



Appeal Decision

Site visit made on 3 December 2024 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/D0840/W/24/3342852

Hilltodden, Millpool, Goldsithney, Penzance, Cornwall TR20 9JE

- 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 and Mrs A Charman against the decision of Cornwall Council.
 - The application Ref is PA23/09835.
 - The development proposed is the demolition of existing side extension and provision of replacement extension with conversion of the garage to form an annexe for family members with special needs as well as providing a separate office.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing side extension and provision of replacement extension with conversion of the garage to form an annexe for family members with special needs as well as providing a separate office, at Hilltodden, Millpool, Goldsithney, Penzance, Cornwall, TR20 9JE, in accordance with the terms of the application, PA23/09835, subject to the conditions set out below.
 - 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: Site/location Plan 01, Proposed 06, Proposed 05 REV A.
 - 3) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Hilltodden.

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.

Main Issue

3. Whether or not the appeal building would constitute a separate dwelling and if so, whether the proposal would be acceptable having regard to local and national planning policies on the location of housing.

Reasons for the Recommendation

4. Hilltodden is a large bungalow situated on a large plot, located outside the settlement of Millpool. The appeal building is located a few metres from the

bungalow and there is a large, gravelled area to the front, side and back of the proposal. There is another building, which appears to be a garage, to the rear and opposite the appeal building, and there are a number of smaller outbuildings.

5. There is little dispute that the proposal would be capable of being occupied as a self-contained unit of accommodation and the Council considers that the proposal would be tantamount to a new dwelling in the countryside. However, the application is for ancillary development and therefore, it falls to consider if the proposal is indeed ancillary to Hilltodden.
6. The Annex Guidance Note (AGN) from the Chief Planning Officer sets out guidance in this respect. The AGN is not a statutory document and does not form part of the development plan. However, in the absence of any policies on residential annexes in the development plan, it provides helpful guidance on the Council's approach to new annexes. The AGN confirms that, in many cases, the Council will find new annexes to be acceptable, but that a cautionary approach needs to be taken to avoid proposals that effectively involve the creation of a separate new dwelling, which may be inappropriate and unsustainable in that location.
7. Whilst I have not been provided with a professional assessment, the appellants maintain that the proposal would be occupied by family members with learning difficulties. As such there would be a functional link to the use of Hilltodden.
8. Based on the criteria set out in the AGN, in my view, the appeal building would not constitute a separate dwelling, but a residential annex. That finding is supported by the fact that the appeal building was built as a garage ancillary to and to serve Hilltodden; it is in the same ownership as Hilltodden; it is within the curtilage of Hilltodden and shares the same access to that property; it is well related to Hilltodden and has a strong functional link with that property; there is no boundary demarcation between the appeal building and Hilltodden; and, the appeal building is smaller in scale and subservient to Hilltodden. Therefore, the appeal building satisfies criteria 'a' to 'f' (inclusive) of the AGN (under the heading of 'General Policy Considerations').
9. On this basis, I am satisfied that the proposal could be used as an annexe which would be part and parcel of the dwellinghouse, and that this could reasonably be controlled through a condition. The AGN confirms, under the heading 'Conditions', that where there are sound planning reasons as to why a new dwelling created in that location would be inappropriate, the Council will seek to impose a condition to restrict the building in question to a use ancillary to the main property.
10. The Council has questioned why an extension to the main dwelling could not function as an annexe. The justification the appellants have provided is that extending the dwelling and joining it to the appeal building would block off access to the rear of the property and garage. On my site visit I observed that extending in this way would indeed block off the rear of the property and access to the other garage. Furthermore, the proposal would make use of a pre-existing building at the site.
11. I have concluded that the proposed garage conversion is capable of being ancillary, and on balance I consider that there is sufficient justification overall. Ultimately, if the proposal is not used as proposed, or if there is a material

change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required.

12. I conclude that the proposal would be part and parcel of the existing dwellinghouse at the site and does not constitute a new dwelling in the countryside. Accordingly, there would be no conflict with the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) Policies 1, 2, 3, 7 and 12, insofar as they seek well-designed, high-quality development in a suitable location, nor would there be any conflict with the corresponding provisions of the National Planning Policy Framework.

Conditions

13. The Council has recommended three conditions in the event that the appeal is allowed. A condition requiring the development to be carried out in a timely manner has been applied as a statutory requirement. For clarity and precision, a condition to ensure the development is constructed in accordance with the plans, has been imposed. A condition which requires that the proposal is used as ancillary accommodation is also necessary to ensure that the proposal does not give rise to an independent dwelling.

Conclusion and Recommendation

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

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

Mr A Spencer-Peet

INSPECTOR