



Appeal Decision

Site visit made on 25 October 2022

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15TH December 2022

Appeal Ref: APP/D0840/W/22/3297940

East Yolland Farm, Upton Cross, Liskeard, Cornwall PL14 5AJ

- 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 Martin Nicholls against the decision of Cornwall Council.
 - The application Ref PA21/09889, dated 30 September 2021, was refused by notice dated 26 January 2022.
 - The development proposed is detached annexe for use ancillary to adjacent principal dwellinghouse including change of use of land to extend proposed curtilage of the dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed.

Main Issues

3. The main issues are whether the proposal would be ancillary to the existing dwelling or form a separate dwelling, and, if it were to be regarded as a separate dwelling, whether the proposal represents an appropriate location for housing having regard to the settlement hierarchy within the development plan.

Reasons

Ancillary or a separate dwelling

4. The proposed building would be detached with accommodation over two floors. Although its access off the highway would be shared with the existing dwelling, it would benefit from a kitchen/diner, lounge, toilet, and two en-suite bedrooms. It would be separated from the garden to the existing dwelling by an existing grassed bank and an access leading to adjoining fields. As a result, the appeal includes the change of use of the land to extend the curtilage of the existing dwelling.
5. The application is made on the basis that the application would be an annexe occupied by the appellants parents and grandmother. It would allow the appellants to provide an element of care for their family.

6. I note that the Council have produced a Guidance Note in relation to annexe development and that both parties have referred to it. The Guidance Note is not part of the adopted Development Plan, but it is used for development management purposes. The six points under the General Policy Considerations section provide a good outline of the factors to be considered when assessing whether this proposal would be considered as ancillary to the existing dwelling or forms a separate dwelling.
7. In relation to land being in the same ownership, sharing a vehicular access, lack of boundary demarcation between the existing dwelling and annexe building, and being of a sub-servient scale to the existing dwelling, there is no dispute that the guidance note is complied with. Moreover, its detached form, visual impact and relationship to nearby occupiers would be acceptable.
8. Where the proposal fails to comply with the guidance and leads me to find it to be a separate dwelling, are in relation to demonstrating a functional link to the existing dwelling, being within its curtilage and being well related to it. I will address these points below.
9. Whilst I note that the annexe is to provide accommodation for family members, I have limited information with regard to the functional link between the two buildings. I do not have adequate information in relation to the level of support the occupants of the annexe would require, and what facilities they would rely on. I note that the appellant states that the provision of enough facilities for independent day-to-day living is a key objective of the appellants' family. This does not demonstrate a functional link.
10. Although the land that the annexe is proposed to be developed on is in the ownership of the appellants, it is outside of the curtilage of the existing dwelling. I have limited information on why, given the size of the garden of the existing dwelling, that an annexe cannot be located within it. The appellants have drawn attention to the fact that they wish for the annexe to be located away from their principal elevation but fail to justify why a suitable arrangement elsewhere within the existing grounds cannot be achieved.
11. Furthermore, whilst I acknowledge that the proposed annexe would be well designed and considerably less than 50% of the footprint of the existing dwelling, this does not adequately justify why the annexe needs to be contained in a separate building outside of the existing garden, which is visually and physically separate from the dwelling it is intended to be dependent on.
12. The appellant states that the proposal would offer the quality of life required by the appellants and their family, but it is likely that this could be achieved in a position closer to the main dwelling. I note the relationship to the listed South Yolland Farmhouse adjoining the site. The appellants consider that the existing dwelling is a non-designated heritage asset and that this makes a further extension to the existing dwelling potentially harmful to its character. However, I do not find detailed evidence to justify this.
13. Considering the above, I find that the development would comprise a separate dwelling. In light of this, it would not be reasonable or appropriate to condition that the building remains ancillary to the existing dwelling.

14. My finding on this recognises that the existing dwelling is accessed by a long private driveway behind gates, and that there is proposed to be shared outdoor space. However, when viewed from the adjacent public footpath, due to the separation from the existing dwelling by a bank and further access, and with the proposed landscaping and driveway to the annexe, the proposal would have the appearance of a separate dwelling.
15. I note that the proposal would potentially release two bungalows in Liskeard to the market and provide ecological benefits. I note that the appellants do not propose to build out the garage block or agricultural building for which they have consent, but I have no mechanism before me to secure this, and as a result this cannot be guaranteed. I further note that the proposal does not raise any pedestrian or vehicular highway concerns, and that pre-application discussions were entered into. However, these points do not outweigh my findings above.
16. Accordingly, in relation to this matter, the proposal would not be ancillary to the existing dwelling and would represent a separate dwelling. I have determined the appeal on this basis.

Location of housing

17. The site does not fall within the hierarchy of locations under Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) outlining where new development will be accommodated. Policy 7 of the LP is relevant in setting out the approach for housing in such locations. Policy 7 seeks to ensure that the development of new homes in the open countryside are only permitted where there are special circumstances. The Policy sets out 5 special circumstances that apply.
18. None of the 5 special circumstances apply to this appeal and although I acknowledge the need and benefit from the accommodation for the appellants and their family, this is not a circumstance that is particularly unusual or special.
19. Policy 7 of the LP accords with The National Planning Policy Framework (The Framework) in seeking to promote sustainable development in rural areas and to avoid development of isolated homes in the countryside unless one or more of the special circumstances under paragraph 80 of The Framework apply. The proposal would not meet any of the circumstances listed in paragraph 80 and as such would not represent sustainable development.
20. The appellants argue that Policy 2 of the LP is the only directly relevant policy to the proposal. They state that the appeal proposal complies with this policy given the current economic and social situation regarding Covid-19, and as the proposal would provide a solution to elderly accommodation needs. However, the policy forms part of the wider spatial strategy of the development plan. The development plan when read as a whole, details the need to provide a sustainable approach to development, and as I have found above, does not support the proposal. I do not therefore find support for the appeal proposal in Policy 2.
21. In conclusion, the proposal would lead to the creation of a new dwelling in an open countryside location. In the light of the above analysis, the appeal proposal would conflict with the settlement hierarchy for the location of housing

outlined in the development plan. It is therefore contrary to Policies 2, 3 and 7 of the LP and The Framework which, amongst other things, seek to direct new housing to sustainable locations.

Other Matters

22. I have noted above that the appeal site is located close to South Yolland Farmhouse which is a Grade II listed building. As required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering the appeal I have had special regard to the desirability of preserving the building and its setting or any features of special or historic interest. From the information before me, the significance of the listed building is due to its architectural detailing and history as a farmhouse with attached cider house with operating cider press. The appeal site is not visually related to the listed building and given this and the design of the proposal, it does not form part of the setting to the listed building, which would be preserved as a result of the proposal.
23. No objections were raised from neighbours, but notwithstanding, this is a neutral factor which neither weighs for or against the proposal.
24. Reference has been made by both parties to other appeal decisions, but I do not have the full details and drawings for them all and as a result I am unable to assess the relationship of the buildings to each other and whether they are directly comparable to the proposal before me. In any case, I must consider the appeal on its merits.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

C Rose

INSPECTOR