



Appeal Decision

Site visit made on 22 May 2019

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/W1145/W/19/3224250

East View, Road from Littlebridge Cross to Chapel Corner, Bridgerule, Devon EX22 7ER

- 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 C Copp against the decision of Torridge District Council.
 - The application Ref 1/1263/2018/FUL, dated 27 November 2018, was refused by notice dated 8 February 2019.
 - The development proposed is described as the erection of dwelling in garden of East View (revised layout).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling in garden of East View (revised layout) at East View, Road from Littlebridge Cross to Chapel Corner, Bridgerule, Devon EX22 7ER in accordance with the terms of the application, Ref 1/1263/2018/FUL, dated 27 November 2018, subject to the conditions contained within the attached Schedule.

Procedural Issues

2. The Council, in their first reason for refusal, refer directly to the property Green Pastures in relation to their concerns about the effect of the proposal on the living conditions of existing occupiers. However, several other neighbours have raised concerns about the potential adverse effects on their living conditions, and the appellant has provided comment upon these. Consequently, I have taken these matters into account under my considerations of the first main issue and I do not consider any party has been unfairly prejudiced as a result.

Main Issues

3. The main issues are the effects of the proposal on the living conditions of:
 - existing neighbouring occupiers, with particular regard to privacy; and
 - future occupiers, with particular regard to privacy and accessibility of the proposed outdoor garden space.

Reasons

Living conditions of existing neighbouring occupiers

4. The appeal site relates to part of the existing domestic curtilage of the property East View which is located within the village of Bridgerule. The site is situated in a grouping of predominately two storey residential properties which are

located close to each other. Directly adjacent to the site is the property Green Pastures which has a first-floor window which fronts onto, and provides an outlook over, sections of the appeal site. The properties at Trout Cottages also back onto the appeal site and have small ground floor windows which would face the proposed parking spaces and garden. There are also several properties which have windows orientated towards the site.

5. From my site visit I noted that Green Pastures is of a modest scale and that the levels of the appeal site closest to the boundary with Green Pastures are relatively consistent, before the land drops away to the south towards Trout Cottages. It was possible for me to look upwards into the first-floor window of Green Pastures from the area closest to the boundary with this property. The window appeared to serve a bedroom. Elsewhere within the appeal site, visibility into the window was more limited due to the existing topography and separation distances.
6. I appreciate that the intended future occupants of the appeal development may have the opportunity to look upwards into the window on Green Pastures from certain parts of the appeal site. However, views from these locations are already possible by the occupiers of East View, the property which the garden at present serves. As a consequence of the appeal proposal, the use of the garden area from which views are possible into the window would revert from East View to the appeal dwelling. Therefore, this section of the site would remain in use as a garden in association with a single dwelling and there would be no significant change or intensification in use as a result of the appeal proposal.
7. Furthermore, unlike the position at present, the proposed plans indicate that this area would be used for a driveway and turning area. It would not form part of the identified garden space in which future residents would be likely to sit out within. Nor would there be any necessity for future residents to use this area other than as a driveway and turning space, or a pedestrian connection to the public highway and the enclosed garden area. It would not be a place in which future occupiers would be likely to stay for a prolonged period. The appeal development would also provide the opportunity to reinforce boundary enclosures and to retain the turning and parking area for such purposes via conditions.
8. As a result, subject to the imposition of the conditions I have referred to above, the appeal proposal would not materially alter the living conditions of Green Pastures in respect of their privacy.
9. At Trout Cottages, there are two windows that face the appeal site which are modest in size and are situated just above the ground level. Due to their size these windows do not provide for any significant outlook or provision of natural light for Trout Cottages. They are also incidental to the ground floor space of the accommodation which have their principal openings facing in the opposite direction. The proposed plans indicate that the area adjacent to these windows would be used for garden space and parking. The plan of the parking area indicates a wall would be provided close to the rear elevation of Trout Cottages with a narrow intervening gap in between.
10. The space upon which these windows presently front towards is already private garden and this would not change. Whilst the parking spaces would be near to

one of these windows, the level of activity would be modest, being that associated with a single dwelling.

11. As the windows facing the appeal site are small and have a limited outlook and access to daylight at present, I conclude that the appeal proposal would have no significant effects upon the living conditions of the internal space of Trout Cottages.
12. With regard to other properties which have windows facing towards the appeal site, these are separated by some distance and at a two-storey level, thereby meaning that there would be no significant loss of privacy to the rooms which they serve. Several of them also appeared to be obscure glazed.
13. In conclusion, I am satisfied that the proposal would not have an unacceptable effect on the living conditions of existing neighbouring occupiers. The proposal therefore aligns with Policy DM01 of the North Devon and Torridge Local Plan 2011-2031, adopted October 2018 (the NDTLP) which, amongst other matters, supports development where it would not significantly harm the amenities of any neighbouring occupiers or uses. The proposal would also align with paragraph 127 of the Framework which requires development to ensure a high standard of amenity for existing users.

Living conditions of future occupiers

14. The appeal site is positioned amongst several adjacent residential properties whereby first floor windows are situated and provide an element of outlook over the proposed garden space. However, most of these windows serve bedrooms or bathrooms and are therefore unlikely to be in active communal use throughout the day.
15. The proposed plans also indicate that the area of identified outdoor space for the proposed development would be enclosed by existing and new boundary fencing and planting. The appellant has also submitted a 3D visualisation which suggests a potential boundary enclosure to the garden space of around 2.3 metres high. The Council is concerned that such a scale of boundary would be overbearing on the proposed garden space.
16. However, in my view such a tall enclosure would not be necessary in this case to provide for a suitable private area of garden space associated with the proposed dwelling. The new boundary enclosures indicated on Dwg No Co/18.06 Rev B, which refer to a 1.8 metre height, would be sufficient to limit the potential for overlooking of the garden and thus provide a suitable and usable area of outdoor privacy space.
17. I am also of the view that the accessibility into the garden from the proposed dwelling would not be particularly onerous. The route into the garden would be next to the proposed parking spaces, which would be connected to the pedestrian entrance into the proposed dwelling via steps. Whilst there would be a level change and a separation of the garden from the proposed dwelling itself, these would not be so separate or prohibitive to render the use of this space as unattractive for future occupiers.
18. I therefore conclude that the proposal would provide for a suitable standard of living environment for future occupiers. It would accord with Policy DM01 of the NDTLP which support development where the intended occupants of the proposed development would not be harmed as a result of existing or allocated

uses. It would also accord with paragraph 127 of the Framework which requires development to ensure a high standard of amenity for future users.

Other Matters

19. Reference has been made to a requirement for access to be maintained into the site for maintenance to neighbouring properties. Be that as it may, this is a private matter that is outside of my role to determine the appeal in accordance with planning law.

Conditions

20. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. As a result, I have amended or omitted some of the conditions for consistency, enforceability, clarity and reasonableness reasons.
21. In addition to the standard time limit condition, in the interest of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
22. A condition concerning boundary treatments and retaining walls is necessary in the interests of the living conditions of future and existing occupiers. In respect of the living conditions of surrounding residents a condition restricting the hours of construction work is required.
23. A condition for parking provision is necessary in the interests of highway safety and to safeguard the living conditions of neighbouring residential properties.
24. I have imposed a condition requiring adherence to an agreed surface water drainage plan to ensure that the development does not give rise to adverse effects in this respect.
25. I have also included a condition for the submission of a Written Scheme of Investigation in response to comments submitted at the planning application stage by the Devon County Council Archaeology Section.
26. I have not imposed the condition suggested by the Council with regard to the provision of visibility splays in association with the new access to be provided for East View. Such splays are not necessary, bearing in mind the location of the access onto a narrow highway within a built up area where the likelihood is that traffic will be slow moving.
27. I have also not imposed a condition requiring the ground floor windows in the eastern elevation of the existing dwelling known as East View to be relocated and retained thereafter as suggested by the Council. Whilst I note that vehicular movements serving the appeal proposal would pass the windows of this property, it is not necessary for these windows to be relocated to safeguard the living conditions of this dwelling as a result of these potential movements. It remains open to occupiers of this property to implement such measures in future if they saw fit, such as through permitted development rights.

Conclusion

28. For the reasons given above, having regard to all matters raised, I conclude that the appeal should be allowed.

J Evans

INSPECTOR

SCHEDULE OF 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 Plan: Co/18.06 Rev B (17.01.2019)
 - Proposed Layout: Co/18/04 Rev A (17.01.2019)
 - Proposed Elevations: COo18.05 (Aug 2018)
3. Before any of the development hereby permitted is brought into use, details of the proposed height, siting, appearance and construction of all boundary treatments and retaining walls shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment and retaining walls shall be completed in accordance with the approved details prior to the first occupation of the development. The boundary treatment and retaining walls shall not thereafter be altered or removed, other than by necessary replacement.
4. Before any of the development hereby permitted is brought into use, surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
5. Before any of the development hereby permitted is brought into use, the turning area and parking spaces shown on Dwg No. Site Plan: Co/18.06 Rev B (17.01.2019) shall be provided and shall not be used for any purpose other than the parking and turning of vehicles in connection with the approved development.
6. No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 9.00 am or after 17.00 pm on Saturdays, or before 7.30 am or after 18.00 pm on other days.
7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

---End of Conditions---