



Appeal Decision

Site visit made on 22 January 2024 by Max Webb BA(Hons) MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2024

Appeal Ref: APP/K1128/D/23/3327556

Summerstrand, Eddystone Road, Thurlestone, Devon TQ7 3NU

- 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 Tindale against the decision of South Hams District Council.
 - The application Ref 0856/23/FUL, dated 9 March 2023, was refused by notice dated 14 July 2023.
 - The development proposed is described as "resubmission of application 2614/22/F alteration to existing garage to form ancillary accommodation".
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Decision

1. The appeal is allowed and planning permission is granted for alteration to existing garage to form ancillary accommodation at Summerstrand, Eddystone Road, Thurlestone, Devon TQ7 3NU in accordance with the terms of the application, Ref 0856/23/FUL, dated 9 March 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ACL.1310.201 Rev B, ACL.1310.202 Rev B, ACL.1310.204 Rev C, ACL.1310.203 Rev B and ACL.1310.205 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing main building.
 - 4) No additional external lighting shall be installed on the outbuilding hereby approved unless in accordance with details that have first been submitted to and approved in writing by the local planning authority.
 - 5) No site clearance, preparatory work, development or storage or movement of materials or machinery shall take place within the Root Protection Areas (RPA) shown on drawing ACL.1310.201 Rev B until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for costs

3. An application for costs was made by Mr and Mrs Tindale against South Hams District Council. This application is the subject of a separate decision.

Preliminary Matters

4. I have amended the description of development in the decision above to remove words that do not refer to acts of development.
5. The Government published a revised version of the National Planning Policy Framework (Framework) on 19 December 2023. Whilst I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
6. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes" (NLs). I have therefore made reference to NLs in my recommendation and specifically referred to the South Devon AONB as the South Devon National Landscape (SDNL). However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged, and I have proceeded on this basis.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area, including the SDNL.

Reasons for the Recommendation

8. The character of the surrounding area and the SDNL in the vicinity of the appeal site is of a small settlement generally comprising large properties in generous plots, surrounded by open countryside and coastline. The appeal site is typical of this character, and is a sizeable, sloping plot. The existing garage is set into this slope, with a higher ground level to the sides and rear. Surrounding properties are large and varied in style and design. Many have outbuildings and garages of a range of sizes positioned in various locations on the plots.
9. The proposal would add an additional storey to the garage, however the hipped roof would limit the massing of the roof and the eaves height would be relatively low through the use of dormer windows to the side and rear. Although increasing the height of the building, it would still remain significantly lower and smaller in scale than the host dwelling and surrounding properties. It would therefore maintain the scale of a typical outbuilding and appear subservient to the host dwelling.

10. The inclusion of roof accommodation in an outbuilding is seen in multiple places in the surrounding area, so the proposed additional storey would not appear out of place. The use of small dormer windows and an external staircase is a common design choice to achieve an additional storey above a garage or outbuilding and adds limited bulk. In this case, rather than appearing overly domestic, the use of small dormer windows and an external staircase, combined with the subordinate scale, ensure the proposal would maintain the character of an outbuilding.
11. The proposal would be visible from the footpath beyond the rear of the appeal site, and if the hedgerow to the rear of the property were to be removed, views of the appeal site, house and outbuilding would increase. Nevertheless, the outbuilding is set into the slope of the rear garden, and the proposal would not appear overly large from this viewpoint in comparison to the main dwelling. In addition, sizeable outbuildings in conjunction with large properties are a common sight in this area. The proposal remains close to the host dwelling, so would not be seen as a separate entity, nor would it encroach on the open countryside character of the SDNL.
12. Part of the character of the SDNL is its dark skies, which are protected in local policy. The windows proposed are relatively modest and smaller than many in the existing house, therefore they would not result in unacceptable light spill. However, external lighting could result in harmful impacts, therefore it is necessary to control this by condition. Subject to this condition, the proposal would not appear inappropriate in these views or harm the character of the surrounding area or landscape and scenic beauty of the SDNL.
13. The proposal would not harm the character or appearance of the host dwelling or surrounding area, including the SDNL. It would therefore comply with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (adopted 2019), which requires development proposals to have proper regard to surroundings in terms of scale, massing and character. It would also conform with Policy TP1 of the Thurstlestone Parish Neighbourhood Plan 2015-2034, which supports development which reflects the style, scale and character of the parish and conserves the SDNL.

Other Matters

14. The neighbouring property, 'Kirkdale' has windows facing towards the existing garage. There is a reasonable separation distance to the appeal site, with a low wall and some greenery along the boundary, and a large Apple tree close by. Currently, there are some views from the rear windows and balcony of the appeal property and its rear garden towards Kirkdale. A photograph provided by the occupants of Kirkdale also shows they have close views into the appeal site. Therefore, there is a considerable degree of mutual overlooking at present. There are no windows in the garage, so no overlooking from the existing outbuilding.
15. The proposal would add two dormers to the rear of the outbuilding that would be afforded some angled views towards the rear of Kirkdale, partly obscured by the Apple tree. These dormers would be relatively small however, and their main outlook would be of the rear garden of the appeal site.
16. Although the proposal would increase the height of the garage, the hipped roof would slope down towards Kirkdale and remain set off the boundary. While the

outlook from Kirkdale would change, there would remain enough of a gap that the proposal would not appear overbearing or cause a harmful loss of outlook from the windows in the neighbouring property.

17. Consequently, the proposal would not result in a harmful increase in overlooking or loss of outlook and would not have an unacceptable impact on the living conditions of the neighbouring occupiers.

Conditions

18. I have recommended the standard time condition and compliance with the approved plans for reasons of certainty. The Council has suggested two different materials conditions. The materials are proposed to match the host dwelling, which would achieve an appropriate appearance for the outbuilding. Therefore, a matching materials condition is necessary and reasonable, and it would be unreasonably onerous to require the appellants to first obtain approval of materials from the Council.
19. There are numerous protected trees in the vicinity of the site, including an Apple tree adjacent to the existing outbuilding. These trees make a significant positive contribution to the character and appearance of the area. No works are proposed to any protected tree as part of this appeal, so no direct impacts are anticipated. There is however a risk of damage during the development process, including through storage or movement of materials and machinery. Therefore, a condition is necessary to ensure their protection during development.
20. The Council has recommended a condition to remove permitted development rights for windows or rooflights in the east elevation of the proposed outbuilding. However, due to the height of the extended outbuilding it would not fall within Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). As the proposal is for an ancillary outbuilding rather than a dwellinghouse, it would not fall within Classes A, B or C of the GPDO. Therefore, alterations, including the addition of windows or rooflights, would require planning permission and such a condition is not necessary.
21. Concerns have been raised about use of the outbuilding as a separate dwelling or letting it out for holiday accommodation. There is however no proposal before me for a separate dwelling or for residential accommodation that could be occupied separately from the main house. The proposed development would not contain the necessary facilities to act as an independent dwelling, would have to share various services and access with the host dwelling and, even with the extension, would be substantially smaller than the host dwelling. It would therefore be unlikely to operate as anything other than ancillary accommodation.
22. In any case, if the structure is not built or used as proposed, or if there is a material change of use in the future, including to create a separate dwelling, then a separate grant of planning permission would be required. The building would be at risk of enforcement action if such permission is not granted. Therefore, I do not consider it necessary to recommend a condition restricting its use.

Conclusion and Recommendation

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to the conditions listed above.

Max Webb

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and my representative's report and I agree with their reasoning and recommendation. On that basis the appeal is allowed subject to the conditions listed above.

L McKay

INSPECTOR