



Appeal Decision

Site visit made on 3 December 2024

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2024

Appeal Ref: APP/P1133/W/24/3341341

Weston Cottage, Ashcombe Road, Higher Dawlish Water, Devon EX7 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Guy Huggins against the decision of Teignbridge District Council.
 - The application Ref is 22/00862/FUL.
 - The development proposed is use of annexe as a separate dwelling with associated minor works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development above from the Council's Decision Notice, which more accurately reflects the proposal than that used on the application form. The appellant has used this revised description in the appeal form and so no party would be prejudiced as a result.
3. At appeal stage, the appellant has submitted an amended floor plan showing the relocation of an existing balcony to the annexe. However, this plan was not before the Council when it consulted on the application and made its formal decision. As such, my consideration of the plan would deprive others of the opportunity to comment on it, particularly as the relocated balcony would be close to adjoining land in residential use outside of the application site. I have therefore based my decision on the drawings before the Council at application stage.

Main Issues

4. The main issues are (1) whether the proposal would accord with the strategy of the Development Plan, with regard to access to services and facilities, and (2) the effect of the proposal on the living conditions of the occupiers of Weston Cottage, with regard to privacy.

Reasons

Settlement Strategy

5. The appeal site consists of a large dwelling known as Weston Cottage, and a detached annexe building within its grounds. The proposal seeks to divide the plot, and to use the annexe as a separate dwelling. An existing outbuilding would be demolished to provide additional vehicle parking.

6. The site is in countryside outside of a settlement or village as defined in the Teignbridge Local Plan (TLP), adopted May 2014. In such locations, TLP Policy S22 seeks to strictly manage development, to ensure amongst other things the creation of sustainable settlements, having regard to travel patterns. Paragraph 84 of the National Planning Policy Framework (the Framework) similarly seeks to avoid the development of isolated homes in the countryside, except in certain circumstances.
7. As the creation of a separate dwelling, the proposal would be likely to generate more trips to and from the site than its use as an annexe. The site is some distance from retail, employment, education, and leisure facilities. Moreover, such facilities can only be accessed using unlit, undulating and narrow country lanes, with little or no pavement. As such, their use on foot or by bicycle would be unsuitable, particularly at night, in inclement weather, or for those of limited mobility.
8. On this basis, future occupiers of the proposal would be heavily reliant on private vehicles to access many day-to-day services. Such reliance would ultimately cause environmental harm. This is because its isolated location would not contribute to a cumulative reduction in carbon emissions, or an improvement in air quality and public health. This would be the case even though the proposal is not of a scale or nature that would require an Environmental Impact Assessment.
9. TLP Policy S22(e) permits extensions and alterations to existing dwellings in the countryside. However, as the creation of a new dwelling, the proposal goes beyond the scope of this policy and so is not supported by it. Framework Paragraph 84(d) allows for new isolated homes where they involve the subdivision of an existing residential building. The proposal seeks to divide the plot. However, none of the buildings themselves would be subdivided into separate dwellings. Therefore, the proposal does not benefit from Framework Paragraph 84(d).
10. An appeal decision in Suffolk¹ approved use of a detached annexe to separate residential use. However, the appeal was decided using a previous version of the Framework. This permitted the subdivision of a 'dwelling', rather than a 'building', and so was potentially open to a wider interpretation. The appeal at Clyst St Mary² did not involve a detached annexe building. As their circumstances were different, these appeal decisions are not comparable to the proposal before me.
11. Planning permission has previously been granted for new dwellings nearby at Weston Farm³ and Lower Rixdale Farm Barn⁴. These locations are similarly remote from services and facilities, and some of the approved dwellings had a larger floorspace than the proposal. However, they involved the re-use of redundant farm buildings and, in respect of Lower Rixdale Farm, a designated heritage asset. Consequently, different planning policy considerations applied which justified these dwellings, but which are not relevant to the proposal before me. The other cases cited do not therefore change my conclusions.

¹ PINS reference APP/J3530/W/19/3226122

² PINS reference APP/U1105/W/17/3191044

³ LPA references 17/02102/FUL and 18/00428/FUL

⁴ LPA reference 18/1786/FUL

12. For the reasons given above, the proposal would not accord with the strategy of the Development Plan, with regard to access to services and facilities. It would therefore conflict with TLP Policy S22, as well as TLP policies S1, S7, S9 and EN3. They seek to promote accessibility by sustainable transport options, to minimise car dependency and to reduce carbon emissions, and so these policies are relevant to the proposal.

Living Conditions

13. Bedroom 1 within the annexe has an existing first-floor side balcony and clear-glazed external door. These currently provide direct views down into the immediately adjacent swimming pool and amenity area, which would remain associated with Weston Cottage as part of the proposal.
14. The current degree of overlooking from the balcony and door may be tolerated as part of a shared household arrangement with the annexe. However, as separate dwellings, their occupiers would have a greater expectation of privacy. Use of the balcony and its side door by those occupying the annexe as a separate dwelling would be particularly intrusive to the occupiers of Weston Cottage. This would result in a poor standard of privacy.
15. The balcony could be relocated to be above the annexe garage as indicated by the amended plan. However, for the reasons already given, I cannot take this plan into account. Nevertheless, both main parties have suggested that a planning condition could require the complete removal of the balcony and the blocking up of the side door, or its replacement with an obscure-glazed window.
16. Bedroom 1 of the annexe would continue to be served by another window, which faces to the front. As such, this gives only oblique, indirect views into the amenity space of Weston Cottage. Accordingly, this window would not result in harmful overlooking. I therefore see no reason why such a condition could not be imposed.
17. For the reasons given above, subject to a condition, the proposal would not harm the living conditions of the occupiers of Weston Cottage, with regard to privacy. It would therefore comply with TLP Policy S1(e) and its requirement that proposals must be acceptable in respect of the privacy of existing dwellings. However, this does not change my findings on the first main issue.

Other Matters

18. I understand that separate Council Tax has been paid for the annexe for over ten years, it has had its own postal address for even longer and has been occupied by a tenant for at least the past 19 months. Even so, these factors may not be conclusive regarding its lawful use as a separate dwelling. No Certificate confirming the lawfulness or otherwise of such a use has been brought to my attention. As a section 78 appeal, I have considered the proposal solely on its planning merits.
19. The site lies within the catchment area of the Exe Estuary Special Protection Area (SPA) and the Dawlish Warren Special Area of Conservation (SAC). These are protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the main issues, as competent authority I would have carried out an Appropriate Assessment in respect of the potential effects of the proposal on the SAC and SPA. However, as I have found that permission

should be refused for other reasons, this matter need not be considered any further in this case.

Planning Balance and Conclusion

20. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR