



Appeal Decision

Site visit made on 27 May 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2020

Appeal Ref: APP/P1133/W/20/3246104

2 Barton Cottages, Road from Higher Hare to Barton Cottages, Whitestone, Devon EX4 2LB

- 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 Nathan Elworthy against the decision of Teignbridge District Council.
 - The application Ref 19/02121/FUL, dated 31 October 2019, was refused by notice dated 24 December 2019.
 - The development proposed is the change of use of part of a paddock to domestic curtilage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area having particular regard to the Area of Great Landscape Value (AGLV).

Reasons

Character and appearance

3. The appeal site lies within an AGLV identified in the Teignbridge Local Plan 2013-2033, May 2014 (LP). This is a locally recognised landscape of high scenic quality, some of the qualities I observed from near the appeal site include a verdant rolling pastoral landscape comprising small to medium irregular fields, areas of woodland and a strong network of hedgerows. Due to the surrounding topography long views are possible.
4. Policy EN2A of the LP, amongst other things, seeks to conserve and enhance the qualities, character and distinctiveness of AGLV's in particular. This is consistent with paragraph 170 of the National Planning Policy Framework (the Framework) which stipulates that planning policies and decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes and recognise the intrinsic character and beauty of the countryside.
5. The appeal site forms part of a paddock comprising open grassland. It is directly adjacent to the rear elevation of 2 Barton Cottages, one of a pair of vernacular cottages that face towards the road to Whitestone. As such the property has an informal relationship with the paddock. Notwithstanding some

linear residential development along the road, the area is otherwise predominantly rural in character allowing for wide views of the pastoral landscape. The paddock slopes downwards to the north such that Nos 1 and 2 Barton Cottages are elevated by comparison, which gives a prominence to their rear elevations. Glimpses of the rear of the cottages are possible from Halsfordwood Lane. In combination, these factors contribute positively towards the rural, open qualities of the AGLV.

6. It is proposed to use a rectangular portion of the paddock that lies closest to No.2 as domestic curtilage. This would be used in addition to the existing garden area to the side. It would be demarcated from the remainder of the paddock by using a post and rail fence. Although a relatively small area in landscape terms, this would nevertheless result in an obvious physical encroachment into the rural paddock, which would be out of keeping with the established domestic boundary common to Nos 1 and 2 Barton Cottages. Furthermore, it is likely that domestic paraphernalia and planting would be introduced into the area. Seating for the proposed patio area and play equipment are likely given the appellant's intended use of the space¹. The incursion into the rectangular paddock, additional fencing and appearance of such objects would be harmful to the natural, open character and appearance of the area. Moreover, the impact would be seen in longer views possible from the north.
7. Based on the evidence before me² and my observations, the size and shape of the proposal has little basis in any physical features on the ground, but rather relates to the minimum space that the appellant considers necessary to best suit the requirements of his family. Although I accept the field pattern in the surrounding countryside is somewhat irregular, there is nevertheless, coherence derived from its broad relationship with the topography of the landform and existing natural features. This results in an organic field pattern that is characteristic of the AGLV. In this context, the stark regulated shape of the proposed protrusion into the paddock would be a harmful contrast.
8. I acknowledge that post and rail fencing is frequently seen in rural areas and that it would be possible to plant a beech hedgerow alongside it. Such measures would limit the impact of the development to a certain extent and could be conditioned. Nevertheless, they would not entirely overcome the harm identified and as such, the development would not conserve, protect or enhance the AGLV as required by policy EN2A of the LP. Similarly, whilst the modest scale of the proposal would limit the adverse impact, it would not negate it altogether. As such, its limited size does not present a sound justification for the proposal.
9. My attention is drawn to examples of housing along the road from Exeter to Tedburn St Mary which have rear gardens. Of the examples given, the group of dwellings to the east of the appeal site are of most relevance as Whitestone Village and Tedburn St Mary are some considerable distance to the west of the site. The properties to the east have an established rear boundary to gardens that is further to the north. However, this group is read separately to Nos 1 and 2 Barton Cottages due to their separation from them on the other side of Halsfordwood Lane. Furthermore, the visual impact arising from the presence of domestic fencing, gardens and outbuildings that exists already at these

¹ Planning Design and Access Statement, October 2019, sections 2.4 and 3.8

² Paragraph 5.2 Appellant's Appeal Statement

dwelling does not persuade me that further erosion of the countryside by domestic development should be permitted.

10. Whilst I accept that, if the proposal were permitted, it would be unlikely to set a generalised precedent, it could however, be relied upon to support similar development to extend the domestic curtilage yet further, as well as for similar proposals at 1 Barton Cottages adjacent.
11. In support of the proposal the appellant points out that the modest area of land would not result in the significant loss of working agricultural land, as in any case the paddock has been lying fallow for some time. Be that as it may, this would not justify development that would be harmful to the scenic qualities of the land.
12. Reference is made to enormous sheds, barns and swimming pools³ in the immediate vicinity, which by comparison emphasises the modest nature of the proposal. However, no specific examples are given which inhibits a direct comparison. My observations of the general area noted that the visual impact arising from agricultural buildings bore little in common with the nature of the proposal before me, and therefore, are of little weight as an example to follow. Furthermore, I have considered the proposal on its own merits giving more weight to the presence and impact of residential development nearby.
13. Accordingly, I find that the proposal would have a harmful effect on the character and appearance of the AGLV contrary to policy EN2A of the LP and paragraph 170 of the Framework.

Other matters

14. The proposal would be beneficial to the appellant and his family, as well as future residents, in providing them with a garden area that would be larger, connected to, and visible from the dwelling. I have also had regard to the representation in support from a local resident which suggests that a rear garden would provide greater safety than a side or front garden. However, the side garden appeared to have an established boundary resulting in reasonable privacy and security. Given the modest nature of the benefits overall, these attract only limited weight in favour of the proposal.

Planning Balance and Conclusion

15. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁴. No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

³ Section 4.2.2 Appellant's Appeal Statement

⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.