



Appeal Decision

Site visit made on 23 January 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 20.02.2024

Appeal Ref: APP/U1105/D/23/3319877

Hux Shard, Church Hill, Exeter, Devon EX4 9JJ

- 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 Joe Priday against the decision of East Devon District Council.
 - The application Ref 22/1836/FUL, dated 16 August 2022, was refused by notice dated 13 February 2023.
 - The development proposed is the erection of an annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023 and is a material consideration in planning decisions. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. An additional plan showing proposed landscaping has been submitted with the appeal. I am satisfied that the details it contains do not fundamentally change the proposal from that considered by the Council, and are not evolving the scheme. From a procedural perspective, the plan is responding to the Council's case in relation to character and appearance, and I am satisfied that the plan does not alter the proposal to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the additional information. For these reasons, the plan is accepted.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - whether the proposal constitutes an annexe to the main dwelling, Hux Shard.

Reasons

Character and appearance

5. The appeal site is part of the large residential curtilage at Hux Shard, accessed from Church Hill. In this location, Church Hill is a rural lane passing along a local ridgeline. Sporadic agricultural built form is present along the ridge, along with a small number of dwellings close to the appeal site. Land falls away from the road to the north and south, with expansive views across the rolling vale landscape available through glimpsed gateways. Despite occasional built features, the area is strikingly rural, characterised by dense hedgerows and woodlands framing irregular pastoral and arable fields crossing the vale landform.
6. The appellant has provided detailed information on the design process that has led to the current proposal. I note that there is a positive relationship between the main dwelling and the annexe, in terms of materials, layout and form. The result is a unified development within the curtilage. I also accept that the proposed level of the annexe, set at the lower contour of the main dwelling, would help to maintain its subservience within the plot, and reduce its landscape impact.
7. However, I have carefully reviewed the appeal site from the landscape to the north, and observed that Hux Shard is a highly prominent building in this context. Although the appellant describes it as part of a hamlet, much of the limited development in this location is screened by either topography or significant vegetation, and a largely undeveloped and predominantly wooded ridgeline is maintained. Hux Shard is viewed alongside the neighbouring dwelling Huxham View as isolated and conspicuous residential development in this context.
8. The proposed annexe would not, entirely, fill the gap between the two conspicuous dwellings, but would introduce an additional substantial built element. While I accept that there is a relevant context for the proposal in the neighbouring built form, the existing dwelling and its neighbour do not positively contribute to the character of the area. The intensification of similar residential built form in this prominent location would therefore perpetuate the harm to the undeveloped character of the rural ridgeline.
9. I acknowledge that there is an establishing landscape scheme associated with the main dwelling, and that additional landscaping is proposed with the annexe. However, the sloping topography of the site will limit the effectiveness of the landscaping in screening or softening the development when seen from the north, even in the long-term. Accordingly, I find that there would be a deterioration in the attractive rural character of the landscape from the intensification and consolidation of residential built form in this location.
10. For these reasons, I therefore conclude that the proposal would unacceptably harm the character and appearance of the area. This would conflict with Strategy 5 and Policy D1 of the East Devon Local Plan (the Local Plan) (2016). Taken together, these policies require, amongst other matters, that proposals respect the key characteristics and special qualities of the area, and ensure the conservation and enhancement of natural environmental assets. The proposal would also conflict with the provisions of the Framework where it seeks development proposals which are sympathetic to local character including the

landscape setting, and which contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Whether the proposal constitutes an annexe

11. The property at Hux Shard has an expansive curtilage reflecting the wide form of the dwelling. The site is served by a vehicular access off Church Hill, which is shared with the neighbouring dwelling at Huxham View. The appeal property is reached through a security gate off this shared access. At present, part of the land identified as the site for the proposed annexe is fenced off and laid to hardcore as the temporary construction compound for the main dwelling at Hux Shard.
12. The Council contends that the position and access arrangements of the proposed building would allow for independent use. It also considers that the scale of the proposal would, in practice, constitute a medium sized dwelling. However, the description of development applied for is an annexe and the householder application form was submitted. Both of these have been accepted by the Council and the proposal has been advertised on this basis. As such, the scheme before me is not for a separate dwelling and it is important that I consider the development as proposed.
13. Whilst the proposed building would provide facilities that might allow for independent day-to-day living, that does not necessarily mean the accommodation would be occupied independently or become a separate planning unit from the main dwelling.
14. The proposed annexe is located relatively close to the side of the main dwelling. It would share garden and parking arrangements with the main house. In addition, whilst larger than a typical annexe, it would be substantially smaller in floor area and massing than the main dwelling. The proposed annexe would also share the main driveway access, with a separate pedestrian access from the driveway leading to the front door. I note that at present it is possible to access the location of the proposal independently through a gate into the construction compound. However, both the approved plans for the main dwelling and the proposed plans now submitted clearly show this access to be blocked off with a hedgerow. The construction compound fencing and access all have a temporary appearance, and I am satisfied that on completion of the works, there would not be a physical delineation between the main house and the proposed annexe.
15. The appellant has provided information about the background to and need for the proposed annexe. In this instance, I do not find it unreasonable that the appellant may seek to employ staff for purposes including childcare, housekeeping, security or maintenance. Nor would it be unreasonable for such staff to live on site in annexe accommodation. As identified by the appellant, an appropriate condition could secure the continued ancillary use of the building.
16. Accordingly, I find that the accommodation would plainly be capable of being occupied as an annexe. Although the proposal would not be attached to the host property, all of the foregoing matters point to the ancillary nature of the annexe, and for these reasons, I do not regard the appeal building as being tantamount to a new dwelling. As such, based on the evidence before me, the use of the site, in its entirety, would remain a single residential planning unit.

17. I therefore conclude that the proposed development would constitute an annexe to the main dwelling. The Council identifies conflict with Strategies 3, 5, 5B and 7, along with Policies D1, H4 and TC2 of the Local Plan in relation to this main issue. I have considered these policies in so far as they relate to character and appearance above. In relation to this main issue, the Council accepts that consideration of curtilage buildings is not normally measured against strategic land use policies. The conflict with these policies in relation to a new residential dwelling in the countryside therefore has limited relevance to my findings regarding this annexe.
18. The Council also refer to the Framework in its reason for refusal, citing Paragraph 80 (now paragraph 84) in the officer report. This paragraph similarly relates to new homes in the countryside, and for the same reason I find no direct conflict with the provisions of the Framework in this regard.

Other Matters

19. The appeal site is located within 10km of the Exe Estuary, which is designated under the Conservation of Habitats and Species Regulations 2017 as it supports internationally important populations of wildfowl and wading birds. The Council indicates that new residential development within the 10km zone would have likely significant adverse effects on the integrity of the protected site, for which there appears to be an established mechanism for securing appropriate mitigation. However, the disagreement between the parties over the independent residential status of the proposal has led to a negative Appropriate Assessment finding from the Council. As I am dismissing this appeal on other grounds, this is not a matter which needs to be considered further as, even if I were to find that mitigation was necessary and could be secured and delivered, this would constitute a neutral matter and have no bearing on my decision.

Conclusion

20. For these reasons, while forming annexe accommodation, I conclude that the proposal would conflict with the development plan when read as a whole. There are no material considerations that outweigh that conflict, or which indicate that a decision should be made otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR