
Appeal Decision

Site visit made on 4 October 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 10th November 2016.

Appeal Ref: APP/W1145/W/16/3149186

St Hilary, Bounds Cross, Pyworthy, Holsworthy, Devon EX22 6LH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs J Hodges against the decision of Torridge District Council.
 - The application Ref 1/0961/2015/FUL, dated 7 May 2015, was refused by notice dated 4 December 2015.
 - The development proposed is described as "replacement 3 bedroom dwelling on site of existing substandard and fire damaged dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for a replacement 3 bedroom dwelling on site of existing substandard and fire damaged dwelling at St Hilary, Bounds Cross, Pyworthy, Holsworthy, Devon EX22 6LH in accordance with the terms of the application, Ref 1/0961/2015/FUL, dated 7 May 2015, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The planning application was made in the name of Mrs J Davey (who is now Mrs Hodges). I have been advised that the appeal is proceeding in joint names, as above.
3. The plans before me are dated August and September 2015, which is after the date that the application was made. These plans are listed on the Council's decision notice and it is clear that they are the plans on which the Council's decision was based. Therefore, I am satisfied that I can determine the appeal on the basis of the submitted plans without prejudice to either party or those people who have commented on the scheme.
4. Since the appeal application was refused, planning permission has been granted, on 25 April 2016, for a "replacement 2 bedroom dwelling on the site of existing dwelling (re-submission of 1/0961/2015) – Amended plans"¹. The planning permission includes the erection of a detached garage, the change of use of agricultural land to become residential curtilage and the existing field access to the north of the site to be used as the access to the development. During my site visit I saw that a garage has been built on the site of that approved under the planning permission. I also saw that excavation works had started on the site of the proposed dwelling.

¹ Ref 1/0136/2016/FUL

5. The appeal proposal includes a replacement dwelling, a garage, the change of use of agricultural land to residential use and a new access to the north using the existing field access. The proposed garage is of similar dimensions and appearance to that which has been approved. Also, the proposed residential curtilage area, which includes the northern access, is very similar to that approved.
6. The Council has advised that the planning permission that has been granted has addressed the reasons for refusal numbered 3 and 4. These related to whether the development would increase the risk of flooding and pollution to the water environment and the effect of the development on highway safety. The Council states that it continues to defend reasons for refusal 1 and 2. These concern the effect of the development on the character and appearance of the area and whether mitigation and enhancement measures would be required to mitigate habitat loss. I have therefore considered the appeal on this basis. Also, given that planning permission has now been granted for the garage, the change of use of agricultural land and the northern access, I have confined my consideration of the appeal to the replacement dwelling only as this is the remaining matter of contention between the parties.

Main Issues

7. The main issues are:
 - The effect of the development on the character and appearance of the area;
 - Whether mitigation and enhancement measures would be required to mitigate habitat loss.

Reasons

Character and Appearance

8. The appeal site is located in a rural area, at the junction of two narrow roads known as Bounds Cross. The site was formerly occupied by a modest bungalow which was damaged by a fire, and has since been demolished. Although there is some limited residential development in the vicinity, the site is within the countryside for development plan purposes.
9. The proposal includes a replacement dwelling which would be double fronted and would extend to two full storeys in height. It would occupy the same site as the previous bungalow but would be orientated to be north facing whereas the bungalow faced towards the west. The size and volume of the proposed dwelling would be greater due its larger footprint and the additional storey.
10. Although bigger than the bungalow, the replacement dwelling would be appropriately located, on the site of the previous dwelling, and would be of a comparable scale to other houses in the immediate vicinity. In particular, the neighbouring house, known as Polrennick, is detached with a steeply pitched roof which has a relatively high ridge height. To the north, there is another large detached property which is set within a spacious garden and served by a long driveway. The proposed replacement dwelling would not, therefore, appear out of character when considered in this context.
11. The proposed dwelling would be more visible than the original bungalow due to its greater height. However, the roof would be its most visible part and this

would have a hipped design to reduce its mass and lessen the impact. Also, the boundary hedges and the garage would provide an element of screening. Consequently, although the house would be more visible, it would not be overly prominent or visually intrusive due to the proposed design and the screening.

12. To conclude on this issue, I find that the proposed house would be appropriately sited and of a suitable scale in relation to its surroundings. It would be larger but not more intrusive than the building being replaced. Consequently, the development would be in accordance with Policy DVT4 of the Local Plan.² It would also meet the aims of Policy DVT2C which seeks to protect the character and appearance of the countryside, and Policies DVT6 and DVT7 which seek to ensure development reflects local distinctiveness and is compatible with its context.

Mitigation for Habitat Loss

13. An ecological survey³ confirmed that there was an active bat roost supporting a large number of bats in the roof void to the bungalow. Consequently further surveys would have been required prior to any works that would affect the roost. However, the bungalow was destroyed by fire resulting in its loss before the additional surveys were carried out. The recommendations of the ecological survey are no longer relevant due to the time that has elapsed since it was undertaken, and also because the primary bat roost has been destroyed. However, the appellant's ecological consultant has since advised⁴ that the three bat roosts built into the new garage roof were sufficient for the whole site.
14. The approved planning permission also included bat boxes to be fitted to both gable ends of the replacement dwelling, which is not part of the appeal proposal. The Council is concerned that the bat boxes are necessary to provide appropriate mitigation, however, this is not consistent with the advice of the ecologist.
15. Consequently, on the basis of the evidence before me, I conclude that the habitat loss would be appropriately mitigated by incorporating three bat roosts into the garage roof. So long as the alternative roosts are provided, the proposal would meet the aims of Policy ENV1, which seeks to protect or enhance the ecological attributes of the area and to maintain or where possible enhance biodiversity, and Policies ENV10 and DVT4(2) which require appropriate mitigation measures and/or replacement habitats for protected species.

Other Matters

16. I have considered the concerns raised by a neighbour which include, in addition to the main issues already considered above, highway safety, contaminated land, loss of trees, disturbance from car headlights and that works were carried out prior to planning permission being granted.
17. In relation to the use of the northern access, the Highways Officer has advised that this access has appropriate visibility splays. I considered this advice during my site visit and I agree that the visibility splays are adequate and the use of this access would not pose a risk to highway safety. I also saw from my site

² Torridge District Local Plan 1997-2011 (adopted 2004)

³ Phase 1 Habitat and Daytime Bat Survey Report, 15 August 2014

⁴ Email from Lee Ecology, undated

visit that the neighbouring house is a sufficient distance away from the appeal property that any disturbance from car headlights would not be significant.

18. Regarding the loss of trees and possible contamination, I have no evidence of this and note that the Council has not raised concerns in respect of these matters. Although works were carried out prior to planning permission being granted, this has now been addressed through the recent approval.

Conditions

19. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. I have also imposed conditions to ensure the protection of the boundary trees and hedges to protect the character and appearance of the area. I have imposed a condition requiring the western access to be closed to ensure that safe and suitable access to the site is provided via the northern access.
20. I have imposed a condition requiring bat roosts to be provided and retained on site to mitigate the loss of habitat. It was not clear from my site visit whether these were already built, however, the condition is also required to ensure the retention of the roosts.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

Debbie Moore

Inspector

Schedule

Conditions

- 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: Location and Block Plan, Garage Plan Ref 2014-27.BR.1B dated August 2015, Plans and Elevations Ref 2014-27.1E dated August 2015 and 2014-27.10 dated Sep 2015.
- 3) No further site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedges (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved.
- 4) All the trees and hedges shown on the tree protection plan as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any further equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 5) The existing access located on the western boundary shall be permanently closed, as shown on plan ref 2014-27.S.1A, prior to the new access on the northern boundary being brought into use in connection with the development hereby permitted.
- 6) Prior to the occupation of the dwelling hereby approved, three bat roosts shall be built into the garage roof, in accordance with details that have been submitted to and approved in writing by the local planning authority, and retained as such thereafter.