to the rear of No 14 Allotment Gardens. Although the building is very close to the built up area of Kingsbridge, it is located just outside the settlement boundary of the town and is therefore within the countryside according to the development plan. It is proposed to convert the building into a self-contained residential annex to No 14.
5. Policy DP15 of the South Hams Local Development Framework Development Policies Development Plan Document (the DPD) strictly controls development in the countryside. Most development is limited to that which supports essential rural needs, although the conversion and reuse of existing buildings is allowed by Policy DP16. However, both Policy DP15 and DP16 make it clear that development should not prejudice any viable agricultural operations. It is argued by the appellant that the building is no longer required for agricultural purposes and is therefore suitable for conversion.
6. I understand that the building was approved by the Council in 2012 on the basis that it was needed to support a small agricultural enterprise. The appellant states that the main activities to date have been managing grassland and undertaking various improvements to the site, including hedgerow planting. While I have been provided with relatively few details of exactly what storage space has been required in the past, I saw on my site visit that the building contained various items including a tractor and sit on mower.
7. It is stated that the intention is to re-sow the land with a wild flower mix which minimises the extent to which it needs to be managed. I am informed that once this is established, a single seasonal cut of hay can be taken using contractors. Although some equipment would still need to be kept on the site, it is said that the tractor can be stored in the open under tarpaulin and other items are small enough to be kept in a domestic garage. However, while this may be the case, it is not explicitly stated how the storage requirements would differ from that of the existing agricultural operation.
8. In order to demonstrate compliance with Policy DP15 it seems to me that it is also necessary to show that the proposed way of managing the site would be viable in the long term. If it were not viable, there would be potential for the site to revert to being managed in a way that would again generate an essential need for an agricultural storage building. Hence, in the event of the existing building not being available for storage purposes, the viability of agricultural operations on the site could be compromised. While the appellant provides a description of how the site would be managed, there is relatively little before me to demonstrate long term viability, such as a business plan, an agricultural surveyor's report or other verifiable information.
9. I am mindful that the building was approved on the basis of agricultural need relatively recently. This was against the background of a long established planning policy which strictly controls development in the countryside. In recognition of this, the proposal to convert the building for residential purposes requires an appropriate level of scrutiny. Whilst the appellant goes some way to showing that an agricultural storage building is no longer required, I have found that the evidence provided is not sufficiently robust to demonstrate

compliance with Policy DP15. In the absence of compelling evidence to the contrary, I must therefore conclude on this issue that there remains an agricultural need for the storage building.

Character and appearance

10. The landscape surrounding Kingsbridge is distinctly rural in nature, with open agricultural fields dominating the local scenery. Although the appeal site is situated close to the edge of the built up area, it nonetheless forms part of the agricultural landscape which provides Kingsbridge with its rural setting. As the existing storage building has a simple, functional design it maintains the appearance of the countryside in this location.
11. My attention has been drawn to a potential housing allocation close to the appeal site which has been identified for inclusion in the emerging Local Plan¹. However, although this plan is at a relatively advanced stage of preparation it is not yet close to adoption and there can be no certainty that the allocation will be implemented as currently anticipated. Similarly, I have not been informed that the planning application² for housing in the vicinity of the site has yet been determined by the Council. Consequently, I give very little weight to these potential housing sites in my decision.
12. The proposed annex would clearly assume a more domestic appearance than the existing storage building by virtue of its fenestration and more elaborate design. It would also be a taller and bulkier structure, although I recognise that the built footprint would not increase substantially. However, while this would be less characteristic of the rural surroundings, I accept the appellant's point that the annexe would not be especially prominent when seen from the wider surroundings, including from within the AONB. Despite occupying a more elevated position than the nearest properties in Allotment Gardens, it would be very close to the built up area of Kingsbridge on a site that is already occupied by a building of generally similar dimensions. Furthermore, in longer distance views from within the AONB and elsewhere, the domesticated appearance of the annexe would not be easily discernible. There would be no conflict with the objectives of the AONB Management Plan in this regard.
13. However, when the annexe is considered alongside the proposed garage, the effect on the landscape would be more harmful. Even though the garage would be a rather less conspicuous structure than the annexe due to its lower ridge height, it would nonetheless extend built development further out into the open countryside. Furthermore, were the curtilage of the proposed annexe (as denoted on plan PL02_Rev A) to be used as a garden, there would be potential for additional domestic paraphernalia on other parts of the field (for example play equipment, greenhouses or sheds). The overall effect of the proposal would therefore be to harm the setting of the town by incrementally undermining the rural landscape in this area. Although my attention has been drawn to an Appeal Decision³ for a solar farm elsewhere in the vicinity, this does not set a convincing precedent for further residential development within the open countryside.

¹ Plymouth and South West Devon Joint Local Plan Pre-Submission March 2017

² Council Reference: 0229/17/OPA

³ Appeal Decision: APP/K1128/A/13/2206258

14. The annexe would also be seen at closer quarters within Allotment Gardens. From here, the contrast in appearance compared to the existing storage building would be far more noticeable. Nonetheless, as it would be set back from the street frontage behind other houses it would not be a particularly prominent feature within the local street scene despite its elevated position compared to other properties. However, the inclusion of the double garage and driveway would more overtly open up views into the site and undermine the appearance of the undeveloped field to the north. Although I appreciate that the appellant has offered to remove this element of the scheme (together with a reduction in the curtilage) I have explained elsewhere why planning conditions are not the appropriate mechanism to achieve this.
15. I therefore conclude on this issue that the proposal would harm the character and appearance of the area. There would be conflict with Policy CS9 of the South Hams Local Development Framework Core Strategy which aims to preserve the character and special qualities of areas.

Living conditions

16. The Council suggest that the annexe should be treated as a separate dwelling as it would result in a self-contained unit of accommodation that would be physically separated from the host property. However, while I fully understand the Council's concerns, the proposal before me is for a residential annex and not an individual dwelling. Its use as an annex is a matter which is capable of being controlled through a planning condition. In the event of an application being made to remove such a condition, the relationship between the annex and the existing property would clearly be a matter that should come under very close scrutiny. Nonetheless, for the purposes of this appeal, it seems to me that because both the proposed annex and No 14 Allotment Gardens would be occupied by the same household, any mutual overlooking that may occur would not harm the living conditions of the occupiers.
17. However, I agree with the Council that if the extended curtilage of the property (as denoted on the plans) were to be used as a residential garden then there would potential for more intensive overlooking of neighbouring properties. Therefore I conclude on this issue that the proposal would have a harmful effect on the living conditions of neighbouring occupiers. There would be conflict with Policy DP3 of the DPD which aims to protect amenity.

Drainage

18. The site is situated within the Kingsbridge Critical Drainage Area where the Environment Agency requires on-site surface water to be managed to protect against 1 in 100 year flooding events (taking account of climate change). Whilst I appreciate the appellant's point that providing these details at the application stage would have added to costs, it is reasonable for the Council to require at least some information to show that surface water runoff could be successfully managed within the confines of the site.
19. The appellant argues that the proposed annex would have a similar footprint to the existing building, with the overall increase in impermeable area being in the order of 9 square metres. A method of managing surface water runoff has been suggested which would involve installing water butts and laying an area of permeable paving in place of concrete. However, although this may be a valid approach, I am considering this appeal on the basis that a new double

garage and driveway is also being proposed. There is little before me to indicate how surface water runoff would be managed on those parts of the site. In the absence of more information on this aspect of the proposal, I am unable to conclude that a planning condition would necessarily be able to make the development acceptable.

20. I therefore conclude on this issue that adequate arrangements would not be made for the disposal of surface water from the site. It would conflict with paragraph 103 of the Framework which, amongst other things, aims to ensure that development should not increase the risk of flooding.

Other matters

21. I appreciate that the annexe is intended for the appellant's daughter who has Down syndrome and would be of benefit to her overall standard of living. Indeed, I understand that the appellant's wish to manage the land in a different way is being partly driven by a desire to find a practical solution to her accommodation needs. Whilst I sympathise with this situation, I have found that the proposal would lead to harm. Potentially less harmful ways of addressing the appellant's daughter's needs have not been discounted.

Conclusion

22. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

CD Cresswell

INSPECTOR