
Appeal Decision

Site visit made on 21 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/Y1138/W/19/3239009

Land and buildings at West Manley Lane, Tiverton, Devon EX16 4NH

- 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 Jason Farrant against the decision of Mid Devon District Council.
 - The application Ref 19/00182/FULL, dated 30 January 2019, was refused by notice dated 26 April 2019.
 - The development proposed is the erection of a dwelling and detached garage with associated access, drainage infrastructure and landscaping works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jason Farrant against Mid Devon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issues

4. Since the application was determined and the appeal lodged, the Council has withdrawn its objections in relation to the effect of the proposed development on Archaeology. The Appellant has been made aware of this change to the reasons for refusal and has had the opportunity to comment. I see no reason to disagree with the findings of the Council and have therefore not considered this matter further in relation to the appeal.
5. Consequently, the main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the surrounding area, including the setting of the Blundell's Conservation Area and the Grand Western Canal Conservation Area, and its effect on the setting of Grade II Listed Building; and,

- Whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development.

Reasons

Character and Appearance and Heritage Assets

6. The appeals site comprises a roughly rectangular area of land situated adjacent to West Manley Lane, upon which is positioned a cob barn and a section of stone wall which the evidence before me indicates was formerly part of a linhay barn. To the south of the site is an area of agricultural land which is boarded by hedges and some mature trees and which separates the site from a trackway leading to a bridge over a disused railway line. Adjacent and east of the appeal site is the property known as Copplestone House. By reason of the narrow nature of West Manley Lane, the high hedges, agricultural fields and scattering of residential and agricultural buildings, the surrounding area is semi-rural in character and appearance.
7. The proposal would introduce a substantial two storey dwelling with additional accommodation within the roof space, set within generous grounds which separates the neighbouring property from the appeal site. The proposal would be consistent with the height of the nearest existing dwelling at Copplestone House. In terms of its position, overall height and setting within generous grounds, the appeal proposal would broadly reflect the character of residential properties within this section of West Manley Lane.
8. However, the proposed dwelling would not reflect the character and appearance of nearby residential development with regards to its overall massing and scale. Whilst I acknowledge that the proposed dwelling would be comparable in terms of height with the nearest neighbour and that the roof of the proposed dwelling would be hipped on its eastern elevation, the proposed dwelling would be more substantial in terms of its scale and bulk, and would not reflect the character and appearance of the surrounding area in this regard.
9. Furthermore, the design of the proposed building would also incorporate materials that are not characteristic of its location, in particular with the use of a mixture of stone, brick, render and black fibre cement cladding which would be in contrast to the more restricted palette of materials used in the construction of nearby dwellings. With its scale, bulk and overall form, the design and external appearance of the proposal would be conspicuously different to the properties on this section of West Manley Lane. It would not, therefore, accord with its surroundings in these respects.
10. The appeal site is located in a prominent position adjacent to the highway and close to a bend in the road. Furthermore, the site is located in close proximity to the Blundell's Conservation Area which extends along and includes a disused railway line, and which separates the appeal site from the Grand Western Canal Conservation Area further to the south of the appeal site and the disused railway line. A Grade II Listed Building known as Prowses Farm is located approximately 150 metres to the west of the appeal site.
11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is had to the desirability of preserving a listed building, or its setting, or any features of special architectural or historic

interest it possesses. In this regard, by reason of the separation distance and due to the relative position of the appeal site to the listed building, I conclude that the proposal would not be harmful to the significance or setting of Prowses Farm.

12. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the nearby conservation areas in reaching this decision. As noted above, the appeal site is not located within any conservation area, but rather is located in close proximity to both the Blundell's Conservation Area and the Grand Western Canal Conservation Area.
13. In this respect, I conclude that, by reason of the separation distance and presence of features which would obscure views of the appeal site from the Grand Western Canal, the appeal scheme would not be harmful to the significance or setting of the Grand Western Canal Conservation Area.
14. However, the Blundell's Conservation Area includes the disused railway line which is currently used as a walk and cycleway, and which is located close to the southern boundary of the appeal site. The Blundell's Conservation Area Appraisal and Management Plan provides that the significance of this heritage asset arises from its historical use as part of the Tiverton Branch Line and that a number of bridges that cross the railway line were designed by Isambard Kingdom Brunel.
15. From observations made on my site visit, the appeal site and proposed dwelling would be highly visible to visitors and walkers travelling along the disused railway line. For the reasons given above, the proposed dwelling would not reflect the character and appearance of the surrounding area in respect of its scale, bulk and the use of external materials which are in contrast to those present on nearby residential dwellings within this section of West Manley Lane.
16. In my view, the proposed dwelling would be somewhat of an incongruous feature within this semi-rural area. By reason of its elevated position above the level of the disused railway line, the proposed dwelling would be a prominent and inharmonious feature that would draw the eye and therefore would be harmful to the setting of the Blundell's Conservation Area.
17. The proposal would have a detrimental effect on the setting and significance of this designated heritage asset. In respect of paragraph 196 of the Framework, the level of harm would be 'less than substantial'. The Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal.
18. The proposal would have some benefit in terms of an additional housing unit. However, the very modest effect of such a public benefit would be insufficient to overcome the harmful effect the proposal would have on the character and appearance of the area and the impact on the Blundell's Conservation Area. The adverse impact would significantly and demonstrably outweigh any benefits that might accrue from the provision of an additional housing unit.

19. In conclusion of this main issue, I find that the appeal scheme would be harmful to the character and appearance of the surrounding area and would be harmful to the significance and setting of the Blundell's Conservation Area.
20. The appeal scheme would therefore conflict with Policy DM2 of Local Plan Part 3 Development Management Policies (the Local Plan) and Policy COR2 of Mid Devon Local Development Framework Core Strategy 2026 (the Core Strategy) which, amongst other things, seek high quality design which has a clear understanding of the characteristics of the site, its wider context and the surrounding area and makes a positive contribution to local character including the setting of heritage assets. The proposal would additionally conflict with those paragraphs of the Framework which concern the conservation of the historic environment, as it would lead to less than substantial harm to the significance of a designated heritage asset, which is not outweighed by the public benefits.

Principle of Development

21. The main parties are in agreement that, for the purposes of Policy COR13 of the Core Strategy, the appeal site is located within the settlement boundary for Tiverton. The main parties further agree that the location of the proposal is within the allocated site for the Tiverton Eastern Urban Extension (the TEUE) and that the appeal site has been identified as being for mixed use development within Policies AL/TIV/1 - AL/TIV/7 of the Mid Devon Allocations and Infrastructure DPD (the AIDPD). I am further informed that the appeal site has been allocated for mixed use development within policies of an Emerging Local Plan.
22. The Council maintain that whilst the appeal site falls within the settlement boundary and has been allocated for mixed use development, this position has been amended through the production of the Adopted Masterplan Supplementary Planning Document (the MSPD) with regards to development within the TEUE. The evidence before me indicates that the Council revised the MSPD in June 2018 and that the amendments made to the MSPD reflected a resolution¹ of the Council that there should be no development south of West Manley Lane unless in association with green infrastructure. It is maintained by the Council that the objectives and provisions of the revised MSPD are considerations that warrant departure from the development plan with regards to the appeal scheme.
23. Whilst I acknowledge the submissions of the Council, and in particular the reference to the Council's Cabinet Meeting resolution in October 2017, it is clear from the most recent revision of the MSPD, that the appeal site is not within an area which the MSPD shows as being allocated for green infrastructure. Indeed, the MSPD appears to consistently and repeatedly place the appeal site outside of the areas which the document allocates as areas for green infrastructure.
24. In this regard, the MSPD provides a number of plans and maps² which place the appeal site within the area allocated for development as part of the TEUE and as provided for under Policies AL/TIV/1 - AL/TIV/7 of the AIDPD. Furthermore, the supporting text and accompanying commentary within the

¹Cabinet Meeting 26 October 2017

² MSPD plans/maps on pages: 28, 32, 34, 42, 64, 74 and 111.

MSPD confirms that only the land between the disused railway line, as described above, and the Grand Western Canal, is to be allocated for an area of green infrastructure³. The appeal site is not located between the disused railway line and the Grand Western Canal, but instead is located north of both of these features which comprise heritage assets.

25. Whilst I acknowledge that some plans and maps included within the MSPD and which provide demarcation of areas of housing and green space, could be said to include the appeal site within an area allocated for green infrastructure⁴, these plans are generalised and do not provide exact details of areas which should be included or excluded from certain definitions. These plans provide no certainty with regards to the allocation of areas for housing or for green infrastructure in contrast to the more detailed plans and maps within the MSPD, as referred to above, which do place the appeal site outside of the area allocated for green infrastructure.
26. Furthermore, whilst I acknowledge the reference to the comments made in the Council's Cabinet Meeting resolution from October 2017, with regards to the contention that there be no development south of West Manley Lane, it appears that this is only referred to within the MSPD when providing details of consultation comments⁵, and does not appear to reflect the contents of the remainder of the document with regards to the allocation of certain areas for green infrastructure as described above.
27. It has been further put to me by the Council, that the proposal would represent an isolated house in the countryside and that, consequently, the appeal scheme would not accord with paragraph 79 of the Framework and that the proposal would not benefit from the exception to isolated houses in the countryside as provided for under paragraph 79 c) of the Framework.
28. However, from the evidence before me and from observations made on my site visit, the appeal site is not located far away from other places, buildings or people, and, consequently, the proposed dwelling would not be considered to be isolated in terms of the Framework. Accordingly, the provisions of paragraph 79 of the Framework do not apply in this instance.
29. For the above reasons, the appeal scheme would accord with Policy AL/TIV/3b of the AIDPD, which seeks to provide environmental protection and green infrastructure in relation to the TEUE. Furthermore, the appeal scheme would not conflict with the MSPD with regards to the location of the appeal site outside of areas which are to be allocated for green infrastructure.

Other Matters

30. Interested parties have raised objections to the proposal with regards to its potential impact on the Tidcombe Fen Site of Special Scientific Interest. Whilst this objection has been noted in the Council's Officer Report, the Council did not include this matter as a reason for refusal. While an important issue, I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above, it does not alter my overall conclusion in relation to this appeal.

³ MSPD page 29 paragraph 7

⁴ Examples include MSPD plans/maps on pages: 51, 55 and 56

⁵ MSPD page 18, final bullet point.

31. Interested parties have also raised additional objections to the proposal regarding access and the effect of the appeal scheme on drainage. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue concerning the effect of the proposal on the character and appearance of the surrounding area and on the setting of heritage assets, these are not matters which have been critical to my overall decision.

Conclusions

32. Whilst I have concluded that the principle of development at the appeal site would be in accordance with the provisions of the development plan and the MSPD, I have also concluded that the proposal would be harmful to the character and appearance of the surrounding area and would result in less than substantial harm to a heritage asset that would not be outweighed by any public benefits arising from the scheme.

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

A Spencer-Peet

INSPECTOR