
Appeal Decision

Site visit made on 27 September 2016

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Appeal Ref: APP/K1128/W/16/3149141

Yvan Tide, The Barnhay, Stoke Gabriel, Devon TQ9 6RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 ('the Act') against a grant of planning permission subject to conditions.
 - The appeal is made by Mr David Murphy against the decision of South Hams District Council.
 - The application Ref 3029/15/HHO, dated 21 December 2015, was approved on 18 February 2016 and planning permission was granted subject to conditions.
 - The development permitted is alterations to dormer on rear elevation at first floor.
 - The condition in dispute is No 3 which states that: "*The doors hereby approved to the south elevation shall be fitted with non-reflective glass. All doors with non-reflective glass shall be maintained in this form in perpetuity unless otherwise agreed in writing by the Local Planning Authority.*"
 - The reason given for the condition is: "*To minimise the impact of the proposal on the setting of the nearby Grade I listed church.*"
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Decision

1. The appeal is allowed and the planning permission Ref 3029/15/HHO for alterations to dormer on rear elevation at first floor at Yvan Tide, The Barnhay, Stoke Gabriel, Devon TQ9 6RZ granted on 18 February 2016 by South Hams District Council, is varied by deleting condition 3.

Main Issue

2. The main issue is whether the condition is reasonable or necessary having regard to the effect of the proposal on the setting of the Grade I listed building.

Reasons

3. Section 66 (1) of the Act requires special regard to be had to the desirability of preserving the setting of a listed building. Furthermore, paragraph 132 of the National Planning Policy Framework (the 'Framework') states that the more important the heritage asset, the greater the weight that should be given to the conservation of that heritage asset.
 4. The site adjoins the churchyard of the Church of St Mary and St Gabriel which is a Grade I listed building. The Church has parts dating from the 13th century, and hence has a great historical significance. It is the parish church of the village of Stoke Gabriel and is sited at the edge of the village on land which slopes down steeply to a creek which feeds the river Dart. The church is modest in its scale and, due to the local topography does not dominate the skyline when viewed from most points within the village.
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5. Its setting is influenced by its elevated position above the creek and above the land to the east, which provides a degree of openness to these sides. Its setting is also informed by the adjoining two-storey houses to the north which generally provide little garden area and so are built tightly up to the boundary of the churchyard creating a hard edge. The appeal site abuts the north-western corner of the churchyard.
6. The appeal site already has a roof terrace at first floor level which faces the churchyard. There is currently a pair of patio doors and a single door with adjacent full length window which provides access onto the roof terrace. The development proposes, effectively, to provide further glazed panels between these two current openings so as to provide a single opening comprising six panels of folding glazed doors.
7. There is also a rear roof terrace of comparable size at the neighbouring property at No.1 The Barnhay, and small balcony areas at first floor level at No.3 The Barnhay and at the neighbouring house to the west of the site, all of which face the churchyard. Consequently the provision of glazed doors at first floor level would not be alien to the vicinity.
8. The dwelling is elevated above the churchyard, due to the topography, and hence is visible and prominent when seen from points in the western part of the churchyard. However from all the possible viewpoints, the development would almost completely be behind the glass balustrade which runs around the edge of the rooftop terrace. This is a result of the combination of the topography of the churchyard, the position of the balustrade at the edge of the roof terrace and the distance the development would be set back from the edge of the terrace. As such the visual effect of the proposal is softened by the balustrade and any perceived benefit derived from having non-reflective glazing in the doors would be similarly diminished.
9. From positions directly outside the church, and from positions along the path connecting the main entrance to the churchyard with the main church door, no view of the site is possible due to the presence of a very large yew tree in the churchyard.
10. As such, although the proposal would result in an increase in glazing facing the churchyard, I consider this increase to be small in scale and its position behind the balustrade means it would appear muted and not obtrusive. As such it would not have a negative effect on the setting of the Grade I listed church and hence the significance of the listed building would be preserved.
11. Accordingly I do not consider it necessary for the glazing in the doors to be non-reflective and therefore condition 3 is not necessary to preserve the setting of the Grade I listed building. Without the condition the development would still accord with Policy DP6 of the South Hams Development Policies Development Plan Document (2010), which seeks to ensure development preserves or enhance the quality of the historic environment, and the Framework which seeks the same.

Other matters

12. The site is within the Stoke Gabriel Conservation Area. However due to the small size of the proposal and its limited visibility, I consider it would preserve the character and appearance of the Conservation Area.

Conclusions

13. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition.

Andrew Owen

INSPECTOR