

Appeal Decision

Site visit made on 11 January 2017

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 22 May 2017

Appeal Ref: APP/K1128/W/16/3158491

59 Yealm Road, Newton Ferrers, Devon PL8 1BJ

- 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 Ms Gillie Scherr against the decision of South Hams District Council.
 - The application Ref 2682/15/FUL, dated 24 November 2015, was refused by notice dated 27 May 2016.
 - The development proposed is the replacement of existing dwelling with 2 No proposed dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular reference to the Newton Ferrers Conservation Area (CA) and the South Devon Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appeal site is situated to the south of Yealm Road and is currently occupied by a large, late-Victorian villa with generous gardens known as Westerly. The appeal land slopes downhill from north to south and, due to its hillside position above the valley of the River Yealm, allows good views across the creek to the opposite village of Noss Mayo. The character and age of properties in the vicinity of the appeal site is mixed, although Westerly and its adjacent property known as Haws Park are similar in age, scale and style.
4. The site lies just outside of the Newton Ferrers CA. In determining this appeal, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA and my statutory duties¹ in this regard. Whilst the appeal site itself is not within the CA boundary, paragraph 129 of the National Planning Policy Framework (the Framework) requires consideration of the effects of development on the setting of heritage assets, which includes conservation areas. The Council's reasons for refusal also refer to harm to the setting of other heritage assets but I do not have specific evidence in this regard.

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

5. Westerly displays some evidence of more recent additions to its form, such as a flat roofed single storey extension to the rear and its central front porch. The house and garage are showing some signs of deterioration on the external walls and finishes. Nonetheless, the property retains many of its original external features such as strong front gables and double bay windows that convey its period and create an imposing and impressive form on the hillside.
6. The property turns its back on Yealm Road, with its principal elevation facing south toward Noss Mayo. From Noss Mayo, the development history of Newton Ferrers is easily discernible, with the built form arranged over three main horizontal bands of development moving up the hill away from the water. Tight-knit, modest cottages along the shoreline give way to large, early 20th century houses set in generous grounds, with late 20th century residential development in perceptibly higher plot densities above. Westerly sits within the second of these bands. The house is set centrally at the northern end of a wide plot, with extensive mature gardens to its sides and front.
7. Due to its scale, siting and position, the existing property is prominent in views from Noss Mayo. From this perspective, its gardens form part of a strip of green and undeveloped land running immediately to the rear of the CA below that is intrinsic to its special interest. As such, I consider that the site's open and spacious nature makes an important contribution to the overall setting of the CA. Whilst acknowledging that the house is not in itself a designated heritage asset, it is a good example of the late-Victorian residential aesthetic, and plays a significant role in the locally distinctive character of the village more generally.
8. The proposed development would replace the existing house and garage with two substantial four bedroom dwellings, together with integral garages and landscaped gardens. Both dwellings would be of a modern appearance, with flat roofs and accommodation arranged over three storeys, utilising the slope of the site. The appeal proposal seeks to address the issues raised by the decision² of a previous Inspector to dismiss an appeal for a replacement dwelling on the site in 2013.
9. The proposed development comprises a markedly different and more contemporary design than is seen in the existing property. This, in itself, is not necessarily harmful and I note the positive views of the independent Devon and Somerset Design Review Panel in relation to the design of the proposal. The overall height of the proposed dwelling on plot 1 adjacent to Yealm Road would be considerably lower than the existing property and of the adjacent Haws Park.
10. I saw during my site visit some successful examples of modern design responses in the vicinity, including the property known as Cherry Trees nearby on Yealm Road and The Anchorage at 80A Court Road. However, I consider that the position of those properties to the north of Yealm Road marks an important distinction between them and the location of the appeal site, which, being to the south of Yealm Road, is closer to the CA. Whilst views of the proposed houses from Yealm Road and the CA below would be limited by the sloping topography of the area, the dwellings would be clearly visible in wide-ranging views of Newton Ferrers from across the creek.

² Appeal ref: APP/K1128/A/13/2192805

11. It has been put to me that the proposal would lead to an increase in the area of green visible around the buildings on the site, partly due to the flat roofs allowing more of the backdrop trees above the site to be seen from the direction of Noss Mayo and by the incorporation of a green roof on part of the plot 2 property. However, I am mindful that the combined footprint of the two proposed houses would be approximately 311.8 m² whereas the existing footprint of Westerly, even including its modest garage which is sited tight into the north of the site, is approximately 178m². It is clear therefore that the proposal would result in a significant increase in the overall quantum of developed land within the site.
12. Moreover, the property at plot 1 would span an appreciably greater proportion of the width of the site, considerably reducing the generous spacing that currently exists either side of the house and that is characteristic of the established built form. By introducing a second substantial house in the southern part of the site, together with new access driveway and car parking, the proposal would materially erode the green and undeveloped space that is important in framing the CA below.
13. As such, whilst it may be argued that the proposal would allow improved views across the site to adjacent buildings, I consider that the scale, massing and siting of the proposed dwellings would undermine the setting of the CA. The proposal would fail to respect the site's contribution to understanding the development history of Newton Ferrers and therefore would not be an appropriate response to its local context.
14. I have noted the 2009 decision³ of a previous Inspector to allow a proposed replacement dwelling on another site in Newton Ferrers, although I note that the site in that case was some considerable distance to the east of the appeal site and arguably far less prominent in wider views of the village. I have also had regard to the decision⁴ of the same Inspector for another site in the village in respect of a residential extension, although I note that the scale of the proposal in that case was significantly more limited than that of the proposal before me. Therefore neither of these cases is directly analogous to the particular circumstances of the appeal proposal and consequently the decisions attract only limited weight.
15. The appeal site also falls within the South Devon AONB. Given its location amongst the established built form of the village, I do not consider that the proposed development would cause material harm to the landscape and scenic beauty of the wider AONB. This is consistent with the findings of the previous Inspector.
16. Nonetheless, taking all of the above matters into account, I consider that the proposal would have an unacceptably harmful effect on the character and appearance of the area, with particular reference to the setting of the CA. Having regard to the Planning Practice Guidance, I consider the harm arising to constitute less than substantial harm to the significance of the CA. In these circumstances, Paragraph 134 of the Framework indicates that the harm should be weighed against the public benefits of the proposals, including securing its optimum viable use.

³ Appeal ref: APP/K1128/A/09/2106220

⁴ Appeal ref: APP/K1128/D/10/2131753

17. The proposal would provide one net additional dwelling on a site within the settlement boundary of Newton Ferrers where local policy is supportive in principle of new residential development. Some minor economic benefits for the construction industry would be likely to arise as a result of the development. The proposal would make more efficient use of the land and would incorporate ambitious sustainable construction and energy efficiency measures, bringing environmental benefits. These are matters that weigh in favour of the proposal. However given their limited scale and scope, the public benefits of the proposal attract only modest weight in my overall assessment. I do not consider that these benefits would be sufficient, alone or together, to outweigh the unacceptable harm to the setting of the CA that I have identified above. Consequently, the proposal would fail to conserve or enhance the significance of this designated heritage asset.
18. The development would therefore be contrary to Policies DP1 and DP6 of the South Hams Development Policies Development Plan Document (adopted July 2010) and Policies CS7 and CS9 of the South Hams Core Strategy (adopted December 2006), which together seek to achieve high quality design which respects and responds to the character of settlements and landscape whilst preserving or enhancing the quality of the historic and natural environment.
19. I also find conflict with the Framework insofar as it requires great weight to be given to the conservation of designated heritage assets as an irreplaceable resource. Although attracting limited weight due to its age, I also find inconsistency with saved Policy MP12 of the South Hams Local Plan 1989-2001 (adopted April 1996) which seeks to protect the character of Newton Ferrers and Noss Mayo.

Other Matters

Housing Land Supply Position

20. The Council accepts that it cannot demonstrate the existence of a five-year supply of deliverable housing sites within the district. The latest figures before me indicate a 1.9 year supply which undoubtedly represents a considerable shortfall.
21. Paragraph 49 of the Framework is clear that where the local planning authority is unable to demonstrate a five-year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date and proposals fall to be considered under paragraph 14. Paragraph 14 advises that where relevant policies of the development plan are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in the Framework taken as a whole, or specific policies of the Framework indicate development should be restricted.
22. Footnote 9 of the Framework gives examples of specific policies that indicate development should be restricted, including those relating to designated heritage assets. I have found above that the appeal proposal would lead to less than substantial harm to the setting of the CA and that this harm would not be outweighed by the public benefits of the proposal. Therefore it is clear that in this case the proposal would not comply with the restrictive policy set out at paragraph 134 of the Framework. Consequently, the proposal would not

represent sustainable development in the sense of paragraph 14 and the appeal must fail.

Conclusions

23. For the reasons given above I conclude that the appeal should be dismissed.

J F Powis

INSPECTOR