

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: 2 June 2017

Appeal Ref: APP/K1128/W/16/3163014

11 Lower Street, Dartmouth, Devon TQ6 9AN

- 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 David Thavenot of Lilifred Estates Limited against the decision of South Hams District Council.
 - The application Ref 0004/16/FUL, dated 6 November 2015, was refused by notice dated 5 August 2016.
 - The development proposed is change of use and alterations to ground floor to create garaging, parking and ancillary storage.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use and alterations to ground floor to create garaging, parking and ancillary storage at 11 Lower Street, Dartmouth, Devon TQ6 9AN in accordance with the terms of the application, Ref 0004/16/FUL, dated 6 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Block Plan (dated 08/2015); Existing Plans & Elevations (ref. 3374-01); Proposed Parking Arrangements Plan & Elevation (ref. 3374-02 Rev B); Proposed Vehicle Swept Path Analysis (ref. 13717.50 Rev P1); Proposed Garage Elevation (ref. 3374-300); Design and Access Statement; and, Flood Risk Assessment.
 - 3) The external surfaces of the development hereby permitted, including doors and windows, shall be constructed and subsequently maintained in the materials shown on plan ref. 3374-300 (Proposed Garage Elevation).

Preliminary Matters

2. An additional plan entitled Proposed Garage Elevation (drawing number 3374-300) that had not formed part of the original planning application was provided with the appeal material. I have reviewed the plan and note that it provides further detail in relation to the materials and external appearance of the proposal. Since it does not seek to make any revisions to the proposal upon which the Council made its decision, I consider that none of the parties would be prejudiced by my acceptance of the plan. I have therefore accepted the plan and had regard to it in my determination of the appeal.
-

Main Issues

3. The main issues are the effect of the proposed development on:
- the character and appearance of the site and surrounding area, having particular regard to Dartmouth Conservation Area;
 - the safety and convenience of all users of the public highway; and,
 - the vitality and viability of Dartmouth town centre.

Reasons

Character and Appearance

4. The appeal site sits on the eastern side of Lower Street, within the town centre of Dartmouth. The site falls within the southern part of the Dartmouth Conservation Area (CA), which covers the historic central core of the town. 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.
5. The appeal building is a three storey terraced property comprising residential uses at first and second floor level. I am told that the ground floor was most recently in use for retail purposes as an antiques shop but at the time of my visit the retail unit appeared to be unoccupied. Whilst I note some local interest in the building's role in the social history of Dartmouth, it is not listed or identified within the Conservation Area Appraisal (CAA) as being of special value.
6. The proposed development would involve the conversion of the ground floor part of the building to form a garage and parking area for up to five vehicles. It would also include a refuse storage area and an altered pedestrian access door for the existing residential units above.
7. Travelling south along Lower Street from the direction of the town centre, the road narrows at the junction with Oxford Street and becomes enclosed by tall buildings sitting close to the highway for a section until the junction with Cole's Court. There is a mix of uses evident along this part of Lower Street, with predominantly retail units at street level along the western side of the road. Along the eastern side of the street, there is a high proportion of garage uses, with five of the nine buildings appearing at the time of my visit to have garages at the ground floor level. This includes the adjacent buildings to both sides of the appeal site.
8. The proposed development would reduce pedestrian activity at the ground floor level of the building and increase vehicular movements, which would constitute a change in character of the building. However, given the prevalence of existing garage uses in the immediate vicinity, in my view this change would have a very limited impact on the character and quality of the wider street scene.
9. The existing façade at ground floor level contains two door openings, one of which is centrally located and provides a set of double doors leading into the main retail space and the other of which has the dimensions of a standard external door and provides a pedestrian access to the flats on the upper levels.

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

It also has a modestly-sized window opening. All windows and doors are constructed in timber and show some signs of wear. The existing ground floor frontage does not in itself make a particularly noteworthy contribution to the character of the CA.

10. The proposed alterations would introduce a wider pedestrian access door to the flats comprising a sidelight and windows above, together with a new sliding segmented garage door with windows over. This would result in a larger overall area of the front elevation given over to openings than is currently the case. However, I am mindful that the appeal building's appearance is defined by large projecting double bay window features at both first and second floor which present a strong and imposing form to the public realm. In this context, I do not consider that the proposed new openings would appear unduly large or incongruous, since they would be subservient to the bold architectural features above.
11. The new doors would be constructed in white painted timber which would echo the materials of the sash bay windows at first floor level and the external walls would be finished in painted render to match the existing wall coverings. As a result, I consider that the alterations would respect the dimensions and finish of the building as a whole. The widened pedestrian access door would also bring more natural light into the stairwell and allow for easier passage, creating a more pleasant environment for residents.
12. The door openings would be taller and slightly wider than those seen on the immediately adjacent properties. However, there is a marked variety of architectural styles along this section of Lower Street, with more substantially sized garage doors evident in close proximity to the site, for example at nos. 14 and 17. Therefore viewed in its wider setting, I do not consider that the proposed development would appear out-of-keeping with the established form of development in the street scene.
13. There are a number of listed buildings in the area surrounding the appeal site but the Council's stated view is that the development would not adversely affect any of their settings. Having viewed the site and surroundings and had regard to all of the evidence before me, I agree with the Council's assessment in this regard.
14. Taking all of the above matters into account, I conclude that the proposal would not cause unacceptable harm to the character and appearance of the site and surrounding area. Overall, I find that the proposal would have a neutral effect on the character and special qualities of the CA. The significance of the CA would thereby be preserved. As a result, there would be no conflict with Policy CS9 of the South Hams Local Development Framework - Core Strategy (adopted December 2006) (CS) or Policy DP6 of the South Hams Local Development Framework - Development Policies Development Plan Document (adopted July 2010) (DPD), which together seek to preserve and enhance the special qualities and character of the historic environment.

Highway Safety

15. The drawings indicate that the proposed development would provide a total of five car parking spaces within the ground floor space of the building and in its rear yard. Five other garages are already accessed from this section of Lower Street and I have had regard to some local representations that vehicles

- manoeuvring into and out of the existing garages cause congestion and a risk to pedestrian safety that could be exacerbated by the proposed development.
16. Lower Street operates as a one-way road, with traffic flowing from south to north. There is no provision for turning within the proposed development itself, meaning that cars would need to exit or enter the site in reverse gear. Due to the layout of the spaces, vehicles using spaces 1 and 2 at the very rear of the garage would be parked in by vehicles using spaces 3 and 4 respectively. This would necessitate some degree of manoeuvring on Lower Street which could lead to temporary disruptions to the flow of traffic along the highway.
 17. Lower Street serves an important function as a through route for vehicular traffic exiting the Lower Ferry to the south of the site. The Lower Ferry provides a regular service from Kingswear but has a relatively small capacity for each crossing. Furthermore, the appeal site would host a maximum of five cars at any given time. At peak times, there is scope for minor inconvenience for highway users should a full ferry be disembarking at the same time as vehicles are entering or leaving the garage. However, given the low overall volumes of vehicles in question, I consider that there is limited potential for serious disruption to traffic flows or for associated vehicular noise and pollution as a result of the proposal.
 18. The road is also well used by pedestrians accessing retail facilities in the locality and travelling south toward the historic attraction of Bayards Cove. Vehicles using the garage would need to cross the pavement, sometimes in reverse gear. I saw during my visit that traffic speeds along this part of Lower Street are typically very slow and that the existence of other garages adjacent to the site already requires highway users including pedestrians and cyclists to be alert to vehicle movements across the pavement in the immediate vicinity.
 19. Submitted 'CrashMap' data indicates that there were no recorded personal injury accidents on this section of Lower Street between 2010 and 2015 and evidence from the highway authority shows that there have been no reported accidents associated with the existing garages in the last three years. The road is level and straight in the vicinity of the site, meaning that forward visibility for pedestrians and approaching drivers would be sufficient to see and react to a manoeuvring vehicle entering or exiting the garage. In light of these circumstances, I do not consider that the vehicular manoeuvring required to access and exit the proposed garage would pose a significant risk to highway safety in the area.
 20. Having regard to all of these matters, I conclude that the proposal would have an acceptable effect on the safety and convenience of all users of the public highway. It would therefore comply with the provisions of Policy DP7 of the DPD, which seeks to ensure that new development does not materially impair highway safety or traffic movement. I also find no conflict with paragraph 32 of the National Planning Policy Framework (the Framework) insofar as it requires that safe and suitable access to sites can be achieved for all people.

Vitality and Viability of the Town Centre

21. The proposal would lead to the loss of a retail unit within the Central Shopping Area of Dartmouth. The Council submits that demand for retail space in the town centre is high, although I have not been provided with any substantive evidence in this regard.

22. Saved Policy SHDC 23 of the South Hams Local Plan 1989 to 2001 (adopted April 1996) (LP) states that within the Central Shopping Area, proposals for non-shopping use of ground floor premises will be permitted, providing they would not undermine the shopping character of the street, detract from the appearance of the immediate environment or adversely affect the amenity of the surrounding area, for example through consequent noise and disturbance effects. The supporting text explains that this is intended to maintain and enhance the vitality and viability of the town centre.
23. It is clear from a number of local representations that the retail space provided within the appeal building is valued for its attractiveness to small, independent traders requiring affordable and diverse retail accommodation in the town centre. There is no evidence before me to suggest that the premises are no longer viable for retail use. However, I am mindful that the front elevation of the existing retail premises comprises only a small amount of glazed area, which restricts views into the building from the street. The ground floor façade therefore does not present a conventional shopfront layout or appearance. I am told that the wooden double doors on the centre of the façade have generally been left open during trading hours to allow views into the retail area. Notwithstanding this, the site's front elevation as it exists does not constitute an active retail frontage or make a positive contribution to the shopping character of the street.
24. I acknowledge concerns that the proposed development could reduce footfall for other retailers at the southern end of the town centre. However, I saw during my visit that there is a good mix of retail, dining and other commercial premises in close proximity of the site, most notably along the western side of Lower Street, which provides a vibrant shopping environment. It is my view that the loss of this one retail unit, given its siting amongst a run of established garage uses and its unconventional frontage, would not have a materially harmful effect on the overall shopping character of the street.
25. I note the concerns of some local people that the loss of a retail unit could undermine the efforts of the Dartmouth Business Improvement District, although specific details of the initiative have not been put before me. Given the modest size of the existing premises, the effect on employment would be minimal. I acknowledge concerns that some of the existing garage uses along Lower Street are used as workshops which may undermine the amenity of the area as a retail location, but have no evidence to suggest that this would be the case for the appeal development, which would need to be implemented in accordance with the submitted plans.
26. Taking all of these matters together, I conclude that the proposal would not cause material harm to the vitality and viability of the town centre. As such, it would accord with the provisions of saved Policy SHDC 23 of the LP. It would also comply with paragraph 23 of the Framework, which promotes competitive and distinctive town centres that provide customer choice and a diverse retail offer.

Other Matters

Living Conditions

27. I have had regard to submissions about the effect of the proposal on the living conditions of the occupants of the maisonette at Flat 3, no.10 Lower Street in

terms of noise and disturbance from vehicles using the proposed parking area. I am told that the wall of Flat 3, which is used as a holiday home and holiday let, forms the north side of the yard to the rear of the appeal site and has two ground floor bedrooms with windows opening onto the proposed parking area.

28. I note the Council's assessment that the proposal would not result in significant noise or disturbance effects for the occupants of adjacent residential properties. Flat 3 is in close proximity to Lower Street, which is a well-used vehicular traffic route in a busy town centre location. In light of this, and of the existing garage uses surrounding the site, the level of noise and disturbance generally accepted by residents in the area can be reasonably expected to be relatively high.
29. The proposed garage would accommodate a maximum of five cars at any given time which represents a low number of vehicular movements generating noise or other forms of nuisance. In this context, I do not consider that the proposed development would result in a significant increase in noise and disturbance for occupants of Flat 3, no.10 Lower Street. As such their living conditions would be protected.

Effect on On-Street Parking

30. I note the concerns of some local people that the vehicular manoeuvring space required on Lower Street to facilitate use of the proposal could lead to the loss of three existing on-street parking spaces on the western side of the road opposite the site. Vehicle tracking evidence provided in support of the proposal indicates that there would be sufficient space on Lower Street for standard-sized cars to perform the necessary manoeuvres to enter and exit the site without affecting the existing on-street parking spaces. The spaces would therefore be retained and I am satisfied that the proposal would cause no harm to on-street parking provision in the area.

Conditions

31. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. Having regard to the site's location within the CA and the need to respect the character and appearance of the surrounding area, I have imposed a condition requiring that the external materials, including those used for the doors and windows, adhere with the submitted detailed drawing and are maintained as such. The condition differs from that suggested by the Council to take account of the additional plan submitted at appeal stage (paragraph 2 refers).

Conclusions

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

J F Powis

INSPECTOR