



Appeal Decision

Site visit made on 29 November 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/P1133/W/19/3235819

6 Millin Way, Dawlish Warren EX7 0EP

- 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 and Mrs Tucker against the decision of Teignbridge District Council.
 - The application Ref 19/00200/FUL, dated 30 January 2019, was refused by notice dated 10 April 2019.
 - The development proposed is for the construction of a new residential dwelling within the curtilage of existing garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: the effect of the proposed development on the character and appearance of the surrounding area and highway safety; and whether the living conditions of the occupants of 6 Millin Way and the proposed dwelling would be acceptable, with particular regard to outside space.

Reasons

Character and appearance

3. The appeal site forms part of the plot of 6 Millin Way. It fronts Shutterton Lane, with existing fencing and a gate situated behind the bank and hedgerow that runs along the highway. No 6 contains a two-storey pitched roof detached dwelling with its gable facing towards the Lane and a single-storey pitched-roof garage. Built form in the surrounding area is relatively varied, with a mixture of render and brick materials, contains some unusual features such as Dutch gables, and the dwellings in Millin Way have a reasonably simple, modern design. However, surrounding properties are generally well-spaced, have relatively large gardens, many have pitched-roofs, and there is a clear consistency in the design of properties in Millin Way. This provides the surrounding area with a coherent character and appearance. The prominent bank and hedgerow running along the same side of Shutterton Lane as the site is largely unbroken and, combined with the soft landscaping of nearby gardens, contributes to the verdant nature of the locality.
4. The development would introduce a part single-storey and part two-storey dwelling with a flat roof into the garden area of No 6. It would extend along the site's north-western and south-western boundaries and would be relatively close to the dwelling and garage at No 6. As shown in the proposed site elevation drawing, the new dwelling would be visible from Shutterton Lane and read in the juxtaposing context of No 6's pitched roof and gable. Accordingly, its flat-roof form would be

experienced as an incongruous addition, while its presence and proximity to existing built form would reduce the spaciousness of the site and surrounding area and create a cramped environment.

5. The bank and hedge running along the site's boundary would be removed to allow for vehicular access. Although a replacement would be provided, it would be set back and notably narrower than the existing bank and hedge. The vehicular access, although not of significant width, would also create a noticeable break in it. Consequently, the development would interrupt and diminish the hedge line that is an important feature in the locality, particularly given its relatively intact linear form compared to the opposite side of the Lane. The housing and fencing to the rear of the hedge and the locality's developed nature do not alter this.
6. The proposed dwelling would be set-back from the Lane, similar to other nearby properties, and it has been designed to work with the shape of the site and avoid harming trees. Its scale and height would not be significantly different from surrounding built form, some of which have been altered or extended. External materials would be typical of those used locally. Further soft landscaping could be provided on the site, the Council's biodiversity officer did not object to the loss of the bank and some hedges along the Lane have been removed in the past and more recently. However, these aspects do not lead me to a different conclusion. Although architectural quality varies in the locality and the appeal proposal would create a high quality dwelling, it could not also reasonably be described as involving outstanding or innovative design.
7. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with Policies S1 and S2 of the Teignbridge Local Plan 2013-2033 (TLP). Amongst other aspects, these require development that integrates with and maintains the character and appearance of the surrounding area and incorporates key assets of the locality, including hedgerows. It would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places.

Highway safety

8. The removal of the hedge along the site's frontage would provide some visibility of the highway for vehicles exiting the site. However, the evidence before me indicates that part of the visibility splays either side of the proposed access would run over land that the appellants do not control. This involves land – including the vehicular entrance – at the adjoining property, known as Kairaki, and along the bank and hedge on the other side of the proposed vehicular access.
9. The appellants propose to cut back and maintain the vegetation running along the Lane so that the visibility splay to the west would be maintained. On the other side of the access, the proposed site plan shows an area of fence at Kairaki as being removed down to the height of the stone wall. In theory, vehicles exiting the site would therefore have sufficient visibility along the highway in both directions. However, the actions proposed would be outside the site boundary, on third party land, and I have little substantive evidence that the actions could be carried out and sufficient visibility permanently maintained.
10. It has been put to me that future occupiers could easily manage the vegetation to the west of the site and that visibility across the frontage of Kairaki would be unlikely to change because of the visibility required on that plot. However, it seems to me that there could be future changes on the land in question which could affect the visibility splays. For example, there is nothing before me which indicates that alterations to boundary treatment or growth of vegetation at the front of the

Kairaki plot would definitely not occur at some future point. I also have little certainty that future occupiers of the development would always be able and allowed to maintain the vegetation on the other side of the entrance beyond the site boundary. If either scenario arose, visibility from the vehicular access could be significantly restricted to the detriment of highway safety, and this could not necessarily be prevented by the appellants.

11. My attention has been drawn to the recent approval of a new access to the west, on the other side of the Lane and adjacent to an existing driveway. The evidence before me indicates that for that scheme the Highway Authority did not object to the sub-standard visibility splays including on the basis of the number of trips that that access would generate, and identified no recorded collisions and traffic speeds on the Lane as considerably lower than the 60 miles per hour speed limit. It has been put to me that an adjoining property has also been granted planning permission to be turned into 4-5 dwellings without the need to increase their visibility splay. However, as I do not have full details of either schemes, I am unable to draw a direct comparison between them and the appeal proposal. Consequently, I give the examples limited weight, and it is necessary to determine this appeal on its own merits in any event.
12. I recognise that the Highway Authority referred the Council to its standing advice, that one new house would be likely to create only limited vehicular movements, that there were no reported collisions on the Lane up to the end of 2018, and the proposed entrance would inhibit cars from parking near the junction. It has been put to me that the visibility would be no different to other existing sub-standard residential accesses which require the exercising of caution and which naturally reduce traffic speeds on the Lane, which is residential, has limited traffic and no highway safety problem. Be that as it may, these matters do not justify sub-standard visibility at the site.
13. For the reasons above, I conclude that the proposed development would harm highway safety. I therefore find that it conflicts with TLP Policy S1. Amongst other aspects, this requires development to perform well in relation to road safety.

No 6's living conditions

14. The proposed development would occupy the grassed garden area of No 6. This would reduce outside amenity space to a relatively small area to the front, rear and side of that property. The proposed dwelling would be located near to the shared boundary and in close proximity to No 6's main patio/sitting out space. This area would therefore be enclosed by two-storey built form on two sides and relatively high boundary treatment to the west/north-west.
15. The area is relatively built up, the existing garden at No 6 may be larger than at some other properties and the overall total outside space remaining at No 6 may be similar to other plots. Be that as it may, the enclosed and dominated setting of the patio would not be acceptable. This environment would also not be wholly similar to the current arrangement of existing properties, with for example Nos 6 and 12 both currently having relatively large gardens which are not enclosed to the extent that the patio area would be.
16. The proposed windows which would face No 6's outside space would serve non-habitable rooms, including stairs and bathrooms. Accordingly, the development would not lead to unacceptable levels of overlooking. However, it would unacceptably dominate and enclose the main remaining outside space at No 6.
17. For the reasons above, I conclude that the proposed development would harm the living conditions of the occupants of No 6. I therefore find that it conflicts with TLP

Policy S1. Amongst other aspects, this requires development to perform well against certain criteria, including in relation to the residential amenity of existing dwellings. It would also be inconsistent with the provisions in the Framework in relation to ensuring a high standard of amenity for existing users.

Future occupants' living conditions

18. The garden area would be situated along one side of the site, next to the proposed dwelling and parking/turning area and under the canopy of some existing trees. It would be smaller than the gardens of some adjoining properties and would front the highway. Parts of it would be visible in glimpsed views from Shutterton Lane through the vehicular entrance. However, the garden would extend to the rear of the site, away from the highway, and the proposed replacement hedge would provide a reasonable amount of screening.
19. For the reasons above, I conclude that the proposed development would provide acceptable living conditions for the occupants of the proposed dwelling, with particular regard to outside space. I therefore find that the proposal accords with TLP Policy S1. Amongst other aspects, this requires development to perform well against certain criteria, including in relation to the amenity of occupants of proposed developments. It would also be consistent with the provisions in the Framework in relation to ensuring a high standard of amenity for future users.

Other matters

20. The proximity of the appeal site to European designated nature conservation sites of Dawlish Warren/Exe Estuary means that the development would be likely, in combination with other plans and projects, to have a significant effect on the internationally important interest features of these areas. Mitigation measures are therefore required to make the development acceptable and avoid an adverse effect on the integrity of the designated sites. I note that a Unilateral Undertaking has been submitted in relation to this. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.
21. The development would provide a new adaptable dwelling which is needed locally and nationally and would be in demand. The residents, who would be a retiring couple and their family, would contribute to and support local services and facilities. It has been put to me that the appeal proposal would also bring the housing density into line with surrounding properties and that the site is within the settlement limit of Dawlish which is an established residential area and is identified as being sustainable. Be that as it may, these matters do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan. Given my findings on the main issues, the appeal proposal also cannot reasonably be described as making best use of land.
22. A number of neighbours have raised other concerns in relation to the development, such as with regards to its effect on the living conditions of other adjoining occupiers and wildlife. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion

23. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR