



Appeal Decision

Site visit made on 18 June 2019

by S Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2019

Appeal Ref: APP/Q1153/W/19/3223930

The Milking Parlour, Higher Wilminstone Farm, Tavistock PL19 0JT

- 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 Miss I Chambers against the decision of West Devon Borough Council.
 - The application Ref 2206/18/FUL, dated 3 July 2018, was refused by notice dated 31 October 2018.
 - The development proposed is change of use of agricultural land to residential curtilage.
-

Decision

1. The appeal is allowed, and planning permission is granted for the change of use of agricultural land to residential garden at The Milking Parlour, Higher Wilminstone Farm, Tavistock PL19 0JT in accordance with the terms of the application Ref 2206/18/FUL, dated 3 July 2018, subject to the following 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 following approved plans: 1:2500 Site Location Plan and 1:1000 Block Plan.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1, Class E and Part 2, Class A shall be undertaken without the express consent in writing of the Local Planning Authority.

Procedural Matters

2. The description of development, as stated on the application form, is set out above. The Council, on the decision notice, has described the development as change of use of agricultural land to residential garden. As "curtilage" is not a use, this more accurately describes the proposal and I have considered the appeal on this basis.
3. Since the Council's decision on the planning application, the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (JLP) had been adopted. For the purposes of decision making, the JLP is therefore now the development plan. The policies of the adopted JLP that are relevant to the appeal proposal were provided by the Council. Although policy numbering has changed between the

emerging and adopted JLP for policy DEV23 Landscape Character (which was previously numbered DEV24), the wording of the draft and adopted policy has not materially changed. Consequently, no parties will have been prejudiced by my having regard to the adopted policy in reaching my decision.

4. The National Planning Policy Framework (the Framework) was revised in February 2019 and this post-dates the Council's refusal notice. I have taken the Framework into account as part of the determination of this appeal.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the wider landscape.

Reasons

6. The appeal site is in open countryside and is accessed by a steep narrow lane which is shared by a cluster of residential properties and buildings in various uses. The site is a rectangular shaped parcel of land measuring approximately 0.34 hectares. It consists of a grassed area which has been fenced with posts and rails and a rough track which surrounds the grassed area along the north, east and west boundary. Beyond the track, the site is enclosed on three sides by mature tree lined hedgerows and to the east by a mixture of agricultural and residential buildings. Within this group is the former dairy and an agricultural building, a section of which is within the same ownership and has consent for ancillary domestic use.
7. The site sits to the west of the host dwelling adjoining the private driveway to the front of the house and, as such, is physically attached to the residential unit. The grassed area within the appeal site is on a higher level and is accessed via steps from the driveway. Within the site the grassed area inclines gently towards the west where there is a small agricultural building used to house a tractor and water pump. The site contains some elements of domestic paraphernalia and, at the time of my visit, the grass was cut short.
8. The high mature tree lined hedgerows and adjacent buildings screen the site from views across the adjacent countryside and the site is only realistically visible from the adjacent dwelling, other buildings and partially from the lane leading up to the house. Because the land is visually separated from the wider rural landscape by substantial screening, its proposed use as residential curtilage would not detract from the character of the rural setting.
9. I have considered the Council's concern about the size of the appeal site, however, the existing mature hedgerows provide a natural boundary which logically directs the extent of the enlarged garden area. Given that the site is naturally and visually contained and, taking account of the location on the edge of the built form, this would not be harmful to the wider landscape.
10. Accordingly, I do not consider that the development would lead to an unacceptable level of harm to the character and appearance of the wider landscape. The objectives contained in Policy DEV23 of the JLP seek to maintain the character of the locality, which I consider would not be breached. Furthermore, the Framework requires protection of the countryside for its scenic and visual quality by avoiding significant and adverse landscape and visual impacts. For the reasons given, the character and visual quality of the wider countryside would not be significantly harmed by the proposal.

Other Matters

11. The Council acknowledge the increase in the residential use of the site in terms of recent extensions and the ancillary domestic use of part of the adjacent building, yet I note the area used for outdoor residential purposes remains very limited. It is a reasonable expectation to have the benefit of suitable private outdoor space for residential purposes. The enlarged garden would be of benefit to the living conditions for both existing and future occupants.
12. I have also taken account of comments raised by interested parties in making my decision. I am unaware of the grade of the land in agricultural terms however, the site is small and physically confined by hedges and buildings. A productive agricultural use would be limited by its size and there seems little prospect of the site returning to productive use. The retention of the mature hedgerows, which surround the site, will continue to be beneficial and enhance local wildlife providing corridors and rich hunting grounds.
13. The site remains in open countryside where policies are in place to manage development. Furthermore, a condition that restricts permitted development rights is included with this decision which would ensure any future development, incidental to the dwellinghouse, is subject to control.

Conditions

14. The conditions set out above are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
15. Planning permission is granted subject to the standard three-year time limit condition. A condition to require the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of certainty. A condition restricting permitted development rights is required to allow control over built development which could materially harm the character and visual qualities of the area.

Conclusion

16. For the reasons given above, and taking into account all other matters, I conclude that the appeal should be allowed.

S Hanson

INSPECTOR