

Appeal Decision

Site visit made on 15 March 2017

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 3 May 2017

Appeal Ref: APP/K1128/W/16/3163341

Mayflower Court, North Embankment, Dartmouth, Devon TQ6 9NJ

- 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 Geoff Forty against the decision of South Hams District Council.
 - The application Ref 1519/16/FUL, dated 18 May 2016, was refused by notice dated 18 August 2016.
 - The development proposed is described as 'elevational changes and improvements to the North Embankment façade. Installation of patio doors and Juliette balconies to flats 1c, 1b, 2a, 6, 7, 9 and 11. Removal of timber clad band at first floor level'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted with the appeal a revised Proposed Elevations plan (drawing no. 15.39 P05) which is intended to replace submitted application drawing no. 15.39 P03. The effect of the revisions would be to remove the originally proposed patio doors and Juliette balconies from the bedrooms of flat nos. 7, 9 and 11 and to add a pair of vertical concrete lines on the full height of the façade. The Council has confirmed that the revisions would not alter its position in respect of the proposed development overall. In light of the relatively minor nature of the proposed change, and given that all parties have had an opportunity to comment on it through the appeal process, I have taken account of the revised plan and decided the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the site and surrounding area;
 - the setting of nearby heritage assets, including the Dartmouth Conservation Area and listed buildings in the locality; and,
 - the living conditions of occupiers of the development, with particular regard to privacy.

Reasons

Character and Appearance

4. Mayflower Court is a four storey building comprising sixteen residential apartments. The site is located close to Dartmouth town centre, on the inside of
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a gentle bend in the road known as Mayor's Avenue. The building's front elevation faces toward North Embankment, which is a road and pedestrian promenade running along the western bank of the River Dart. The site falls within the South Devon AONB.

5. Believed to have been constructed in approximately 1960, the building is a somewhat imposing structure with a strong rectangular form. The front façade has a cream painted render finish, with stone cladding along the ground floor level and on vertical pillars. A horizontal band of timber cladding runs across the width of the building at first floor level, with some further partial timber cladding at ground floor level. Overall, the building itself is not of any particular architectural merit.
6. Nonetheless, there is a pleasant regularity in the layout, size and shape of window openings in the front elevation which contributes to a degree of balance and visual cohesion in the building when viewed as a whole. Given the relatively large scale of the building and its riverside setting, it is a prominent structure in its immediate context.
7. It has been put to me that when assessing the effects of the appeal development, Mayflower Court should be viewed in conjunction with an adjoining apartment building known as Lee Court. I acknowledge that there is some continuity in the appearance of the two buildings, for example through the consistent use of stone clad vertical pillars and deep-set steps leading to recessed entrance doors.
8. However, there are also some clear distinctions between the two buildings. Lee Court's front elevation appears from street level as three storeys, with the fourth storey set well back by rooftop terraces. As such, Lee Court appears to step down in height relative to Mayflower Court. Furthermore, Lee Court's windows at first and second floor level appear as bands of glazing, spanning the spaces between the vertical pillars, whereas those in Mayflower Court appear as individual units. White painted render on Lee Court marks a change from the cream finish of Mayflower Court. Taken together, I consider that these differences distinguish Mayflower Court as a separate building when viewed from public viewpoints along North Embankment, Dartmouth Harbour and the surrounding area.
9. The proposed development involves alterations to the front elevation of the building to remove the timber banding at first floor level and replace seven of the existing windows with patio doors and glazed juliette balconies. Of the seven affected apartments, four are at first floor level, two are at second floor level and one is at third floor level. The remaining nine apartments would see no alterations to the fenestration under the proposal. The result would be an irregular mix of original window openings and new, enlarged openings across the front elevation of the building.
10. I note the appellant's submissions that a partial scheme for the building, in which only some apartments are included, reflects the ownership arrangements of the properties and the fact that only some of the apartment owners currently wish to undertake the proposed alterations. Nonetheless, I am concerned that the resulting form of development would appear as an incoherent and piecemeal scheme, eroding the existing sense of balance and unity across the façade. Moreover, the opportunity to achieve a coordinated scheme for the whole building would be lost.

11. Furthermore, of the seven new patio doors proposed, five would follow a three-pane arrangement whilst two would have a four pane design. The variation appears to be due to a difference in the existing width of the openings which requires different glazing solutions. In my view, this variation would accentuate the discordant appearance of the overall scheme. I do not consider that the slight change in angle of the front façade toward the building's southern extent would be sufficient to mitigate these effects. This would be exacerbated by the removal of the timber banding at first floor level, whilst retaining it where it exists along part of the ground floor level, which would have the effect of further unbalancing the building.
12. Having regard to all of these matters, I find that the proposal would considerably undermine the visual cohesion of Mayflower Court as a whole, to the detriment of its existing character and identity. For these reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the site and surrounding area. Consequently, it would be contrary to Policy CS7 of the South Hams Local Development Framework – Core Strategy (adopted December 2006) (CS) and Policy DP1 of the South Hams Local Development Framework – Development Policies Development Plan Document (adopted July 2010) (DPDPD), which together seek to achieve high quality design which contributes positively to its setting by enhancing the local character.
13. I also find conflict with paragraphs 56, 60 and 64 of the National Planning Policy Framework (the Framework) insofar as they promote good design of the built environment that reinforces local distinctiveness and takes available opportunities for improving the character and quality of an area.

Setting of Heritage Assets

14. The appeal site sits outside of the Dartmouth Conservation Area (CA), although the CA boundary runs immediately to the rear of Mayflower Court. In determining this appeal, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA, which is a designated heritage asset, and my statutory duties¹ in this regard. Whilst the appeal site itself is not within the CA boundary, paragraph 129 of the Framework requires consideration of the effects of development on the setting of heritage assets.
15. In addition to this, there are a number of listed buildings on Clarence Street and Ridge Hill, to the rear of the appeal site, which are also designated heritage assets. As such, I have also had special regard to the desirability of preserving the setting of listed buildings and my statutory duties² in this respect. The Council has also referred to non-designated heritage assets in Clarence Street and Ridge Hill, although I do not have specific evidence in this regard.
16. The appeal development relates solely to the front elevation of Mayflower Court, which faces away from the CA. Consequently, the proposed alterations would not be seen from within the CA. Due to the local topography, the nearest part of the CA rises above the level of the appeal site to its rear. Mayflower Court is therefore viewed against the backdrop of the CA from an easterly and south-easterly direction. However, due to the considerable height of Mayflower Court,

¹ Under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

² Under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

only glimpses of the CA behind the building and through the spaces around it are possible from public viewpoints along parts of the Embankment and from Dartmouth Harbour itself. As such, I consider that the proposed development would be sufficiently disconnected from the CA to conclude that it would not harm the setting of the CA from this perspective.

17. Across the river from Dartmouth is the waterfront village of Kingswear, although the appeal site sits considerably further north than the main settlement of Kingswear. Public views to Mayflower Court from the village are distant and the site is seen alongside a number of other adjacent apartment buildings of a comparable scale and varied styles along the waterfront. Viewed from this perspective, the proposed development would not be so prominent as to materially affect the setting of the CA to its rear. Public views to the site from directly across the river are restricted by the sloping topography and heavily wooded nature of the land along this section of the riverbank.
18. There is no specific evidence before me in relation to the effect on the setting of particular listed buildings, other than the Grade II* listed Britannia Royal Naval College (BRNC) which occupies elevated land above the town. Viewed from the direction of Kingswear, Mayflower Court sits below the BRNC. These views are, however, distant in nature. Seen in this much wider context, the proposed alterations to this existing building would appear minor in extent. I note the existence of a number of listed buildings on Clarence Street and Ridge Hill but do not have any substantive evidence to indicate that their setting would be adversely affected by the proposed development, which shares very little visual or physical connection with those heritage assets. I therefore do not consider that harm to the setting of nearby listed buildings would arise as a result of the proposal.
19. Having regard to all of the above matters, I conclude that the proposal would have a neutral effect on the setting of the CA and other nearby designated and non-designated heritage assets. As such, the significance of the CA and other heritage assets would be preserved. Consequently, I find no conflict with Policy CS9 of the CS or Policy DP6 of the DPDPD, which together seek to preserve and enhance the quality of the historic environment. The proposal would also comply with paragraphs 128, 132 and 137 of the Framework insofar as they require the protection and enhancement of designated heritage assets.

Living Conditions

20. During my visit to Mayflower Court, I viewed the interior of a number of the apartments subject to the appeal development. The proposed patio doors would use the width of the existing window openings but would increase the height of glazed openings to full door height which is shown on some of the plans as approximately 2.1 metres. Frameless glass balustrades fixed by stainless steel brackets would enclose the slide opening doors.
21. Mayflower Court's position facing onto North Embankment, which is a main vehicular route into the town and a well-used riverside walkway, means that it is relatively open to passing pedestrians and road traffic. Due to the building's orientation there is also the potential for views in to the apartments from vessels on the River Dart itself. However I am mindful that to a large extent, this is already the case for the apartments served by the existing windows.

22. The patio doors and Juliette balconies would be installed in apartments at first, second and third floor level, with none proposed on the ground floor. Following my acceptance of revised plan 15.39 P05 to replace plan 15.39 P03, I note that the proposed patio doors would only serve living spaces.
23. Mayflower Court is a substantial building and views up into the apartments from the street level below on Mayor's Avenue would be severely limited by the tight angle. Viewed from North Embankment and the river beyond, some views in to the apartments, particularly those at first floor level, would be possible but from a sufficient distance as to avoid a material loss of privacy compared with the existing situation.
24. My attention has been drawn to the nearby 'Sails' apartment development which similarly faces North Embankment and features substantial, full height glazing on its front façade. I also noted during my visit the prevalence of patio doors and full height glazing from ground floor level up on the nearby apartment building known as Vavasour House. As such, and given the level of amenity generally accepted in the area, I do not consider that the proposed development would give rise to unacceptable levels of overlooking for occupiers of the Mayflower Court apartments.
25. It has been put to me that the larger patio door openings could lead to greater incompatibility between those apartments within the building used as permanent residences and those used as holiday lets. However the nature of the perceived incompatibility has not been specifically set out in submissions. On the basis of all the evidence before me, I do not have any reason to consider that the proposed development would materially diminish living conditions for occupiers in this sense.
26. Overall, therefore, I conclude that the proposal would not give rise to unacceptable harm to the living conditions of occupiers of the development, with particular regard to privacy. As such, I find no inconsistency with Policy DP3 of the DPD, which seeks to ensure that development does not have an unacceptable impact on living conditions, judged against the level of amenity generally accepted in the locality.

Other Matters

The Council's Handling of the Application

27. The appellant has raised concerns about a perceived inconsistency between pre-application advice received from planning officers and the Council's eventual decision in respect of the application. I have not been provided with full details of the pre-application advice given in this case. Whilst I acknowledge the appellant's frustrations in this regard, I note that pre-application advice is given on a 'without prejudice' basis. My decision focuses on the merits of the proposal before me.

Planning Balance and Conclusions

28. The proposal would enable some apartment owners to update their windows, which could have minor environmental benefits. I also note the appellant's submissions that the appeal development would lead to the internal enhancement of the affected apartments which would be likely to improve the living conditions of the occupiers, for example in terms of outlook, bringing

social benefits. These are matters that weigh in favour of the proposal, albeit that they are limited in their scope and extent.

29. I have found above that the proposed development would not give rise to unacceptable harm to the living conditions of occupiers of the development with regard to privacy. I have also found that the significance of the CA and other heritage assets would be preserved. These are neutral considerations in my overall assessment.
30. On the other hand, I have found above that the proposal would cause significant harm to the character and appearance of the site and surrounding area. This is an adverse effect which attracts substantial weight in the overall planning balance and which clearly outweighs the benefits of the scheme in this case.
31. Consequently, for the reasons given above I conclude that the appeal should be dismissed.

J F Powis

INSPECTOR