
Appeal Decision

Site visit made on 6 January 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

Appeal Ref: APP/R3325/D/19/3239867

Maple Cottage, 111 High Street, Chard, Somerset TA20 1QT

- 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 Leslie Hamilton against the decision of South Somerset District Council.
 - The application Ref 19/01509/HOU, dated 15 May 2019, was refused by notice dated 2 October 2019.
 - The development proposed is for the erection of trellis panels to an existing boundary fence.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of clarity, in my heading above I have taken the description of development from that on the decision notice, as it more succinctly captures the proposal than the lengthier description given on the application form.
3. At my site visit I observed that trellis panels had been erected similar to the original proposed plans. However, the proposed plans were amended to use fewer trellis panels and the appeal proposal relates to this reduced proposal. I shall consider the appeal accordingly.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the neighbours at 117 High Street, with particular regards to outlook.

Reasons

Living conditions

5. The proposed trellis is adjacent to the rear yard and close to the entrance door and most southerly ground floor window (serving a bathroom) of the adjoining property at 117 High Street. In addition, it can be seen from the kitchen window of No.117. These face towards the boundary with the appeal site, and the approximately 3.66 metres length of the trellis extends across the full width of the bathroom window as well as a significant proportion of the porch entrance and courtyard.

6. Although I observed that the bathroom window and glazing of the inner door of No.117 were obscure glazed, which limits the impact to a degree, the proximity, combined with the height of the overall fence of approximately 3 metres, even if reduced to accord with the revised plans, would adversely dominate the outlook from the kitchen window and main entrance to No.117.
7. The development is markedly higher than the original approximately 2 metre high boundary fence and as a result encloses the limited open space available in the courtyard. When this is combined with the existing high stone boundary wall to the south of the courtyard area, this makes the space feel unreasonably confined. Taken together, these factors have a significantly harmful impact on the living conditions of the occupants of No.117.
8. In support of the proposal the appellant indicates that the fence would reduce the degree of overlooking to his rear garden from the balcony and associated stairs at No.117. Nevertheless, the evidence suggests that the relationship of the balcony area at No.117 to the rear garden area of the appeal site, is a longstanding one, albeit that the balcony was not used for a considerable period. Moreover, the merits of the staircase to the balcony area at No.117 were considered acceptable by the Council as part of a separate planning application¹. Therefore, whilst I acknowledge the proposal would be an improvement to the appellant's living conditions, this benefit would not justify a development that also results in unacceptable harm to the living conditions of the adjacent occupier.
9. Reference is made to the lattice timber structure that has a finish that blends in with planting. It would also, in the absence of climbing plants, allow for some light to pass through it. Notwithstanding that the structure is not as oppressive as a solid barrier would be and has a finish that is generally in keeping with domestic gardens, this does not address the harm to outlook identified that results in an adverse sense of enclosure to the neighbouring residents.
10. Paragraph 127 of the National Planning Policy Framework, amongst other matters, advises that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. For the reasons already stated, the appeal proposal would not adhere to this principle.
11. Accordingly, I find that the proposal would cause unacceptable harm to the living conditions of the adjacent occupiers at 117 High Street due to the adverse impact on their outlook. This would be contrary to policy EQ2 of the South Somerset Local Plan 2006-2028, March 2015 that, amongst other matters, seeks to ensure that development proposals should protect the residential amenity of neighbouring properties.

Other matters

12. The appeal site lies within the Chard Conservation Area (CA) which covers most of the historic market town of Chard. Its significance lies in part in the way the building and spaces reflect the evolution of the settlement over time. Furthermore, Maple Cottage is a Grade II listed building. Its significance is principally derived from its aesthetic appearance and form consistent with a typical burgage plot.

¹ Officer report on planning application reference 19/01509/HOU, Page 2 – History section

13. I am mindful of my statutory duties² to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, and to give special attention to the desirability of protecting the setting of listed buildings. However, neither party suggests that the proposal would adversely affect the significance of these designated heritage assets. Given the modest scale and relatively discreet location of the fencing, I have little basis to find otherwise.
14. I appreciate that my decision will be a disappointment to the appellant. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise³. The reasons put forward do not justify my determining the development other than in accordance with the adopted development plan.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

² Sections 66 & 72 Planning (Listed Building and Conservation Areas) Act 1990

³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.