



Appeal Decision

Site visit made on 20 August 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/P1133/W/19/3227485

Cypress, Thornley Drive, Teignmouth TQ14 9JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Stan Rzezniczak against the decision of Teignbridge District Council.
 - The application Ref 16/02976/FUL, dated 4 November 2016, was refused by notice dated 22 February 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Outline permission for a dwelling within the appeal site, adjacent to Cypress, was granted permission by the Council via decision notice dated 19 April 2016.¹ Only details related to access, then as now proposed off Thornley Drive, were approved in 2016. Details of appearance, landscaping, layout and scale were reserved for future consideration (the 'reserved matters'). In the absence of reserved matters applications having been made in time, I understand that permission has now expired.
3. Over two years elapsed between the submission of application Ref 16/02976/FUL and the Council's decision. During that time the scheme was revised extensively and supported by additional documentation, including in respect of land stability and landscaping. The latest iteration of the proposal on plan '1622/3 A' shows a dwelling of similar design, albeit reduced size, compared to that initially put forward. Ultimately the proposal was recommended for approval at planning committee meetings held on 22 January and 19 February 2019.
4. In that context the appellant argues that the Council has failed to substantiate its objection to the development proposed based on reasonable justification.² That argument relates principally to the Council's handling of the application as opposed to the merits of the scheme. I therefore deal with that separately in the associated costs decision.

¹ Ref 16/00400/OUT.

² Noting Planning Practice Guidance Reference ID: 16-049-20140306.

5. Notwithstanding that history, each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the Teignbridge Local Plan 2013-2033 (adopted 6 May 2014, the 'LP').³ I have also had regard to various other material considerations, including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').

Policy context

6. The Council's decision notice gives two reasons for refusal: that the proposal represents 'overdevelopment of the site' and that it would fail to 'respect the character of the local landscape through insufficient planting proposals and insufficient space to enhance proposals...'. I accept those reasons are brief. However only LP policy S2 'Quality Development' is referenced, which states that new development should be of high quality design, specific to the place in which it is to be located, thereby integrating appropriately with surrounding character. LP Policy S1, criterion (e) of which deals with effects on neighbouring residential amenity, is not cited.⁴
7. As with LP policy S2, NPPF paragraph 127(a) and (c) set out that decisions should ensure that development adds to the overall quality of the area and is sympathetic to local character, whether built or natural. Similarly NPPF paragraph 130 guides that permission should be refused for development of poor design. The PPG reflects the potential significance of an existing prevailing layout, how the form and design of buildings would relate to their surroundings, and that landform and trees may contribute to local distinctiveness.⁵

Main issue

8. Against the context above, the main issue is the effect of the development proposed on the character and appearance of the area.

Reasons

9. The appeal site is an irregular plot of untended land. It is accessed via, and projects northwards from, Thornley Drive. Thornley Drive becomes Higher Yannon Drive as it tracks eastwards. The appeal site was part of the formerly larger plot of Cypress, the dwelling to the south (which appears to have been recently remodelled). As reflected via the 2016 permission, the appeal site falls within the established built form of Teignmouth where a proportionate amount of development is accorded in-principle support (LP policy S4).
10. A coastal town, the present built form of Teignmouth is loosely clustered around a central hill.⁶ St Lukes Drive, by Lorrie Drive, and a very short distance from the appeal site, represents that high point in the topography. The landform declines from there in all directions. That is particularly the case broadly south-westwards towards the course of the Teign. Of significantly

³ Whilst Teignmouth was approved on 13 February 2013 as an area for the purposes of preparing a neighbourhood plan, I understand that work is not yet sufficiently advanced that it may be accorded significant weight in this decision.

⁴ Nor is policy EN2A 'Landscape Protection and Enhancement', albeit that criterion (a) of which broadly reflects the approach in S2, noting that there is no indication that appeal site falls within an area formally protected on account of its landscape character such as Undeveloped Coast or Area of Great Landscape Value.

⁵ Reference ID: 26-024-20140306, 26-025-20140306, and 26-020-20140306.

⁶ Notwithstanding the historic origins of the Town seaward of the A379, and some undulation in the topography.

greater depth than width, the appeal site is a steeply sloping element of hillside land. The supporting topographic survey shows a decline of some 7 metres from the location of the proposed dwelling to access off Thornley Drive. That decline is around 4.5 metres if taken between points near the gardens of neighbouring Highfield and Ismalia.⁷

11. Nearby properties are almost universally detached and set within relatively spacious plots. They have evidently been arranged, albeit in a piecemeal manner, to make best advantage of expansive views. Well-established gardens predominate. With bands of mature trees and hedgerows, this area of the Town has a distinctive openness and verdant character. That provides a comfortable visual relationship to its wider rural surroundings, including Holcombe Down. There is some more modern development in the surrounding area, notably along Deer Park Close and St Lukes Drive. However properties in the immediate vicinity tend to be historic, or to have been elements of the built environment for some considerable time. Neighbouring Highfield to the east appears early-twentieth century in origin, as do other properties along Thornley Drive. That is similarly the case, more-or-less, of buildings along Coombe Vale Road to the west set down in the topography.
12. Notwithstanding surrounding trees and vegetation, by consequence of the topography, low-density pattern of development and number of surrounding vantage points, the appeal site is relatively prominent in the landscape. I saw that there are views of it from within the built form of Teignmouth, including along Third Avenue, Fourth Avenue, Coleman Avenue and also Hutchings Way to the far west of the Town. The site is also visible, albeit at greater distance, along the A379 as it crosses Shaldon Bridge, and from the opposite site of the Teign.⁸ In my view the appeal site, in its present state, and on account of its prominence, contributes towards local character. There is merit to preserving that to an appropriate extent.
13. The proposal is for a substantial two storey dwelling. That would have a cranked form responding to the confines of the site. The dwelling would have an understated contemporary aesthetic, comprising two wings under mono-pitched sections of roof. There would be extensive glazing on the west elevation, with a handful of smaller windows punctuating others. The site would be partially levelled to enable construction. The finished ground floor level given in plan 1622/3 A is 77.80m AOD. At its highest comparable point by Highfield, the topographical survey shows the existing ground level at around 80.35m AOD. That represents a difference of some 2.5 metres, such that the proposal will entail extensive excavation, noting that the supporting geological evidence indicates that Heavitree Breccia rock becomes consolidated around 0.75m to 1.20m beneath the soil.
14. At around 920 square metres, as stated in the application form, numerically the extent of the appeal site is broadly comparable to others in the wider area. Given the dimensions and orientation of the site there are few nearby public vantage points from which the dwelling proposed would be visible, albeit that there would be views from within and around Cypress, Highfield and Hilbre. Being set into the landform, and subject to protecting or augmenting boundary

⁷ Plan 6956 A, albeit that those figures are approximations.

⁸ Including from the viewpoints shown in the Landscape management plan prepared by Teign Trees & Landscapes.

features, the prominence of the dwelling would be moderated. I note in particular the supporting Landscape Design Plan recommends the planting of certain trees (including *Cupressus macrocarpa* and *Pinus pinea*). From most, if not all, public vantage points the scheme would be visible in conjunction with other dwellings nearby and from some distance.

15. However the appeal site is markedly smaller than the plots associated with many properties nearby, including that associated with neighbouring Ismalia, Nos 24 and 12 Harts Close, and others accessed via Lorrie Drive and Grace Gardens close by. Although there is no methodological information before me, it seemed to me that the ratio of footprint or floorspace proposed to plot size would be greater than the figure for neighbouring properties. Mathematically the proposal would therefore appear to represent a notable increase in density.
16. The plot is also atypically narrow compared to many others. It runs broadly along the contours of the topography rather than across them, as is more commonplace, thereby necessitating significant excavation. By consequence a significant proportion of its area would be taken up by access to the property or vehicle manoeuvring space. There would be little, if any, useable outside space to the east or south of the dwelling proposed (on account of planting proposed and the slope of the land). Therefore the main area of garden space would be a narrow strip projecting northwards, somewhat divorced from the main form of the dwelling. Many nearby properties are set more comfortably within their plots, with greater space around, thereby contributing towards the distinctive open and verdant character of the area.
17. The contemporary form of the dwelling does not reflect the form or detail typically present in the area. Although there is some variety, and the appeal site represents something of a transitional space between architectural eras, I was unable to identify other dwellings in the area as clearly modern or as sunken in the topography. In my view, notwithstanding some contemporary development elsewhere, the dwelling proposed would be clearly associated with Highfield and Ismalia on account of their proximity. The former is of early twentieth century design broadly the same era as properties off Lorrie Drive and along Higher Yannon Drive. The latter appears mid-century in origin with latter additions.
18. Moreover the western elevation proposed would, in my view, appear as a relatively stark, featureless and monotonous façade. The design of the dwelling would consequently draw the eye more than a traditional form which reflects the prevailing aesthetic to some extent, rather than stands in opposition to it. That would be particularly the case when viewed from vantage points to the west in conjunction with the early twentieth century properties along Coombe Vale Road in the foreground. The form and design of the dwelling would exacerbate its incongruous scale and relationship to its plot.
19. As set out above, landscaping and additional boundary planting could soften the impact of the scheme. However newly-planted trees would take some time become established; the species above take a generation or more to reach maturity. Given the limited extent of soil before consolidated substrate is reached, the geology may serve to limit the extent to which such trees would take. The Landscape Design Plan shows that the western boundary would be demarcated by a relatively narrow band of mixed shrubs, evergreens and

grasses. They would need to attain a height of some 2.5 metres to even reach the ground level on which the proposed dwelling would be set.⁹

20. That height appears unrealistic given the planting proposed. On balance, retained or augmented boundary features would have a relatively limited effect in moderating the visual prominence of the scheme relative to the design of the building proposed. Moreover, as set out above, the appeal site is visible from a wide arc of vantage points. Presently the appeal site is an open area of hillside land near the crest of a hill central to Teignmouth with a distinctive character.
21. There are moderating factors, nevertheless in that context the particular scheme before me would fail to respect local distinctiveness. By contrast it would lead to excessively cramped and obtrusive development that would neither improve, nor be sympathetic to, local character. I therefore conclude that the proposal conflicts with the relevant provisions of the development plan and NPPF cited in paragraphs six and seven above.

Other matters

22. I have taken careful account of the representations of those nearby, noting that the appellant avers that the Council's refusal of permission was unduly swayed by them. Landscaping, the topography, relative orientation and obscure glazing would limit the extent to which the living conditions of the occupants of neighbouring properties would be affected. Theoretically, subject to appropriate mitigation, landscaping, and as separate provisions exist to safeguard the wellbeing of animals, the proposal could be brought forward with appropriate regard to ecology.¹⁰
23. Similarly it may be possible to undertake the development as proposed relative to the geological conditions on site, so as to avoid adverse structural implications.¹¹ In that context drainage provision would need some care given the presence of consolidated breccia and the consequent limitations of soakaways.¹² Noise and disturbance would be for a finite period. And, in the context of an established residential area, the limited additionality in vehicular movements resulting from the proposal would not necessarily be significant (albeit, in width, gradient and alignment, I acknowledge that Thornley Drive would be unsuited to a significant uplift in use). I am told that upkeep of Thornley Drive is managed by local residents, however those arrangements are essentially a private legal matter.
24. However even were the development acceptable in all other respects, that would effectively be neutral in the planning balance rather than weighing in favour of allowing the appeal. There would nevertheless be certain benefits from the proposal. It would enable an incremental addition to housing stock, generate employment during construction, and future occupants would bring

⁹ A finished floor level of 77.80m AOD relative to ground level figures given on the topographic survey next to the western boundary of the appeal site.

¹⁰ Notwithstanding the judgment in *People Over Wind and Sweetman v Coillte Teoranta*, Environment – Conservation of natural habitats [2018] EUECJ C-323/17 that adverse effects to sites protected pursuant to European Legislation may only be ruled out via the mechanism of Appropriate Assessment. The Wildlife and Countryside Act 1981 as amended contains protections related to various species.

¹¹ A matter only tangentially relevant to planning with provision regarding structural requirements primarily under Building Regulations, excavation via the Party Wall Act, and guidance provided by British Standard 6031:2009 Code of practice for earthworks.

¹² Plan 1622/3 A nevertheless indicates there would be a soakaway under the driveway.

trade to nearby services and facilities. However those positives in respect of a single dwelling would be modest, particularly relative to the 640 dwellings or so a year that LP policy S4 seeks to enable. With reference to NPPF paragraphs 11, 67 and 73 there is no indication that the Council are unable to demonstrate a five year housing land supply of deliverable sites relative to needs, notwithstanding pressing needs nationally. Neither the support in the development plan nor in the NPPF for new housing is at the expense of ensuring that all development integrates appropriately with its surroundings. In that context no other material considerations are sufficient to justify allowing the appeal, relative to the harm that would result.

Conclusion

25. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR