



Appeal Decision

Site visit made on 6 August 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/D0840/W/19/3227905

Chy Lowen, Access to Tresavean Farm, Tresavean, Lanner, Cornwall TR16 6AL

- 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 Gordon against the decision of Cornwall Council.
 - The application Ref PA18/09112, dated 28 September 2018, was refused by notice dated 26 November 2018.
 - The development proposed is described as resubmission of approved application PA18/00482 for the proposed conversion of existing garage/workshop into ancillary living accommodation to allow for variation of condition 2 to enable use for paying guests and ancillary accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of garage/workshop into ancillary living accommodation for use by paying guests or as accommodation ancillary to Chy Lowen at Chy Lowen, Access to Tresavean Farm, Tresavean, Lanner, Cornwall TR16 6AL in accordance with the terms of the application, Ref PA18/09112, dated 28 September 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 only be occupied either for purposes ancillary to the residential use of the dwelling known as Chy Lowen or holiday accommodation managed by the occupiers of Chy Lowen and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the unit and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Procedural Matters

2. The description of development in the heading above suggests that the proposal is to vary a condition attached to planning permission Ref PA18/00482. However, the submitted application and appeal forms show that a full planning application was submitted to the Council. I have dealt with the appeal on this basis and, after consulting the main parties, have amended the description of development accordingly, including to remove words which are not acts of development.
3. I observed on my site visit that the conversion of the outbuilding from a garage to residential accommodation under the above permission appears to have been substantially completed. I have dealt with the appeal on this basis.

4. The National Planning Policy Framework (the Framework) was revised in February 2019. However, as the Framework's policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issue

5. The main issue is whether the living conditions of the occupants of the main dwelling and future occupants of the outbuilding would be acceptable.

Reasons

6. There is no definition of dwellinghouse in the Town and Country Planning Act 1990 (as amended). However, in *Gravesham BC v SSE and O'Brien [1983] JPL 306* it was accepted that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence, and it did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons.
7. The outbuilding has been converted to residential accommodation following the Council granting planning permission Ref PA18/00482. A planning condition could maintain the link between the main dwelling, Chy Lowen, and use of the outbuilding by limiting its occupation to either purposes ancillary to the residential use of the main dwelling or holiday accommodation managed by the occupants of Chy Lowen. However, I observed on my site visit that it contains all the facilities necessary for normal day to day existence. I am therefore satisfied that the proposal provides the facilities required for private domestic existence. It would not lose this characteristic if it was occupied by a series of different persons. Consequently, it is appropriate to treat the proposal as a dwellinghouse as well as holiday accommodation for the purposes of applying planning policies.
8. The appeal site contains a vehicular access and parking/turning area to the front and side of the Chy Lowen. The outbuilding the subject of the appeal is located behind the side parking area and to the rear side of the main dwelling. There is a recessed sitting out patio area at the rear of Chy Lowen which is semi-enclosed by a wall, soft landscaping and fence. The remainder of the site includes, amongst other aspects, a relatively large open outdoor space next to the outbuilding and to the rear of Chy Lowen, and a smaller enclosed space to the south of the outbuilding. A fence also separates the side parking area from the side of the main dwelling and its rear patio area.
9. The outbuilding and main dwelling are relatively close. However, Chy Lowen is orientated away from the outbuilding, whose main aspect is towards the rear garden area. This means that the rear windows of Chy Lowen and the outbuilding's northerly facing windows look towards the rear garden rather than towards one another. The entrance and ground-floor window on the outbuilding's eastern elevation also face more towards the side parking area than to Chy Lowen. Accordingly, there would be no direct overlooking between the buildings.
10. The open rear garden would be open to and overlooked by the occupants of both buildings. However, the main sitting out area for Chy Lowen is relatively well separated and screened by the boundary treatment, soft landscaping and its recessed nature, and windows in the outbuilding are not angled towards it. There is also a separate enclosed outdoor space to the south of the outbuilding. Accordingly, the occupants of each building would have sufficient access to outdoor space that would not be significantly overlooked. It seems to me that further screening, such as in the form of additional soft landscaping in the relatively open grass area between the two buildings, could also be provided should it be desired.

However, for the above reasons, I am satisfied that a condition requiring demarcation and separation between the two buildings is not necessary to make the development acceptable in this instance.

11. The proposed use of the outbuilding would be likely to involve some more comings and goings and greater use of the shared vehicular access and parking area compared to use of the outbuilding as ancillary accommodation only. However, the parking area extends to the front and side of Chy Lowen, and the side area is separated from the main dwelling by the fence. Given the location of the outbuilding and that its holiday accommodation use would be managed by the occupants of Chy Lowen, it seems reasonable to me to expect that users and visitors to the outbuilding would be likely to park in the side area and the occupants and visitors to the main dwelling would park in the front area. Accordingly, the additional comings and goings and use of the shared vehicular access and parking area would not significantly affect the living conditions of occupants on the site, with particular regard to noise and disturbance.
12. For the above reasons, I conclude that the living conditions of the occupants of the main dwelling and future occupants of the outbuilding would be acceptable. I therefore find that it accords with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030, which amongst other aspects seeks to protect individuals and property from loss of privacy, overlooking and noise and disturbance. It would also be consistent with the provisions in the Framework in relation to providing a high standard of amenity for existing and future users.

Other matters

13. Containing facilities characteristic of a dwellinghouse, the proposal would allow the outbuilding to be used by paying guests as well as accommodation ancillary to Chy Lowen. However, this use could be controlled by condition which would continue to prevent it from being occupied as a person's sole or main place of residence and tie its use to the main dwelling. The outbuilding would not therefore have an unfettered use which would be independent from the main dwelling. Accordingly and on the evidence before me, use of the outbuilding by paying guests as well as ancillary accommodation to Chy Lowen would not affect the ratio of affordable and private dwellings, which the Council indicates is covered by a legal agreement.
14. The site is accessed via a narrow highway. However, I have little substantive evidence that the development would lead to significant additional vehicular movements which the highway could not accommodate.

Conditions and Conclusion

15. I have imposed a condition requiring that the outbuilding only be occupied for purposes ancillary to the residential use of the main dwelling or for holiday accommodation managed by the occupiers of Chy Lowen and not be occupied as a person's sole or main place of residence. This is necessary in order to differentiate it from an unfettered residential use independent from the main dwelling, which would be materially different in some respects and may engage other issues such as in relation to its location to the settlement. A legal agreement is unnecessary because the use can be sufficiently controlled by this condition.
16. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR