



Appeal Decision

Site visit made on 9 August 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2019

Appeal Ref: APP/K1128/W/19/3230262

Landfall, Court Wood, Newton Ferrers PL8 1BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Hansford against the decision of South Hams District Council.
 - The application Ref 2748/18/OPA, dated 16 August 2018, was refused by notice dated 6 March 2019.
 - The development proposed is demolition of existing derelict self contained annex and replacement with detached dwelling (resubmission of application no. 4105/17/OPA).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Hansford against South Hams District Council. This application is the subject of a separate Decision.

Procedural Matter

3. Since the refusal of planning permission, the Plymouth and South West Devon Joint Local Plan 2019 (the Joint Local Plan) has been adopted by the Council and the policies therein can now be afforded full weight in decision making. The Development Policies Development Plan Document 2010 policy DP3 as quoted in the Council's decision notice has been replaced by Policy DEV1. It is evident that all the parties have had an opportunity to comment on the implications of the new plan on the proposal and I have determined the appeal accordingly.
4. The original application was made in outline and all matters were reserved for future determination. I have had regard to the proposed plans, elevations and sketch drawings of the proposed development, but have regarded all elements of these drawings as indicative.
5. An existing annex within the rear garden of Landfall would be replaced by the proposed house. The status of the annex is in dispute. Given this, I have not taken its use into account in assessing the appeal proposal before me.

Main Issues

6. The main issues are the effect of the proposed development on:

- the living conditions of occupiers of Amity Lodge, with regard to privacy and outlook; and
- highway safety.

Reasons

Living conditions

7. Landfall has a long, steeply sloping, terraced garden with frontages to both Court Wood and Lower Court Road. The proposed house would be located on the Lower Court Road frontage, and would replace an existing annex building within the rear garden, up slope of the host property. The indicative design shows the proposed house would be two-storeys, built into the slope and set down below street level. The main living area would be at first floor with bedrooms to the ground floor.
8. The house would be adjacent to Amity Lodge which steps down at different levels to accommodate the steep topography of the area. The proposed house and Amity Lodge would be separated by external staircases which run along the shared boundary.
9. The indicative design shows an area of glazing to the living area within the rear elevation of the proposed house. Due to their elevated position higher than the boundary wall, any upper floor windows would give rise to overlooking of the rear garden of Amity Lodge. While only an indicative design, the formation of any accommodation with rear facing windows at this level, would be likely to give rise to unacceptable overlooking of this neighbour due to the elevated position of the windows and their proximity to the short rear garden of Amity Lodge.
10. I note that the appellant has identified that the 'character of the location means that there will not be absolute privacy and buildings are likely to have some impact'. However, in my view the impact of an entirely separate dwelling would result in a more intensive use than the existing building on site and would therefore lead to a more significant loss of privacy for these neighbours.
11. Given the site constraints, being both narrow and steeply sloping, there appear to be limited options for an alternative design which could overcome this impact and none have been put to me. Consequently, I am not satisfied that a house could be accommodated in this location that would not lead to a significant loss of privacy for occupiers of Amity Lodge.
12. The indicative design shows the new house would be no higher than the existing annex building and would occupy a similar footprint, although it would project forward of this at first floor level with windows only in the rear elevation. As this is a relatively small forward projection, it would be unlikely to significantly harm the outlook of existing windows in the side elevation of Amity Lodge which appear to serve a bedroom, a kitchen and to provide a side window to the primary living area. Furthermore, the primary outlook for the living area to Amity Lodge is to windows in its rear elevation which would be unaffected by the proposed development. I am therefore satisfied that a house

could be provided within the site without harming the outlook from Amity Lodge.

13. I therefore conclude that the proposed development would harm the living conditions of occupiers of Amity Lodge with regard to privacy but not with regard to outlook. It would therefore conflict with Policy DEV1 of the Joint Local Plan which, amongst other things, requires new development to provide satisfactory living conditions for existing occupiers.

Highway safety

14. The proposed house would be accessed via Lower Court Road. This is a narrow, single track no through road which extends some distance from its junction with Court Road. The road is characterised by dispersed residential development on either side which include their own off road parking areas. The road has one formal passing place with other passing places provided at the entrances to driveways of properties along the road.
15. Policy N3P-5 of the Newton and Noss Neighbourhood Plan 2017-2034 (the Neighbourhood Plan) permits new development where it can be demonstrated that the approach road will be capable of accommodating the volume and size of additional traffic that will be generated. The policy requires this to be demonstrated beyond any reasonable doubt through the use of independently validated evidence. It also requires safe access and egress.
16. The proposed development would utilise two existing parking spaces off Lower Court Road, which form part of the appeal site. Landfall also has four parking spaces accessed from Court Wood which would be retained as parking spaces for the host property.
17. I have had regard to the appellants' highway assessment and its conclusions. However, while I accept the existing use of the annex may generate some traffic, it is my view that an entirely separate dwelling with associated vehicle movements relating to daily use of the property would give rise to a more intensive use of this access road. I have not been provided with evidence that demonstrates beyond any reasonable doubt that the vehicle movements arising from this site will not increase as a result of the development. Consequently, I cannot be satisfied that the increased level of traffic will not give rise to conflict with other highway users.
18. I conclude that the proposed development would harm highway safety. It would therefore conflict with the Policy N3P-5 of the Neighbourhood Plan as referred to above.

Other Matters

19. The appeal site lies within the South Devon Area of Outstanding Natural Beauty (AONB) and in determining the appeal I have had regard to the duty under section 85 (1) of the Countryside and Rights of Way Act 2000. This requires that decision-makers have regard to the purpose of conserving and enhancing the special qualities, distinctive character and key features of the AONB, a designation which is afforded one of the highest levels of protection and to which I must attribute significant weight.
20. Due to the position of the site, nestled within the woodland slopes of the valley side, and given the existence of the annex building, I am satisfied that the

proposal would not give rise to any unacceptable harm to the landscape or scenic beauty of the AONB designation.

Conclusion

21. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

Inspector