



Appeal Decision

Site visit made on 9 July 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/H3320/W/19/3225200

Pemswell Lodge, Pemswell Road, Minehead TA24 5RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Freeman against the decision of West Somerset Council.
 - The application Ref 3/21/18/078, dated 17 October 2018, was refused by notice dated 12 February 2019.
 - The application sought planning permission for a two-bedroom dwelling in the garden of Pemswell Lodge without complying with a condition attached to planning permission Ref 3/21/15/026, dated 24 April 2015.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in accordance with the approved drawings: Drawing Numbers: (A4) Location Plan (A4) Block Plan (A3) DrNo 140101/2A Proposed Ground Floor Plan (A3) DrNo 140101/3A Proposed First Floor Plan and Section (A3) DrNo 140101/4B Proposed Elevations (A3) DrNo 140101/5A Proposed Street/Garden Scenes and Roof Plan (A4) DrNo 140101/Samples.'*
 - The reason given for the condition is: *'For the avoidance of doubt and in the interests of proper planning.'*
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Decision

1. The appeal is allowed and planning permission is granted for a two-bedroom dwelling in the garden of Pemswell Lodge at Pemswell Lodge, Pemswell Road, Minehead TA24 5RS in accordance with the terms of the application Ref 3/21/18/078 dated 17 October 2018, without compliance with condition No 2 previously imposed on planning permission Ref 3/21/15/026 dated 24 April 2015, but subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1826/200, 1826/201, 1826/202.
 - 2) Within three months of the date of this decision, details of hard and soft landscape works shall be submitted to the local planning authority. These details shall include: boundary treatments; vehicle turning/parking layouts and finishes; details of bicycle storage; hard and soft surfacing materials. The landscaping works shall be carried out in accordance with the approved details and timed in accordance with an agreed implementation programme. The completed scheme shall be retained in accordance with the approved details.
 - 3) No vehicular access shall be formed between the curtilage of the dwelling hereby approved and Pemswell Lane in perpetuity.

Procedural Matters

2. The application subject to this appeal is made under Section 73A of the Planning Act for minor material amendments. It seeks revised but not substantially different designs to a dwelling approved in April 2015. This is possible as a condition was imposed on the original permission specifying the approved plans. The appeal seeks removal of the condition and replacement with a condition specifying the plans that reflect an amended design.
3. At my visit I observed that the development has commenced, with the dwelling at an advanced stage of construction, with a dormer added to its rear roofslope and its lower ridge higher than as approved.

Background and Main Issues

4. The sought amendments include enlarging the lower roof through raising the ridge by 1m and the installation of a dormer to the south elevation. The main issues are therefore the effect that varying the condition would have on:
 - The character and appearance of the area, with particular regard to the Higher Town Conservation Area; and,
 - The living conditions of the occupants of Orchard Cottages, with reference to privacy and light.

Reasons

Character and appearance

5. The appeal property is sited within land in the highly regarded area of Higher Hill, outside of but largely surrounded by the Higher Town Conservation Area (CA). I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of this part of the surrounding CA is derived from its rich historic built environment of mainly residential buildings which are steeped within a valley context, connected by narrow lanes and public ways, with views limited by severe topography and the density of the buildings.
6. The house is seen from the south in limited views between other properties and against a wooded backdrop. When visible the property is seen to follow the clearly stepped pattern of property heights along Pemswell Lane and, given such, its modest increase in height does not significantly increase the prominence of the building nor harm any sense of retained openness in this particular part of Higher Hill. The dormer sits comfortably within the rear elevation, leading the building to maintain a proportionality and design which allows it to harmonise with the simple character and appearance of the area and the setting of the CA.
7. I therefore conclude on this issue that the proposed development does not have a harmful effect on the character and appearance of the area, with particular regard to the Higher Town Conservation Area. It accords with the heritage and design aims of Policies NH1, NH2 and NH13 of the West Somerset Local Plan to 2032 (adopted 2016) (WSLP), Policy BD/3 of the West Somerset District Local Plan (adopted 2006) and the National Planning Policy Framework (the Framework).

Living conditions

8. Due to the topography between the sites, it is possible to look towards the rear elevation of Orchard Cottages from the rear garden and ground and first floor of the appeal property, with elevated positions within the dwelling also allowing overlooking towards the private garden areas serving these neighbouring houses. The large, full height opening within the first floor of the rear gable offers a particularly significant opportunity for overlooking.
9. Given the circumstances, the effective substitution of approved rooflights with a dormer window has caused negligible additional overlooking towards Orchard Cottages. Further, given the location of the dwelling to the north of these properties, the small increase in height has had a very limited effect with regard to light.
10. I therefore conclude on this issue that the proposal does not have a significant additional harmful effect on the living conditions of the occupants of Orchard Cottages, with reference to privacy and light. It is compliant with the requirements of Policy NH13 of the WSLP and the Framework insofar as they require development to provide an acceptable standard of residential amenity.

Conditions

11. The Council has only suggested a time condition and an accord with plans condition in the event that I was minded to allow the appeal. However, as development has begun, a time condition is unnecessary. In addition, given the evidence relating to previous decisions at the site it is necessary to impose a landscaping condition in order to ascertain boundary treatments, amenity space, parking and turning areas for cars and bicycle storage. As highway matters in relation to the previous scheme remain relevant, it is necessary in the interests of highway safety to ensure that no vehicular access is created on to Pemswell Lane.

Conclusion

12. For the reasons given above, and taking all matters into account, the appeal should succeed.

Matthew Jones

INSPECTOR