

Appeal Decision

Site visit made on 11 September 2023

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/P1133/D/23/3321803

Longlands House, Whilborough Road, Kingskerswell, Devon TQ12 5DY

- 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 D Hole against the decision of Teignbridge District Council.
 - The application Ref 23/00160/HOU, dated 27 January 2023, was refused by notice dated 24 April 2023.
 - The development proposed is for conversion of an outbuilding to an annexe to the host dwelling.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs has been made by the appellant against the Council and is the subject of a separate decision.

Main Issues

3. The main issues are whether the appeal proposal would give rise to the creation of a new dwelling within, and its effect upon, the character and appearance of the countryside.

Reasons

4. The subject building was granted planning permission in 2010 for a stable and hay barn pursuant to reference 09/03438/FUL. The location plan for that planning permission clearly identified a stable/hay barn as falling within an area of open land distinctly different from the curtilage of Longlands House. Condition no3 of the permission explicitly limited the use of the building to the keeping of equine animals and the associated storage of hay and feed stuffs; therefore as it stands, the appellant's admission that the building is presently used as domestic storage and a gym is in breach of that condition.
5. I note the reference to the area of land between the subject building and the garden of Longlands House becoming more domesticated in use with it being used as a football pitch by the appellant's children, however I have been provided with no evidence of the lawfulness of this. The appeal site clearly has an established field access gate which leads to an area of hardstanding which could quite clearly be used for the parking of vehicles. I therefore consider

that the subject building is physically separate to that of Longlands House, and notwithstanding the comments that the use of the access would not be acceptable nor desirable, if the appellant's father did require care, it would be illogical for visitors or carers to park outside Longlands House when they could park directly in front of it.

6. Further, the need for the appellant's father to reside within the building has not been substantiated with very little information provided on the functional relationship, and therefore I consider that the proposal would be tantamount to the creation of a new dwelling in the countryside.
7. I note reference to Section 55 (1) and (2) of the Town and Country Planning Act 1990, however for the above reasons, I consider that the subject building does not fall within the curtilage of a dwellinghouse and whilst I note the other examples cited by the appellant, I have not been provided with the full details of these, but ultimately each case must be assessed on its own merits. In coming to this conclusion I have had regard to *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207 and *Hertsmere BC v SSE & Percy* [1991] JPL 552, as well as other caselaw cited by the appellant.
8. Consequently, I consider that the appeal building forms part of a distinctly separate planning unit from that of Longlands House, with the former being equestrian and the latter being residential in use. The use of the stable building for any form of domestic occupation would give rise to a material change of use with a tenuous physical and functional relationship to the appellant's dwelling. Bearing in mind that it could easily be independently occupied, I consider that it would not be appropriate to impose a condition restricting the use of the building as a residential annexe to Longlands House.
9. In addition, with regard to the presence of the existing access, I consider that it would be unreasonable to prohibit vehicles from visiting the site, in fact it would seem illogical to do so other than in a manner which seeks to circumvent the rural policies of restraint found within the Development Plan. I say this notwithstanding the presence of a dwelling opposite to the site and the office accommodation.
10. In terms of matters of character and appearance, the site falls within a strategic open break as identified on the proposals map of the adopted Teignbridge Local Plan 2013 – 2033 May 2014 (TLP).
11. It is not clear exactly why the site would be more residential in nature during warmer months, however, undoubtedly the appearance of the building would change to one that is occupied on a domestic basis with the existing openings being in-filled and new windows and doors being installed. Ultimately, whether the subject building was to be used as a bona fide annexe or as an independent unit of residential accommodation, the effect on the strategic open break would be very similar, and would give rise to an erosion of the rural nature of the site.
12. Taking into account the planning history of the site, the lack of evidence to substantiate the functional and physical relationship between the subject building and Longlands House, as well as the domestication of an existing rural building, I find that the proposal would give rise to harm to the character and appearance of the countryside. The proposal is contrary to TLP Policies EN1,

S22, S2 and EN2A which together state that in open countryside, development will be strictly managed and limited to a number of defined uses, of which the appeal proposal does not fall within; whilst requiring proposals to integrate with and, where possible, enhance the character of the adjoining natural environment, whilst respecting the distinctive character of local landscape and views, including the protection of strategic open breaks.

Conclusion

13. Having regard to the above and all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR