
Appeal Decision

Site visit made on 14 March 2017

by Jacqueline Wilkinson B. Arch Dip Cons Studies (York) IHBC

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

Decision date: 06 April 2017

Appeal Ref: APP/K1128/W/16/3162830

Site at SX8771451708, College Way, Dartmouth TQ6 9PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr George Joyce against the decision of South Hams District Council.
 - The application Ref 3108/16/FUL is dated 18 December 2015.
 - The development proposed is erection of three residential dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on: i) highway safety, ii) the character and appearance of the area, which is within the South Devon Area of Outstanding Natural Beauty (AONB) iii) and the adjacent Dartmouth Conservation Area.

Reasons

3. In 2013 the Council granted a planning permission for a scheme for one dwelling with an attached annexe on the appeal site (ref 15/0359/13/F, dated 26 June 2013). No reference has been made to the renewal of this permission and as I have not been told of any new circumstances or changes in policy, this permission is a material consideration in assessing this appeal.

Highway safety

4. Development Policies Development Plan Document 2010 (DPD) policy DP7 *Transport, access and parking* requires that developments should have safe and adequate means of access and should not materially impair highway safety. These aims accord with similar requirements set out in Section 4 and paragraph 32 of the National Planning Policy Framework (the Framework).
5. The appellant points out that paragraph 32 of the Framework states that development should only be refused on transport grounds where the residual cumulative impacts are severe (3rd bullet point). However, it has been established¹ that this should not be taken to mean that the safety impacts should only be severe and this is consistent with the requirement (2nd bullet of

¹ Mayowa-Emmanual v Royal Borough of Greenwich [2015] EWHC 4076

- point paragraph 32) that safe and suitable access to the site can be achieved for all people.
6. At my request the appellant supplied parking dimensions marked on the diagrammatic manoeuvring plans attached to his final comments. I note that these plans show a different layout in front of plot 1, so for the avoidance of doubt, my assessment is made on the basis of the plans submitted with the application with respect to the layout of the drive.
 7. The proposed access arrangements are based on the same in-and-out driveway as the approved scheme. This would have been a practical arrangement for a single dwelling and its annexe, whose occupiers would be, by definition, associated as one household, and there would have been adequate space for service vehicles and visitors.
 8. The Highway Authority points out that the on-site parking layout and the one-way access arrangement would be difficult to enforce and I agree. It is therefore essential that the access, parking and garage design functions effectively without the need for enforcement. Despite a condition requiring garages to be retained for parking, they are frequently not used as such and given the size of the proposed dwellings it would be likely that each dwelling would have two cars.
 9. The proposal provides an open garage for each dwelling. In the case of plot 1 the garage would be 2.480m wide internally with a width restriction of 2.180m at the opening, by 9.78m long maximum length for the parking bay. The garage space for plot 2 is the same width and its parking bay is 9.33m long. The length of the parking spaces would encourage the tandem of parking of vehicles, with the strong possibility that the second vehicle would overhang the 3m wide common drive. The width of these two garages would be impractical for medium to larger family cars, which adds to the likelihood that cars would be left outside.
 10. Plot 3 would have a single garage and would be likely to use the open bay to the west end of the drive. This is not noted as visitor parking, but even if it was, it would be impossible to enforce its use as such, so this could not be the subject of a condition. Given that all on-street parking is restricted along the appeal site frontage and for some distances around the area, service vehicles and visitors would either have to park on the drive or up on the footway.
 11. The one way direction of the 3m wide drive would be self-enforcing to a degree, as long as all drivers accessed the site from the easterly direction. However, there would be a strong possibility that drivers arriving from the westerly direction (down the A379) would attempt to enter the site at the west end rather than face the complicated route around the Coronation Park, which at ferry disembarkation time becomes very busy and slow.
 12. The effective reversal of the access drive direction could not be controlled by condition. This would lead to on-site manoeuvring, with the possibility of the reversing of vehicles over the footway and/or the use of the eastern access as an exit point. The landscaping strip along the frontage would be too narrow and low to prevent over-riding, which adds to my concerns.
 13. A speed survey was carried out by the appellants, but this was limited to one short time. Whilst it is likely that drivers are not excessively speeding at this

point, local residents and the Council attest that the one way system encourages speeding up as drivers anticipate the uphill stretch of road ahead. I observed some of this behaviour at my site visit. The eastern access to the appeal site would be on the bend, with poor visibility and drivers entering the site from the east would be decelerating just at the time when others behind them would be accelerating, leading to a risk that the following drivers would be taken by surprise. As I have explained above, there is also a possibility that the eastern access would be used as an exit, especially if the drive was blocked further up, which due to the lack of visibility would have a significant effect on the safety of other highway users.

14. The appellant states that the previous approval should be taken as two dwellings and has made traffic generation comparisons with the current proposal on that basis. However that permission was subject to a condition that the annexe was to be retained in ancillary use and as a 4 bed combined dwelling it was not likely to have generated more traffic than a single dwelling. That said, the amount of vehicle movements generated from the appeal site would not be high in relation to the traffic which uses this busy road.
15. However, because of the poor design of the parking layout and the strong likelihood that the access points would not be used as a one way "in-out" system as intended, I cannot conclude that the safety of other highway users would be adequately protected, as required by DPD policy DP7 and the Framework.

Character and appearance, AONB, conservation area.

16. The appeal site is part of the steep green hillside on both sides of the road, the opposite side being the parkland grounds and setting to the Grade 2* listed Naval College. This significant green space frames the approach to the lower town at the edge of the river. Conversely, it provides a green backdrop when viewed from the river edge across Coronation Park, which is a key open space in the town and is within the conservation area.
17. The park's significance lies in that it was once an historic quay which was filled in in the 1930's. Its workaday maritime character, with the busy comings and goings of the ferry and its traffic, dinghy storage and quayside moorings all give this area a very distinctive character. The green backdrop is also important in historic terms², being the natural edges to the River Dart until the early 20th century. As such it contributes to the significance of the conservation area as a strong reminder of the undeveloped edge of the former cove, the Combe Mud, now the park.
18. The AONB washes over the whole town and the open green spaces on the hillside (a community orchard) intertwine with the jagged town boundary. The conservation area also runs along the ridge above the appeal site. The approved scheme retained some sense of the green hillside above and behind the appeal site. There was a wide space between the main house and the much lower scale annexe, with a tapering open space to the west, giving views up to the open space and the community orchard above. The hedge and landscaped bank at the rear would have softened the effect of the development on the open space behind and there were spaces in front, to the side where landscaping could be encouraged. A front boundary wall could have been

² The Dartmouth Conservation Area Appraisal 2013

required as part of the landscaping, which would have overcome to a degree the harmful effect of a wide area of open hardstanding/access drive in front of the development in an area characterised by enclosing front walls.

19. By contrast the proposed scheme would present a solid frontage, with only one tapering narrow space between plot 2 and 3. The proposed development would be appreciably higher than the ambient eaves level of the adjacent terraced houses. The narrow planting strip along the road edge would not be viable over the longer term. The substantial rear elevations and the upper level decks would be at odds with the open natural and tranquil character of the open space in the AONB behind the site. Given the limited space at the rear of the proposed dwellings, a planning condition requiring further details of landscaping and boundary treatments would not be able to rectify this harmful urbanising effect.
20. The contemporary design approach with its glazed gables would reflect the broad rhythms of the domestic architecture throughout the town, whilst making its own contribution to this architecturally varied setting. Notwithstanding this, due to the extensive hard surfacing, dominance of retaining walls, lack of space for landscaping and the massing and intensity of development, the proposed scheme would be at odds with the softer green character and appearance of the area. It would also fail to protect the natural scenic beauty of the adjacent open spaces in the AONB and would reduce the legibility of the former line of the river. Although the approved scheme would have an impact, given its smaller scale and provision for landscaping, its effect would be less.
21. The Framework³ requires that great weight is given to conserving the landscape and scenic beauty in AONBs and the South Hams Local Development Framework Core Strategy 2006 (Core Strategy) policy CS9 *Landscape and historic environment* states that the conservation and enhancement of AONBs will be given great weight. Policy CS7 *Design* requires that development should respect local character whilst creating their own identity through good design. Although they pre-date the Framework, these policies fully accord with it. I conclude that the proposals would fail to satisfy the requirements of these policies.
22. Although outside the conservation area, the proposal would also harm the character and appearance of the conservation area. The proposal would therefore fail the test of Section 72 of the Act⁴, as well as the requirements of DPD policy DP6 *Historic environment*, which accords with the requirements of the Framework.

Other matters

23. A number of statutorily listed buildings near the site have been drawn to my attention, in Combe Road, Ridge Hill and the Naval College opposite. Given the separation distances to these, especially the Grade 2* College, I am satisfied that the proposal would preserve the setting of these heritage assets, as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
24. Comments on the accuracy of the location of the rear boundary have been made but this is a private matter between the landowners.

³ Paragraph 114

⁴ Planning (Listed Buildings and Conservation Areas) Act 1990

25. Concerns have been raised about the potential impact on protected species in the adjacent community orchard. However I am satisfied that the effect on protected species has been adequately understood and that there would be no direct adverse impacts on protected species or habitats.

Conclusions

26. I have concluded that the proposal, because of the poor design of the parking and access layout and the strong likelihood that the access points would not be used as a one way "in-out" system as intended, the proposed development would fail to protect the safety of highway users, as required by policy DP7 and the Framework.
27. I have also concluded that the proposal, because of its scale and urban character would be harmful to the natural beauty of the AONB and the character and appearance of the area. It would also fail to preserve or enhance the character and appearance of the adjacent conservation area.
28. There would be a benefit in the provision of two additional dwellings (over and above the approved scheme) but this would be small and would not outweigh the harms I have identified above.
29. For the reasons given above I conclude that the appeal should be dismissed.

Jacqueline Wilkinson

INSPECTOR