The Planning Inspectorate

Appeal Decision

Site visit made on 12 March 2019

by A Spencer-Peet BSc(Hons) PG.Dip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 24 April 2019

Appeal Ref: APP/Q1153/W/18/3208669
Hayfield House, Hayfield Road, Exbourne EX20 3RS

- 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 Mandy Rideout against the decision of West Devon Borough Council.
- The application Ref 0878/18/FUL, dated 12 March 2018, was refused by notice dated 25 June 2018.
- The development proposed is the erection of 2 storey, 3 bedroom house, detached single storey store/workshop/office building and provision of two car parking spaces.

Decision

1. The appeal is allowed and planning permission is granted for the proposed erection of 2 storey, 3 bedroom house, detached single storey store/workshop/office building and provision of two car spaces at Hayfield House, Hayfield Road, Exbourne EX20 3RS, in accordance with the terms of the application, Ref: 0878/18/FUL, dated 12 March 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency.

3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

4. During the course of the appeal, the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Joint Local Plan) was adopted and replaced the West Devon Borough Council Local Development Framework Core Strategy Development Plan Document 2006-2026 and the West Devon Borough Council Local Plan Review (2005) as referred to in the Council's decision notice. The appellant has been made aware of this and has had the opportunity to comment.

Main Issues

5. The main issues are;

- The effect of the proposal on the street scene within The Tumbles and whether the proposed development would preserve or enhance the character or appearance of the Exbourne Conservation Area (the Conservation Area), and
- The effect of the proposed development on the living conditions of neighbouring residents, with particular reference to loss of privacy and light.

Reasons

Character and Appearance

6. The appeal site comprises part of the garden of Hayfield House, a well-proportioned dwelling which forms half of a pair of cottages. Much of Exbourne is situated within the Conservation Area, with the northern boundary of the Conservation Area bisecting the appeal site so that the northern section of the appeal site falls outside the Conservation Area. The site is positioned adjacent to a narrow uneven lane known as The Tumbles, which leads off Hayfield Road and serves as access to several properties in this part of the village. The Tumbles has a verdant appearance, with the space of the site contributing the rural character of this part of the settlement.

7. The significance of the Conservation Area is its local distinctiveness and is characterised by a mixture of traditional cottages and historic building types which at the core of the village are arranged in groups around a network of narrow lanes. Outside the core of the village, the pattern of development changes with more modern forms of development, comprising a variety of designs and styles, being dispersed amongst traditional cottages. The appeal site is just outside the core of the village, with dwellings which are situated on The Tumbles being a mixture of architectural styles and designs. Here, whilst variety in style is the rule, these dwellings are consistent in terms of incorporating smooth exterior finishes and sloping slate tiled roofs, as well as being consistent which each other in terms of scale.

8. The proposed scheme would incorporate a hipped tiled roof and would have smooth exterior finishes punctuated by windows the scale and appearance of which would be consistent with other dwellings in this part of the village. The proposed dwelling would also be of a similar scale to Hayfield House, and consistent with the scale of dwellings within The Tumbles, with the amount of external space associated with the proposal being comparable to those enjoyed by nearby properties in this part of the village. Its design and scale would therefore respect the form and appearance of the dwellings within this part of the Conservation Area and would not be harmful to the street scene within The Tumbles.

9. While the proposed development would be set into the ground and set back from the adjacent lane, there would still be glimpses of the development from the nearby Hayfield Road. For the above reasons, the design and scale of the proposal would be consistent with nearby development. Notwithstanding this, the introduction of additional built form would result in the loss of space and

would, albeit to a limited degree, result in a small change the character and appearance of The Tumbles. Whilst this effect on the character and appearance of the surrounding area would be reasonably localised in extent, there would be some very limited harm to the appearance and significance of the Conservation Area.

10. In terms of the advice contained within the Framework, the very limited harm to the significance of the Conservation Area would be less than substantial, affecting only its immediate surroundings. As such, the Framework sets out the need to address less than substantial harm in a balanced manner against benefits associated with such schemes.

11. In terms of economic benefits, the proposed development would provide short term employment opportunities during the construction phase, with further longer-term benefits being provided in terms of the spend by future occupiers with local businesses. Social benefits would also arise by reason of the contribution made by the proposed development increasing local housing supply in an area where there is a shortfall of housing land, and which is close to services and facilities. I attach moderate weight to these benefits of the scheme.

12. Taking all these matters into account, my overall conclusion is that the public benefits of the proposal would, on balance, outweigh the very limited harm that would be caused to the Conservation Area. In this respect, therefore, I conclude that the proposed development would not conflict with Policies SPT1, SPT11, DEV20, DEV21 and DEV23 of the Joint Local Plan which together, amongst other things, seek to ensure that development respects local distinctiveness and maintains the landscape and special characteristics of the Conservation Area. The proposed development would also comply with the conservation area protection aims contained within the Framework.

Living Conditions

13. The Council's statement confirms that there are concerns that the proposal would adversely affect the living conditions of residents of Hayfield House, Wheelwright's Cottage and 2 The Tumbles. With regards to 2 The Tumbles, the proposed dwelling would be located at a sufficient distance such that no substantial harm would arise by reason of overlooking or by loss of light.

14. The rear elevation of the proposed dwelling would be approximately aligned with the end elevation of Hayfield House, so that the rear windows of the proposal would not overlook into any of the habitable rooms at the rear of Hayfield House. Furthermore, the separation distance between the proposal and Wheelwright's Cottage would mean that there would not be any significant degree of overlooking. For the same reason, and given that the proposal would be cut into the ground, the proposed development would not dominate or loom over the gardens of these neighbouring properties, and therefore I consider that the appeal scheme would not have an overbearing impact on these properties and would not result in an unacceptable loss of light.

15. My attention has also been drawn to the potential for overlooking with respect of the proposal and 3 The Tumbles. In this instance, the proposed dwelling would be orientated so as to have no habitable rooms facing 3 The Tumbles and, given the separation distance between these dwellings, there would be no potential for overlooking.

16. Consequently, the proposal would not be harmful to the living conditions of residents of the neighbouring properties with respect to overlooking or loss of light and, therefore, would comply with Policies DEV1, DEV10 and DEV20 of the Joint Local Plan which, amongst other things, seek to ensure that development is of high quality design which does not adversely impact upon the living conditions of adjacent residents.

Other Matters

17. I have taken into account the previous appeal decision which applied to this site. However, I have reached my decision on the appeal proposal on the basis of the evidence before me.

18. Concerns have been raised by interested parties with regard to the potential effect of the proposed development on local wells and springs, ground stability and the loss of a leylandii hedge. In this respect, I have not been provided with any substantive evidence which demonstrates that the proposal would adversely affect the stability of land around The Tumbles, nor adversely affect any local water source. Furthermore, whilst the development may lead to the loss of the leylandii hedge, a landscaping condition could be included to mitigate the loss of the hedge. It has been further put to me that the appellant has no right of access onto The Tumbles. However, as this is a matter of civil law, and a planning application is determined on its planning merits, this is a consideration that has not altered my assessment of the appeal.

19. Concerns have also been raised regarding the adequacy of parking provision and space for turning vehicles in relation to the appeal scheme, and that the proposal would lead to parking congestion elsewhere in the village. However, in this instance I consider that the parking arrangements are sufficient given the scale of the development and note that the Highways Officer raised no objection with regards parking provision or highway safety. Furthermore, at the time of my site visit I did not observe any illegal or obstructive parking in the area which would be indicative of parking stress. In the absence of clear evidence of a local parking issue, I do not consider that the proposal would have a harmful effect on local parking.

20. It has been further put to me that the proposal would have an impact on the local drainage system. In this regard, I have not been provided with any substantive evidence which demonstrates that the proposal would affect the drainage system.

21. Representations were made to the effect that the rights of local residents under the Human Rights Act 1998, Article 8 and under the First Protocol Article 1, would be violated if the appeal were allowed. However, I have concluded that the proposed development would not cause unacceptable harm to the living conditions of residents. The degree of interference that would be caused would be insufficient to give rise to a violation of the rights.

Conditions

22. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. I

further find it reasonable to include conditions requiring details of any landscaping, parking, external finish and materials to be used in conjunction with roofing, windows and gates, and sewage disposal be approved by the Local Planning Authority, and that external lighting be restricted, in the interests preserving the character and appearance of the surrounding area. I have also included a condition concerning the use of the proposed workshop, in the interests of persevering the character and appearance of the area.

23. In the interest of highway safety and living conditions, I have included a condition which requires details of a construction management plan be approved by the Local Planning Authority. In addition to the above, and in the interests of protecting the environment, I also find it reasonable and proportionate to include a condition requiring that details of the drainage system be approved by the Local Planning Authority. Finally, in the interests of privacy, I have included a condition requiring that obscured glazing be used for the windows of the stairwell and the first floor ensuite and family bathrooms.

24. I have not imposed a condition which restricts permitted development rights as no clear justification has been provided which demonstrates that there is an exceptional need to limit these rights in this particular instance. Furthermore, I have, in the interest of clarity and precision, joined the Council's two suggested conditions regarding submission of details of external finish materials, into a single condition.

25. Where necessary, and also in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance. The wording of the pre-commencement conditions have been agreed by the appellant.

Conclusion

26. For the reasons given above, the appeal succeeds and planning permission granted subject to conditions identified.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

2) The development hereby approved shall in all respects accord strictly with drawing numbers 205/A003, 205/A005, 205/A006, 205/A007, 205/A008, 205/A010 and Site Location Plan received by the Local Planning Authority on 12 March 2018 and drawing numbers 205/A009 Rev A and 205/A012 received by the Local Planning Authority on 25 April 2018.

3) Prior to their installation details / samples of facing materials including samples of the proposed stonework to be used for the external walls, and roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved.

4) Prior to their installation details of the windows, chimney and including cross sectional drawings at a minimum scale of 1:20, shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with these details and retained as such.

5) Prior to installation details of the roof including P.V. panels, rooflights, eaves and verges including cross-sectional drawings at a minimum scale of 1:20, shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with these details and retained as such.

6) Notwithstanding the approved plans, the windows and any subsequent replacements serving the family bathroom, stairwell and the ensuite as shown on drawing number 205/A005 (Floor and Roof Plans as Proposed) and 205/A006 (South West & North West Elevations as Proposed) shall be obscure glazed and permanently retained as such.

7) No development shall take place until a Construction Management Plan for the development has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout all phases of the construction period.

8) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the planting.

9) Prior to installation details of the proposed gates and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with these details and retained as such.

10) There shall be no external lighting within the site.

11) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing

with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

12) The store/office/workshop building hereby permitted and as shown on approved drawing number 205/A003 (Block Plan & Roof Plan as Proposed) shall not be used or occupied other than for purposes ancillary to the residential use of the dwelling hereby approved.

13) The dwelling hereby approved shall not be occupied until the parking area relating to it as shown on approved drawing number 205/A012 (Parking and Vehicular Access) shall have been properly surfaced, laid out and constructed. The parking area shall be kept permanently available for the parking and manoeuvring of motor vehicles in connection with the development hereby permitted.

14) Notwithstanding the submitted details, the development hereby permitted shall not be commenced until full details of drainage scheme for the surface water have been submitted to and approved in writing by the LPA. The drainage scheme should follow the drainage hierarchy with soakaways as the first choice. Only if soakaways are not feasible will an alternative scheme be considered.

Design steps as below:
• Percolation testing in accordance with DG 365 will be required to support the use of soakaways, or justify an alternative option. The report should include the trail logs and calculate the infiltration rate.
• Soakaways to be designed for a1:100 year event plus an allowance for climate change. (Currently 40%)
• If the ground conditions are not suitable then a controlled discharge a water course or Sewer can be considered. The surface water should be attenuated for a 1:100 year event plus 40% for climate change. The discharge must be limed to the green field run off rate. If the site is within a Critical Drainage Area then any surface water leaving the site must be limited to the 1:10 year green field runoff rate. If discharging to the sewer written permission from South West Water will be required.

If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed with the Local Planning Authority. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

15) Notwithstanding the submitted details, no development shall be commenced until details of the works for the disposal of sewage have been submitted to and approved in writing by the Local Planning Authority, and the dwelling shall not be occupied until the approved works have been completed to the satisfaction of the Local Planning Authority.