



Appeal Decision

Site visit made on 11 November 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2019

Appeal Ref: APP/K1128/W/19/3234577

1 Peters Field, Newton Ferrers, Devon, PL8 1BU

- 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 S Pott of Ryearch Ltd. against the decision of South Hams District Council.
 - The application Ref: 0195/19/VAR dated 22 January 2019, was refused by notice dated 22 March 2019.
 - The application sought planning permission for proposed housing development comprising 16 dwellings and associated access road, car park and landscaping without complying with a condition attached to planning permission Ref: 37/1714/15/F dated 18 March 2016.
 - The condition in dispute is No. 3 which states that: *The roofs of the buildings shall be clad in natural slates, fixed in the traditional manner with nails rather than slate hooks. Any hips shall be finished with a close mitre or narrow cement fillet rather than hip tiles. The applicant will submit to the Local Planning Authority for approval within three months of the commencement of development a full roofing specification including the types and sizes of natural slates to be used, together with the type, colour and profile of the ridge tiles and the development will be implemented in full accordance with the finishes thus approved.*
 - The reasons given for the condition is: *To ensure that the development displays good design practice in respect of the age and character of the development and to allow the Local Planning Authority to assess the details of the scheme to ensure that their character is maintained.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original planning permission to which the disputed condition was attached related to development of 1 Peters Field, Newton Ferrers, Devon, PL8 1BU. This granted permission for 16 houses which have now been constructed and are being occupied. These properties are numbered 1-17 Peters Field (there is no Number 13). The appeal relates to properties numbered 8-12 and 14-17 Peters Field (Nos. 8-12 and 14-17), where the slate tiles have been fixed without complying with the condition.
3. Since the grant of planning permission and the subsequent refusal of permission to vary a condition, the Plymouth and South West Devon Joint Local Plan 2019 (JLP) has been adopted by the Council and the policies therein can

now be afforded full weight in decision making. Policies CS7 and CS9 of the South Hams Core Strategy 2006 and Policies DP1 and DP2 of the South Hams Development Policies Development Plan Document 2010 as quoted in the Council's decision notice have been replaced by Policies DEV20, DEV23 and DEV25 of the JLP. 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.

Main Issue

4. The main issue is whether the disputed condition is necessary in terms of the development's effect on the character and appearance of the area with particular regard to the South Devon Area of Outstanding Natural Beauty (AONB).

Background and Reasons

Planning Obligation

5. A Section 106 Obligation (S106) was attached to the original planning permission Ref: 37/1714/15/F dated 18 March 2016. Whilst the application seeks to vary a condition on an extant permission, the effect of allowing the appeal would be to create a new standalone permission. The Council has stated that if the appeal were to be allowed the S106 would need to have a Deed of Variation but has provided no details.
6. I have not been provided with the existing S106, however, the Council's officer report indicates that the S106 secures delivery of affordable housing and contributions to open space and education as well as a Landscape and Biodiversity Management Plan. The appellant has confirmed that financial contributions have been paid and that the affordable housing units are owned by a registered affordable housing provider. He has also indicated that a Deed of Variation is acceptable. However, I have not been provided with a Deed of Variation during the appeal process. As the existing S106 refers only to the extant consent and there is no Deed of Variation before me I am unable to allow the appeal. However, I have gone on to consider the other merits of the scheme.

Character and appearance

7. The appeal relates to a small development of 16 houses on a small cul-de-sac, Peters Field, set back from the main road leading into Newton Ferrers. Nos. 1-7 form one group of houses on the south side of Peters Field with a frontage to Parsonage Road, with Nos. 8-12 and 14-17 grouped together to the north and set further back from the main road behind a hedgerow and a vehicle accessway.
8. The planning permission for this development to which this condition was attached was to ensure the development was well designed and in keeping with the area. The roofs of Nos. 8-12 and 14-17 are finished in slates which have been fixed with hooks. This is a breach of the planning condition which required the slates to be hung in the traditional manner with nails.
9. The roofs of Nos. 8-12 and 14-17 have a very tiny metal protrusion where the tiles sit on the hooks. In contrast, the houses at Nos. 1-7 have been fixed with nails and have a slightly smoother finish. The differences between the slate

fixings used on Nos. 1-7 and Nos. 8-12 and 14-17 are not immediately apparent due to the small size of the protruding metal parts, unless looked for. Moreover, due to the separation of these two parts of the development by the road they do not appear directly adjacent to each other which further reduces any apparent visual inconsistency between the two areas of roofing. Overall, the development appears uniform when viewed from the street.

10. The appeal site lies within the South Devon 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.
11. Given the limited visibility of the hooks, I do not consider that the overall character of the housing development with its natural slate roofs which responds well to local context is significantly altered. On this basis, I am satisfied that the proposal would not give rise to any unacceptable harm to the landscape or scenic beauty of the AONB. For the same reason, I find no harm to the South Hams Landscape Character Area.
12. My attention has been drawn to a number of other developments both within Newton Ferrers and elsewhere within the AONB. Whilst the full details of these developments are not before me, it is evident from this that development utilising hooks as a method of fixing slate roofs has been found acceptable elsewhere. In this context the use of hooks, whilst not a traditional method of slate hanging, is not out of keeping.
13. I note that the Council does not consider the appellant has justified why the development has not been in compliance with the conditions. Irrespective of the reasons why the roof slates were not all fixed with nails, I have found that the difference in appearance between these two parts of the development is not easily discernible and no harm arises from this.
14. This leads me to conclude that the condition is unnecessary in terms of the development's effect on the character and appearance of the area with particular regard to the South Devon AONB. It would therefore accord with Policies DEV20, DEV23 and DEV25 of the JLP and Policies N3P-4 and N3P-9 of the Newton and Noss Neighbourhood Plan. These policies together, and amongst other things, seek development that is of high design quality, respects local character, reinforces local distinctiveness and protects the landscape character of the AONB.

Other Matters

15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 advises that special regard must be given to the desirability of preserving a listed building or its setting. The appeal site is in close proximity to a Grade II* listed building at Parsonage farm. Given that the development as whole was considered to preserve the setting of the listed building, I do not find this small change in appearance would fail to preserve this setting.

Conclusion

16. Although I found no harm on the substantive main issue, because I do not have a Deed of Variation before me, I conclude that the appeal must be dismissed.

Rachael Pipkin
Inspector