
Appeal Decision

Site visit made on 10 December 2019

by P N Jarratt BA DipTP MRTPI

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

Decision date: 19 December 2019

Appeal Ref: APP/K1128/C/18/3211610

The Stables, Ledstone, Kingsbridge, Devon, TQ7 2HQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr James Whelan against an enforcement notice issued by South Hams District Council.
 - The enforcement notice, numbered 015010, was issued on 16 August 201.
 - The breach of planning control as alleged in the notice is the change of use of a building and associated land to a single dwellinghouse and residential garden land (Use Class C3).
 - The requirements of the notice are:
 - a) Cease the use of the land and building as a dwellinghouse;
 - b) Remove all domestic fixtures and fittings with the exception of a WC and sink pedestal;
 - c) Remove all glazed windows and doors so that openings revert back to the provision of shuttered openings only as shown on approved drawing no. 39.99.04 on planning permission 08/1071/00/F;
 - d) Remove all associated paraphernalia, including TV/satellite transmission equipment, flues, washing lines, garden paraphernalia, etc.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. Originally the appeal included ground (d) but this was withdrawn following a change of ownership of the appeal property and with the consent of the original appellant. Consequently, the procedure for determining the appeal has been changed from that of a public inquiry to written representations, with grounds (a), (f) and (g) being considered.
3. The appellant did not attend the site inspection and there was no response to the door being knocked. Nevertheless I was able to see sufficient of the site for me to determine the appeal.
4. Since the submission of the appeal, the Plymouth and South West Devon Joint Local Plan 2014-2034 has been formally adopted (JLP).

The appeal site and relevant planning history

5. The appeal site is in open countryside but located close to the small settlement of Ledstone. The Stables was originally an L-shaped, timber clad, single-storey building, now having rooms in the roof and authorised single storey additions. There is a flue, satellite dish and aerial on the roof. The building has been set into the landscape and is well concealed by banks and landscape planting.
6. Outside the appeal site but associated with it is a grassed parking area between the road and the building with children's play equipment nearby, and a rotary washing line to the south of the building.
7. Permission was granted for the construction of a stable block and associated external works in March 2000 with amendments to the approved plans approved in August 2000. In February 2002, permission was granted for the erection of a lean-to on the existing stable block for land/stable maintenance.
8. An application for a lawful development certificate for a residential dwellinghouse with domestic garden was refused in May 2018.

The appeal on ground (a) and the deemed planning application

9. The main issue in this appeal is whether the change of use to a dwelling house represents development in an appropriate location in the context of local and national planning policies.
10. The appeal site is on the edge of the hamlet of Ledstone. It is not one of the settlements listed in Policy TTV1 of the JLP which sets out a hierarchy of settlements for the distribution of growth and development to deliver homes and jobs. In accordance with Policy TTV1.4, which relates to smaller villages, hamlets and the countryside, any development needs to be able to demonstrate that it supports the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2.
11. Figure 3.2 of the JLP sets out a number of aspirational measures of sustainable communities such as distance to a bus stop, a local convenience store and a primary school. The location of the appeal site is such that these aspirational measures are not met and it does not have reasonable access to a vibrant mixed use centre contrary to Policy SPT2. Occupants of the appeal property would need to be reliant on private transport. Although the appellant considers the development to have access to a local bus service and is within walking distance of the town centre, I note that the centre of Kingsbridge is about 2 miles away and walking along narrow rural roads would inevitably have a degree of danger from other road users. As the site is not well served by public transport, or by walking or cycling opportunities, again, this is contrary to Policy SPT2 and also to Policy TTV1 as the principles of sustainable development cannot be demonstrated.
12. Policy TTV26 aims to protect the special characteristics and role of the countryside by avoiding isolated development in the countryside except where there are exceptional circumstances. I note that the first part of the policy reflects paragraph 79 of the National Planning Policy Framework (the Framework). The courts¹ have held that the term 'isolated' should be given its ordinary objective meaning of 'far away from other places buildings or people'.

¹ Braintree DC v SSCLG & Ors [2017] EWHC 2743 Admin and subsequent Court of Appeal judgement

In this appeal the location of the site does not meet this definition in the context of the Framework but paragraph 5.169 of the JSP indicates that where homes would be distant from services and amenities, this would not represent a sustainable solution and that the policy provides criteria that need to be met before a development proposal can be supported in the countryside. I also note that the JSP has been adopted since the court decisions and after the current Framework was published. Accordingly I consider the site represents isolated development in the context of Policy TTV26. This interpretation is consistent with that of an appeal decision elsewhere in the District referred to by the Council (APP/K1128/W/19/3227246).

13. The appeal development does not meet any form of local housing need and, as a modern stable building, it does not represent the conversion of a traditional building and is therefore contrary to Policy TTV26.
14. Although the dwelling is sited such that it is not unduly prominent in the landscape due to it being set into the sloping ground, the roof, satellite dish, flue and aerial introduce a more intrusive element which is exacerbated by the parking arrangements and domestic paraphernalia outside the appeal site.
15. The appellant has suggested that conditions could be imposed referring to a plan submitted with the appeal and withdrawing all permitted development rights from the property. Reference has also been made to an application for prior approval for a change of use of an agricultural building to a dwelling at Willow Barn, Ledstone. However these factors do not overcome the policy objections to the site that have been identified.
16. I conclude that the change of use of the building to a dwelling does not represent development that is in an appropriate location and it therefore does not accord with Policies SPT1, SPT2, TTV1 and TTV26 of the Joint Local Plan.
17. The appeal on this ground fails.

The ground (f) appeal

18. The appellant considers that the breach can be remedied by complying only with requirement (a) in the notice, this being the cessation of use. It is argued that the property's setting, location and design accord with policies and that operational development such as windows in the stables does not cause sufficient harm to be enforced against.
19. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged. In this case the requirements of the notice seek to revert the building and land back to its condition prior to the unauthorised development taking place. The windows and doors have facilitated the change of use and their removal does not represent an unreasonable requirement.
20. I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach and the appeal on this ground fails.

The ground (g) appeal

21. The period for compliance is 6 months. The notice was appealed on 14 September 2018 at which time the appellant requested that the period of compliance be extended for a period which expires at the end of the summer period of an academic school year. This would enable the tenant and family sufficient time to find alternative accommodation and to move at the end of the school year to better facilitate a transfer of schools, if a change of schools is required. It is also claimed that a further 3 months extension beyond the departure of the tenant and family would be required to arrange for a builder to remove the domestic paraphernalia.
22. I have had regard to the family circumstances pleaded but in view of the time that has elapsed since the notice was served, it would not be in the public interest for the breach of control to be prolonged beyond the 6 month compliance period. This should provide adequate time for the tenant to find alternative accommodation and to address any necessary school transfers. Additionally I can see no reason why a further three months would be necessary to satisfy the requirements of the notice, as these are all relatively simple matters.
23. The appeal on this ground fails.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

P N Jarratt

Inspector