The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2019

by Mr C J Tivey BSc (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/Y1138/W/19/3227844
Land at Whitehall Farm, Morebath EX16 9AL

- 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 & Mrs Reynolds, Honey Buzzard Getaways, against the decision of Mid Devon District Council.
- The application Ref 18/01598/FULL, dated 22 September 2018, was refused by notice dated 7 February 2019.
- The development proposed is provision of a self supporting tree house (amendment and reduction in scale of an already approved holiday let dwelling, application reference 16/00442/OUT and 17/01062/ARM), replacement of existing summerhouse on decked structure with a cabin on stilts, and change of use of existing shed site/adjoining garden land with siting thereon of one removable cabin, all for holiday use (3 self contained units of holiday accommodation in total).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the appeal proposal upon:

   1) The character and appearance of the area;

   2) The living conditions of the occupants of neighbouring residential properties, with specific reference to privacy, noise and light;

   3) Road safety; and

   4) Whether the business case has been justified for the proposed holiday accommodation.

Reasons

Character and Appearance

3. The appeal site is located down a country lane and currently forms amenity land located on the western edge of the village of Morebath. There are a number of structures that currently exist on the site including a timber covered parking area and bin store to the west of the site's entrance (to provide parking for proposed Tree House no1); an existing summer house with veranda approximately located halfway down the site; and a tractor shed/store located at the furthest end of the site, within its south eastern corner. The site is

relatively well tended and essentially has the appearance of a garden at its top end, albeit that it is unrelated to a dwellinghouse.

4. Architecture is varied within the locality, but on the whole, vernacular designs tend to predominate. I understand the appellants reasoning to provide quirky designs that attract affluent couples for holiday accommodation, although I consider that the 'birds nest' design of Tree House no1 would appear wholly incongruous with the site's surroundings. Very little detail has been provided on how this would be physically constructed, particularly bearing in mind that the appeal submissions claim that this would comprise living willow and therefore would need to accommodate a growing root structure.

5. The other two structures, Tree House no2 and the Cabin (site no3) are generally more traditional in their proposed appearance, and would be of a more compact scale which pay regard to the existing structures that they would replace on their respective sites; they would also be well screened by virtue of the topography and mature trees and hedging that enclose the site at its southern end, which enable quite significant visual containment. Further, by virtue of its low key nature and density, with the units well spaced apart, I consider that the scheme would not give rise to an overdevelopment of the site.

6. However, notwithstanding this, whilst I respect the desire for contemporary designs, I consider that the design of the birds nest roof on Tree House no1, would appear inappropriate and out of keeping with the character of the area. Therefore, I find that the proposal conflicts with Policy COR2 of the Mid Devon Local Development Framework Core Strategy (2007) (CS) and Policy DM2 a) of the Mid Devon Local Plan part Three (Development Management Policies) (2013) (DMP), which together require development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through, amongst other things, requiring high quality designs which demonstrate, a clear understanding of the characteristics of the site and the surrounding area.

Living Conditions

7. I note from the appeal submissions that planning permission has previously been granted for the erection of a holiday let/workshop/therapy room within a two storey dormer style wooden lodge in the position of the greenhouse and flower beds within the northern half of the site. I believe that this planning permission is extant and has been implemented by virtue of the construction of the construction of a new concrete apron facilitating a vehicular crossover at the site's entrance onto the Public Highway. This is a material consideration in the determination of this appeal to which I give significant weight. The permitted building would be more substantial in scale than any of the structures proposed as part of the appeal scheme and would be capable of accommodating a similar total number of persons, as the 3no structures the subject of this appeal. Therefore, the approved scheme would likely have a more intense level of use in close proximity to the nearest neighbouring property, Wyvern.

8. With regard to the case in hand, 3no modest units of holiday let accommodation would unlikely generate significant levels of traffic or noise, with two of the units being on significantly lower ground and quite some distance away from the neighbouring dwelling. In addition, issues of light

pollution could have been controlled by condition if I had been so minded to have allowed the appeal.

9. With regard to overlooking, I note that the scheme was revised so that Tree House no1 would effectively turn its back to Wyvern, with no windows facing that property and with ita balcony overlooking the adjacent woodland to the west. Taking into account all of the other intervening vegetation, I consider that no material loss of privacy to the occupants of Wyvern would occur, notwithstanding the presence of 2no windows on its facing elevation (west) at ground floor level.

10. Therefore I consider that the proposed scheme would not give rise to demonstrable harm to the living conditions of neighbouring residents, with any noise or other disturbances likely to be minimal. In this respect the proposal would not conflict with DMP Policy DM2 and its criterion e), which requires new development to not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties and users.

Road Safety

11. As I have found above, the scheme would likely give rise to a low level of vehicular and pedestrian movements; I noted that visibility from the access was reasonable and traffic flows along the lane low. Taking into account the topography of the land as well, I did not find that the vehicular crossover was unduly steep.

12. I note from the Planning Officer's Committee report, that the Local Highway Authority (LHA) raised no objection to the proposal, with vehicle movements anticipated at 9 – 15 per day which would be similar to the extant scheme. Furthermore, I also note the LHA stated that if the appeal proposal was a replacement to the existing permission and that there would unlikely be any change to traffic generations, it would be unreasonable to expect further junction improvements over those required by the original permission.

13. In support of their reasons for refusal, the Council state that a Member had concerns with regard to the practicality of the access proposed, and that the Highway Officer highlighted improvements that could be made to the access, including a lowering of the western edge to provide an improved gradient. However, subsequent to this, the Highway Officer confirmed that the access has been constructed in accordance with the approved plan submitted previously, the visibility splays as required have been implemented and that the access gradient is to an acceptable standard, notwithstanding that due to topography of the public highway, the left turn and left hand side of the access is steep and not the standard that they would normally wish to see. Notwithstanding this, the Officer confirmed that the scheme provided an improved access with considerable benefits in road safety and any works to improve the access further would simply be for future consideration.

14. Therefore, as no further works are required to render the access as safe, and taking into account the fall-back position of the extant scheme on the site, I conclude that the proposal would not be prejudicial to road safety either to vehicles or pedestrians using the rural lane. I find that the proposal does not conflict with CS Policy COR9 which requires development and transport

planning to improve accessibility for the whole community through, amongst other things, managing travel demand and enhancing road safety.

Need for the Tourist Accommodation

15. The National Planning Policy Framework (the 'Framework') within chapter 6 seeks to support a prosperous rural economy and states that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. In addition, DMP Policy DM24 states that proposals for new or expanded tourism, visitor or leisure facilities, will be supported within or adjacent to defined settlements. Again, development proposals must respect the character and appearance of the location, where possible involve conversion or replacement of existing buildings; and demonstrate that the need is not met by existing provision within nearby settlements. The supporting text to DMP Policy DM24 outlines that applications for tourism and leisure development in the countryside will need to be fully justified by the applicant and that the Council will require a marketing strategy and business plan to be submitted to explain how the development will achieve a high quality tourism product that meets demand.

16. It is quite clear from the appeal submissions that the appellants have carried out quite a lot of detailed research into the market for such niche holiday accommodation. This indeed has been supported by the Council's own Economic Development Service (EDS) that appears to have worked extensively with the appellants to develop their business idea and to apply for grant funding which has also been scrutinised by DEFRA who assessed the business proposals as eligible for grant funding. I also note that the Heart of the South West LEP acknowledge that tourism is a strategically significant part of the South West's economy; and further the EDS highlighted that the Council has identified tourism as an area with growth potential, as the District currently attracts a lower than expected proportion of the visitors to the region.

17. I note that the Planning Officer's report to the Committee highlighted that whilst there should be strict control over development in the countryside, the emphasis should be be on promoting environmental enhancement, including landscape and biodiversity, and encouraging appropriate economic diversification with eco-tourism highlighted. The Officer report also brought to Members' attention that there was an extant permission on the site and also provided details about the level of information that was provided in support of the proposal, namely to create a luxury 'glamping' project. In summary, the Officers concluded that a business case for the scheme could be supported taking into account support from the EDS, amongst other things.

18. The Council stipulates that based on Members' local experience of the holiday let market and research on similar Canopy and Stars properties that there would be no financial return, but a loss on the scheme. Quite clearly as with any projections they are an estimate of future returns, but nonetheless, I consider that the scheme has been planned on a sound financial basis; notwithstanding any potential longer-term fluctuations in the market, there is clearly a demand for such niche holiday let properties.

19. Therefore, in addition to being supported by the Framework, I find that the scheme has been justified and complies with DMP Policy DM24 insofar that

proposals for new tourism facilities will be supported adjacent to defined settlements, including where they involve the replacement of existing buildings.

Conclusion

20. I have found in favour of the appellants in respect to road safety, the living conditions of existing neighbouring residents, as well as the economic justification and benefits to tourism and the local rural economy. I consider that the scheme would be low-key and having regard to the extant planning permission on the site, would not give rise to a material increase in activity of general noise and disturbance than that which has already been permitted and can be implemented. The scheme would not give rise to an overdevelopment of the site and in respect of Tree House no 2 and the Cabin that is Site 3, I consider overall that the replacement structures would not be materially different in scale, and taking into account their position on significantly lower ground than the site frontage, would overall have a minimal effect upon the character and appearance of the surrounding landscape.

21. Notwithstanding this I consider that the roof design of Tree House no 1, also taking into account a lack of any meaningful detail as to its form of construction, would represent an incongruous feature that would be out of character with its surroundings and would give rise to demonstrable harm to the character and appearance of the area.

22. I therefore find, having regard to the above and all other matters raised by all parties, that the appeal should be dismissed.

C J Tivey

INSPECTOR