
Appeal Decision

Site visit made on 12 March 2026

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 March 2026

Appeal Ref: APP/K1128/X/24/3336659

Tor Cross Road, Torcross, Kingsbridge, Devon, TQ7 2TH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Kirsty Braines against the decision of South Hams District Council.
 - The application ref 3282/23/CLP, dated 29 September 2023, was refused by notice dated 22 November 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is a proposed single storey rear extension to existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, the planning merits of the proposed development are not relevant and they are not therefore an issue for me to consider, in the context of an appeal under s195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
3. The onus of proof rests with the appellant and the standard of proof is on the balance of probabilities.
4. The main issue in this appeal is whether or not the Council's decision to refuse to grant an LDC was well-founded.

The site and relevant planning history

5. The Old Abattoir appears to be derelict although scaffolding is in place. It is a simple structure of traditional materials with access along a private drive from Tor Church Road to the south.
6. Permission was granted in 2016 to its conversion from abattoir to a single dwelling. Conditions were discharged in November 2019 when works under that permission commenced. In view of this, the Council consider the 2016 permission is extant and, once substantially complete, permitted development rights will be intact.

Reasons

7. The proposed development comprises a single storey, flat-roofed extension to the north east elevation of the Old Abattoir which the appellant considers that the proposed development constitutes permitted development by virtue of Schedule 2,

Part 1, Class A of the Town and Country Planning (General Permitted Development) (Order) 2015, as amended (GPDO).

8. Both parties rely on the government's Technical Guidance on Permitted Development Rights for Householders (September 2019) but differ in respect of whether the enlarged part of the original dwellinghouse forms part of a rear or side elevation.
9. The guidance states that '*in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house*' and '*It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation would be what is understood to be the front of the house.*'
10. The appellant considers the principal elevation to be the south west elevation (SW) and consequently the proposed extension on the north east elevation (NE) would be a rear extension. However, whilst the SW elevation faces a road, it is some distance from it due to an intervening field. As it is at a lower level due to the topography, the elevation fronts onto a steep embankment. It is not readily visible from the road and has little functional relationship with it. This elevation has little of the architectural detailing normally associated with a principal elevation.
11. I agree with the Council's assessment that the principal elevation is the SE elevation on the basis that the front porch extends beyond this elevation which faces towards the access and gives it a functional relationship with the public road. This will be the elevation from which people would enter the building now and when the approved development is substantially complete. It is the elevation most associated with the public road at the end of the approach to the building and would represent the principal elevation.
12. Although not a relevant matter in the context of the principal elevation for this appeal, I note that the proposed kitchen diner would be a distinctive architectural feature on both the SE and NE elevations when completed.
13. I have had regard to the angle between the appeal building and the highway but this is not determinative when considering the unusual physical characteristics of building and its environs.
14. I note that some neighbours consider that the north east elevation is the principal elevation. Whilst it is a prominent elevation due to the topography, it does not face the nearest public highway.
15. As an AONB, the site is within a National Landscape (article 2(3) land) where development is not permitted by Class A under the limitation at A.2 (b) if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse.
16. I note that the Council has referred to the extension being clad in stone which would be contrary to limitation A.2(a). However, as drawing no. 2122.04 indicates that the extension would be constructed of 'natural stone walls to match existing', it is unclear whether the stonework would be structural or be a clad in stone. However the ambiguity on this point does not affect the conclusion I have drawn regarding the principal elevation.

17. Whilst determining what constitutes a principal elevation is assisted by the published guidance, it is a matter of fact and degree that determines the judgement on the issue. The appellant has not shown on the balance of probabilities that the proposal would constitute permitted development under the GPDO.

Conclusion

18. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a proposed single storey rear extension to an existing dwelling is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

P N Jarratt

INSPECTOR

