
Appeal Decision

Site visit made on 14 November 2017

by Mrs J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 15th January 2018

Appeal Ref: APP/W1145/W/17/3180625

**Land to the rear of 25 Abbotsham Road, Old Town, Bideford,
Devon EX39 3AF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Justyn Pusey against the decision of Torridge District Council.
 - The application Ref 1/0423/2017/REM, dated 31 August 2016, sought approval of details pursuant to conditions Nos 1, 2 and 3 of a planning permission Ref 1/0698/2015/OUT, granted on 9 September 2015.
 - The application was refused by notice dated 27 June 2017.
 - The development proposed is one dwelling.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale, details submitted in pursuance of condition Nos 1a, 1b, 1c and 1d attached to planning permission Ref 1/0698/2015/OUT dated 9 September 2015 and subject to the conditions set out below:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Drawing Nos 5446 A01; Drawing Nos 505 80; 505 30; 505 22 and the Design and Access Statement.
 - 2) The building/extension hereby permitted shall not be occupied until the windows in the dormer on the first floor of the south elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Main Issues

2. The main issues are the effect of the development on; a) the character and appearance of the area with reference to height mass, siting and scale, and b) the living conditions of the occupiers of 54 Old Town, with regard to outlook and privacy in the rear garden, and of 19 to 31 Abbotsham Road with regard to privacy.

Reasons

Character and appearance

3. The applicant gained a reserved matters permission in 2016 pursuant to the same outline application which is still capable of implementation. Negotiations during the earlier reserved matters application took place to reduce the height of the building and the approved scheme detailed a lower ridge and eaves than that first proposed. This appeal scheme before me incorporates a ridge 1.3 metres higher than that approved under the earlier reserved matters approval, effectively returning to the originally submitted scheme.
4. The surrounding area is principally residential with a terrace of properties, of varying heights, running parallel to the length of the site on the north side. Whilst the front of the terrace is regular in its architectural detailing, the rear facing the appeal site incorporates a variety of details some with single width extensions and others with paired rear additions. To Old Town properties are more varied, here terraced cottages with gardens of varying lengths and a group of garages are informally arranged.
5. The Council argue that a dwelling of 7 metres in height would represent an incongruous feature failing to reflect the local characteristic. However, they have provided limited evidence to substantiate this. Height, mass, siting and scale are referred to in the reasons for refusal, yet the building would be lower or similar in height to the rear projections along Abbotsham Road which would be the nearest structures, and the lower part of the dwelling would be screened by the existing boundary wall, which would be retained. The garden and garages to the south do not have any defining architectural features with which this proposal would conflict.
6. Given the context of the buildings and bearing in mind the extant reserved matters permission, the 1.3 metre increase in height would not represent a harmful or obtrusive feature. Policies DVT6 and DVT7 of the Torridge Local Plan (2004) (Local Plan) seek amongst other things to ensure that height and massing are compatible with the context and this proposal would not conflict with those aims.

Living conditions

7. The site is bordered to the northern side by a stone wall beyond which is a footpath and the gardens to the terrace including 19 to 31 Abbotsham Road. A condition on the outline states "*any dwelling on this site shall be of a single storey construction only, or a chalet style/room in roof property*". The reason for this condition is to protect the amenities of the neighbouring properties. This design is compatible with this condition. Occupants of the terrace would look out onto the roof and upper part of the walls above the existing boundary wall. The roof lights in the facing elevations would be set more than 2.2 metres above the finished first floor level and would not afford a view out and not therefore lead to an adverse effect on the privacy of the occupants of properties in Abbotsham Road.
8. The south elevation would incorporate two roof lights 1.85 metres above finished floor level and a dormer window, these serve bathrooms or storage space. Roof lights would not afford a view out and the bathroom could be obscure glazed so would not cause a loss of privacy to the garden area of No 54.

9. The siting and general footprint of the building are very similar to the extant permission and whilst the building would be visible from the lower part of the garden to No 54 Old Town this garden has open boundaries to the development plot and to the garages beyond. In any event the structure would not be materially larger in respect of its bulk and massing than the extant reserved matters permission and would not result in an unacceptably dominant building such as would justify a refusal of this alternative reserved matters scheme.
10. For these reasons the proposal would not harm the living conditions of the occupants of adjacent properties and would not conflict with Policies DVT6 and DVT7 or DVT11 of the Local Plan. These Policies seek, amongst other things, to maintain the special qualities of the area, ensure appropriate height, massing and appearance and maintain the amenity in the locality with special regard to neighbours and neighbouring uses.

Other matters

11. I have taken into account representations from a group of local residents raising concerns about the principle of development; the loss of the garden space and that previous notification did not make it clear that this was to be a two storey house and an unprecedented density in such a tiny space. Detailed objections are also made with regard to loss of privacy, overlooking and loss of residential amenity. Whilst understanding these concerns this appeal is not able to revisit the principle of development which was established by the outline permission. For the reasons given above I have found that there would be no unacceptable loss of privacy or overlooking to adjacent properties and thus no impact on residential amenity over and above that which the extant planning permission represents.
12. Other representations have been made raising concern about the use of the access, concerns over car parking and potential danger to highway safety. However, as access is not a reserved matter and was established at the outline stage it is already set by the outline planning permission. It is also noted that the outline planning permission contains a requirement for a construction method statement in the interests of residential amenity and highway safety and the same provisions would apply to this decision.

Conditions

13. Two conditions are recommended by the Council one requesting an approved schedule of plans and the second recommending a condition requiring obscure glazing to the first floor window on the southern elevation in order to protect the amenity of the occupant of Old Bakery House. Such a condition is accepted by the appellant, along with a restriction to fanlight opening only. These conditions are reasonable and necessary to ensure the development complies with the approved details and to protect the privacy of the adjoining occupants though I shall use alternative wording in the interests of precision.

Conclusion

14. For the reasons given above and having regard to all other matters raised the appeal is allowed.

Janet Wilson

INSPECTOR