



Appeal Decision

Site visit made on 20 January 2025

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/U1105/W/24/3353191

Oak View, East Hill, Ottery St Mary EX11 1QH

- 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 Mrs Angela Williams against the decision of East Devon District Council.
 - The application Ref. is 24/0066/COU.
 - The development proposed is a change of use of agricultural land to garden (extension of existing residential curtilage).
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Decision

1. The appeal is allowed, and planning permission is granted for a change of use of agricultural land to garden (extension of existing residential curtilage) at Oak View, East Hill, Ottery St Mary EX11 1QH in accordance with the terms of the application, Ref. 24/0066/COU and the plans submitted with it, 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 change of use shall be restricted to the area edged red on the 'Location Plan – Oak View' Scale 1:1250 and 'Site Plan – Oak View' Scale 1:500;
 - 3) No development shall commence until details of the boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out before the enclosed land is first used in connection with the residential occupation of Oak View.

Main Issue

2. The main issue is the effect of the proposed change of use on the character and appearance of the countryside and its landscape.

Reasons

3. The development plan is the East Devon Local Plan 2013-2031 ('the Local Plan') adopted in 2016 and the Ottery St Mary and West Hill Neighbourhood Plan 2018 ('the NP'). In the Council's view it is considered that the proposal would be in harmful conflict with Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancements) and Policy D1 (Design and Local Distinctiveness) as well as Policies NP1 & NP2 of the NP.

4. Particularly relevant to this appeal is that Strategy 7 says that development in the countryside will only be permitted where it is in accordance with a specific Local Plan policy that explicitly permits such development, and the appeal parties are agreed that there is no specific policy for a proposal to extend a residential curtilage in the countryside.
5. Ostensibly, this would mean that the principle of the appeal proposal is deemed to be unacceptable without further consideration. However, within the open countryside (the rural area outside defined settlement boundaries) there are a significant number of dwellings that are not directly linked to rural needs or activities. And following the Certificate of Lawfulness (Ref. 13/1122/CPE), Oak View is one of these.
6. In these circumstances I consider that the appraisal of the proposal should focus on whether it would cause unacceptable intrinsic or visual harm to the rural landscape. In this regard there are two key elements to assess the impact on the site's surroundings: size and siting. As regards size, the area of the curtilage extension is 518sqm, which equates to just under 0.13 acres or 0.05 hectares.
7. I regard the objective to enclose this extent of land to be more appropriately described as 'reasonable' than 'excessive' in its context, given that from the Location Plan the site appears to be roughly a third of the paddock in the appellant's ownership (edged blue on the plan) and therefore a larger area might have been sought. Nonetheless, Oak View already has a good-sized garden – probably larger than that of the Oaks immediately to the north – and although the figure is not presented in evidence, I would surmise that the extension is a high percentage increase of the existing. Insofar as I identify with the Council's concerns, I therefore consider that the 0.13 acres is at, or close to, the maximum land-take that might potentially be acceptable.
8. In terms of siting, the northeast and east boundaries of the extension are respectively Slade Road and the existing garden and house. Both the existing property and the road provide physical and visual containment, whilst I note that the northeast boundary would extend no further than the garden of The Oaks on the opposite side of the road. However, it is the western extent of the boundary that carries the most weight in the appraisal and there are no public views of this, apart from those at long distance in Ottery St Mary.
9. The further aspect of siting to be considered is the presence of Coldharbour Farm to the north and Rill Farm to the south. The former includes a range of buildings and uses including agricultural buildings, a barn converted to a dwelling, holiday accommodation, a glamping site, a farm shop, and a field kitchen. Rill Farm also comprises several agricultural buildings including a particularly large structure and extensive bulky outside storage immediately to the south of Oak View.
10. The significance of both Coldharbour and Rill Farms is that they visually contain the appeal site and extend further to the west than would the western boundary of the extended curtilage, in the case of Coldharbour Farm substantially so. The effect of these farms, combined with the distance to nearest vantage point in Grandisson Drive in Ottery St Mary, is that in public views from the west the effect of the appeal scheme on the landscape would be inconsequential, whilst views from Slade Road would be limited to the openings described in the Officers' Report and the existing entrance to Oak View.

11. A further consideration which would appear to support the appellant's case is that the stated purpose of the extended curtilage is essentially to provide space for children's play in the area of the existing paddock where they can be separate from grazing animals. From all that I have seen and read this appears credible and that this is a scheme that would not alter this part of the paddock to the form of a well-tended manicured suburban garden. And having regard to the size of the site and its landscape character and context as well as a condition requiring appropriate boundary treatment, I am satisfied that there would be no harm caused to the character and appearance of the countryside and its landscape. Accordingly, there would be no harmful conflict with the development plan policies referred to in paragraph 3 above. And in coming to my decision, I have found nothing in the National Planning Policy Framework, revised in December 2024, that is inconsistent with this finding.
12. I additionally note that public consultation on the appeal and the application included the three adjacent neighbours, three Ward Members and the Ottery St Mary Town Council and that no objections were made from those most invested in the stewardship of this attractive part of rural East Devon. Whilst not determinative, the absence of objections therefore suggests that those most affected by the proposed change of use do not share the Council's concerns.
13. I shall therefore allow the appeal. A condition restricting the curtilage to extension to the area indicated on the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition requiring the Council's approval of a boundary fence will ensure that this important physical aspect of the change of use is sympathetic with the rural character of the area and its landscape. In the grounds of appeal, it is suggested for the appellant that they would be willing to accept a condition requiring such boundary treatment as a native hedgerow and boundary trees. However, I consider that this is the appellant's decision, as in my view a simple post and wire stock fence would suffice and provide the domestic curtilage with a more natural landscape context.

Martin Andrews

INSPECTOR