



Appeal Decision

Site visit made on 9 October 2019

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2019

Appeal Ref: APP/F9498/X/18/3216478

Groom's Cottage, Wellfield, Countisbury, Lynton EX35 6NG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Mark Guard against the decision of Exmoor National Park Authority.
 - The application Ref 62/11/18/002, dated 7 March 2018, was refused by notice dated 15 June 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is described as "the conversion of the adjoining former stable to extend the existing residential accommodation at Groom's Cottage."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Grooms Cottage is a 2 storey stone cottage which is alongside a former stable building and lean-to garage. The appeal site is within a very rural, area surrounded by woodland, close to the coast of north Devon.
3. The description of the proposal, as set out in the heading above, does not refer to any extensions to these existing buildings. The appellant in the initial planning statement stated that the application is for "lawful use of adjoining stable and garages as an extension to the house". However, the same document also refers to a "proposed rear extension" being "1.8m deep". This aligns with what is shown on the submitted plans.
4. The initial statement also states that "it is proposed to reconstruct the removed timber loft access to use as a staircase to the first floor". Again, this is shown on the submitted plans but the appellant's subsequent appeal statement confirms in section 12, paragraph c) that the stair tower "does not form part of the application for a lawful development certificate". The Exmoor National Park Authority (NPA) have referred to this part of the building within their decision but I will take the appellant's latest unambiguous clarification to the effect that it is not part of the proposal.
5. The NPA altered the description of the proposal on their decision notice. It is not clear that the change of description was formally agreed by the appellant and I have not therefore used it. Under s192 of the Act, I do not have the

power to amend the description of development. I am however satisfied that the terms of what is proposed is the use of the former stable building as a part of the dwellinghouse at Groom's Cottage along with the proposed extension to the northern part of the stable building.

Reasons

Background

6. Grooms Cottage has recently been accepted through the issuing of a LDC (Appeal ref APP/F9498/X/17/3170649) as a dwellinghouse. That LDC decision provides some background to this case. The context of the appeal at that time meant that the Inspector did not need to consider or explain definitively what the extent of the cottage was.
7. In the present case, the main issues that I need to consider are the extent of the original dwellinghouse and whether the extensions would be permitted development under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). In particular, permitted development rights relevant here are those for the enlargement, improvement or other alteration of a dwellinghouse, therefore those within Article 3, Schedule 2, Part 3, Class A.

Original dwellinghouse

8. Article 2(1) of the GPDO defines "original" as "in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date". This definition is also referred to along with other advice with the Technical Guidance¹. In considering the relevant permitted development rights, it is necessary to determine on the balance of probabilities, what parts of the building did exist and what they were used for, at that time.
9. There is no dispute that the former stable building attached to the side of the dwelling physically existed in on 1 July 1948. The Inspector in the 2017 LDC decision also considered that the outside lavatory was part of the facilities required for day-to-day private domestic existence. The NPA accepts that there is no evidence to dispute that an interconnecting door between Grooms Cottage and the stables was installed before 1939 after the horses were moved out. It seems to me that when the occupation of Grooms Cottage relied upon the use of the external lavatory, residents would have been likely to use the most convenient and weather protected route to those facilities. The stables would have, at least to that extent, been used incidentally to the occupation of the dwellinghouse. A building that had such a close physical relationship to the dwellinghouse and also a functional link with it would be difficult to extricate from being considered, on the balance of probabilities, as part of that dwellinghouse. I therefore consider on this basis that the stables were part of the original dwellinghouse.
10. The garage as currently in place adjoins the stable. It has a lean-to roof that joins the gable end of the building a little above the height of the arched headers of the openings in the south of the building. The photographs included within the NPA appeal statement from 2017 show that at that time, there was a clear gap between the side of the stable and a detached timber structure.

¹ Permitted development rights for householder – Technical Guidance, April 2017

These confirm what is shown in more detailed, undated photographs submitted by the appellant but which have a NPA date-stamp of 2010.

11. A planning application was submitted in 2002 and the plans dated 2002 as well as photographs from 1996 and 1998 show a timber garage on the side in the place of the present structure albeit with a different flat-roof form. The appellant has also provided other evidence in the form of certified aerial images. One of those from 1946 shows what appears to be a flat-roofed structure, above the level of the surrounding ground, in a similar position.
12. It therefore seems to me, on the balance of probabilities, that a garage was positioned to the side of the stables on 1 July 1948 and with this having the lavatory at the rear used by occupants of the dwelling, can reasonably be considered as a part of the original dwellinghouse. Given the issues as they are set out above, I do not need to consider whether the formation of the current garage structure (which would require an application under the provisions of s191 of the act) required planning permission.

The proposals

13. It is necessary to interpret the words of the GPDO in their ordinary meaning and not to read other things into them that are not included. For the consideration of original dwellinghouse therefore, the GPDO definition needs to be taken at face value. Class A does not for example state that the limitations are related to the original dwellinghouse that still exists at the present time.
14. The lavatory element of the original dwellinghouse protrudes beyond the rear wall of the remainder of the building. The footprint of the original dwellinghouse therefore had a stepped, 'L' shape due to the lavatory protrusion. This means that as well as the 'outer' side elevations, the dwelling also had an 'inner' side elevation. The Technical Guidance at page 23 provides an illustration to explain how to interpret what constitutes a wall forming a side elevation when there is a stepped footprint like this. Paragraph A.2. of Class A of the GPDO states that on land on 'article 2(3) land' (which includes land in National Parks) certain forms of development are not permitted by Class A. This includes, by reason of paragraph A.2.(b) if "the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse".
15. The proposed development would involve the construction to the side of the current position of the lavatory protrusion and which forms a side extension. Although this would also be an extension rearward of the original dwellinghouse, the proposed extension overall would not be permitted development due to it not complying with paragraph A.2.(b) of the GPDO.

Conclusion

16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the conversion of the adjoining former stable to extend the existing residential accommodation at Groom's Cottage, was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Harwood

INSPECTOR