
Appeal Decision

Site visit made on 18 December 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Appeal Ref: APP/N1160/W/19/3236903
90 Wembury Road, Plymouth PL9 8HF

- 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 R Simmons against the decision of Plymouth City Council.
 - The application Ref 19/00417/FUL, dated 14 March 2019, was refused by notice dated 28 June 2019.
 - The development proposed is construct dwelling and parking areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 88a Wembury Road, in respect of outlook and light.

Reasons

Character and appearance

3. The appeal site comprises part of the garden of 90 Wembury Road, a two storey, semi-detached house, with a flat-roofed single garage to the side, in an established residential area. The site is given over to lawn and the land level rises towards the rear. It is partially screened from the Wembury Road frontage by timber panel fencing. Hedging and a bank define the rear boundary with the residential property to the rear. The site is roughly triangular in shape and wraps around an adjacent electricity substation.
4. Two storey semi-detached houses feature strongly within the road, particularly at the end where the appeal site is located, and where this form of development prevails on both sides of the road. Front building lines are strongly defined, with properties set back from the road behind front gardens. This rhythm of development continues eastwards beyond the appeal site on the southern side of the road, but on the northern side, there is a greater variety of dwelling layout and styles. These include detached two storey dwellings, chalet bungalows and bungalows, arranged around the cul-de-sac spur off Wembury Road, located to the rear and side of the appeal site. The properties on the appeal site side of the road are set at an elevated position in relation to the street, and those on the opposite side are at a lower ground level.

5. The proposal is to erect a detached, two storey, hipped roof house to the side of the parent property, fronting directly onto Wembury Road. Although detached, it would have a similar roof form, fenestration style and palette of materials as the parent property, and would be set back behind a front garden on a similar front building line as the properties to the west. It would be lower in height than the host property.
6. Due to the tapering nature of the site, and its relatively shallow depth in comparison to that of the parent property, notwithstanding its L-shaped footprint, the whole of the rear wall of the new building would be sited in close proximity to the rear boundary of the site. The building would also be sited immediately adjacent to the garage of the parent property and close to the side boundary of its rear garden. The result would be an unduly cramped form of development with an uncharacteristically short rear garden area.
7. The hemmed in nature of the proposal would be exacerbated by the rising ground levels towards the rear of the site, and the proximity to the site of the dwelling to the rear at No 88a and its detached pitched roof outbuilding. These buildings are sited at a higher ground level than that of the appeal site, and within close proximity to the rear boundary of the site. The position of the adjacent electricity substation also contributes to the congested layout of development.
8. As a result of the proximity of the building to the rear boundary with No 88a, the rear elevation of the new building has been designed as a blank wall, devoid of fenestration and visual interest. This contrived elevation would not be typical of a rear elevation of a dwelling. It would not accord with the National Planning Policy Framework (the Framework), which requires new development to be visually attractive as a result of good architecture.
9. For the above reasons, I conclude that the proposed development would have a detrimental impact on the character and appearance of the area. The appeal scheme would be contrary to Policies DEV10 and DEV20 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 (2016) (JLP) which, amongst other things, seek to ensure that new development is of a high standard of design and that residential development of gardens does not result in 'town cramming', contributes positively to the townscape, and protects and improves the quality of the built environment, including having proper regard to the pattern of local development and the wider development context and surroundings in terms of siting, layout, visual impact, scale, massing and height. For similar reasons, the proposal would be contrary to chapter 12 of the Framework which seeks to ensure high quality design.
10. The appellant has drawn my attention to a variety of different development styles and layouts within the road, particularly when travelling east from the appeal site towards the village, including infill developments. I acknowledge the variety of development within the road. However, I find that none of the circumstances of the cited dwellings are directly comparable to the appeal proposal in respect of detailed design and siting, and that these properties are set in more spacious plots. Therefore, these developments do not persuade me to come to an alternative view with regard to this main issue. I must determine this appeal on its individual planning merits and on the particular circumstances of the appeal site.

Living conditions of neighbours

11. The new building would be sited within close proximity of the rear boundary with the adjacent detached dwelling at No 88a. The side elevation of that property faces the appeal site and it contains main habitable room windows, including double doors leading onto a patio area between the dwelling and the appeal site boundary. The Council states that the proposed building would be sited approximately 9.8 metres from the side elevation of No 88a, and this figure is not disputed by the appellant. This would be contrary to the guidelines set out in the Council's Development Guidelines Supplementary Planning Document First Review (2013) (DGSPD), which requires a minimum distance of 12 metres between a main habitable room window and a blank wall, in order to protect the outlook of neighbouring properties. The appellant suggests that the DGSPD would allow a reduced distance of between 9 – 10 metres in this instance, on account of the difference in ground levels of approximately 1.5 metres between the two sites. This is on the basis that the DGSPD allows for an increased minimum distance of 3 metres for every 2 metres increase in height. I note that paragraphs 2.2.30 and 2.2.32 of the DGSPD do not specifically state that there should be a height related allowance for a reduction in distance.
12. Notwithstanding this, paragraph 2.2.30 of the DGSPD confirms that outlook impacts relate to neighbouring private gardens as well as main windows. In addition to being sited close to the dwelling at No 88a, the new building would be sited considerably closer to the patio area to the southeast side of No 88a. The appellant suggests that, as No 88a has garden area on two main sides, it is not reliant upon the space adjacent to the appeal site. On my site visit, I found that this appeared to be a well-used part of the garden. The patio is formally laid out, and has direct access from the side of the house. It has a south-easterly outlook and contains garden furniture, a barbeque, and raised planter beds.
13. I have noted the appellant's comments in respect of the lower ground level of the appeal site, the existence of a boundary hedge, the lower height of the new building compared to the parent property, and the stepped in nature of part of the rear elevation of the new building. However, having regard to the DGSPD, and the full two storey height of the new building in such close proximity to the rear boundary, I am not persuaded that the appeal scheme will not have an overbearing impact on the outlook from No 88a and that it will not result in overshadowing of the side patio garden area, due to its position to its southeast side. No cross-section drawings or shadowing studies have been submitted that demonstrate otherwise.
14. For the above reasons, I am therefore unable to conclude that the proposed development would not unacceptably harm the living conditions of the occupiers of No 88a Wembury Road in respect of outlook and overshadowing. As such, it has not been satisfactorily demonstrated that the proposal would accord with Policy DEV1 of the JLP and paragraphs 2.2.30 and 2.2.32 of the DGSDP. These policies seek to ensure that new development safeguards the amenity of local communities, including providing satisfactory daylight, sunlight and outlook for both new and existing residents. This is consistent with the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127).

Other Matters

15. The site is within the 12.3km zone of influence for the Tamar European Marine Site, comprising the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA), (the "European Sites"), where new housing is considered likely to have a significant effect on the integrity of the European Sites, as a result of increased recreational disturbance in combination with other development in the Tamar area. In the context of this appeal, the responsibility for assessing the effects of the proposal on the protected areas therefore falls to me as the competent authority. However, as I have found the scheme is unacceptable for other reasons, there is no need for me to consider the implications of the proposal on the European Sites.
16. The officer report and the Council's statement of case confirm the Council's concerns regarding the living conditions of the occupiers of the new dwelling in respect of outdoor space. The Council asserts that the new dwelling would be provided with approximately 65 square metres of usable outdoor space, which would be below the minimum recommended standard of provision of 100 square metres stipulated in respect of detached dwellings within paragraph 2.8.27 of the DGSPD. This figure is not disputed by the appellant. The appellant asserts that the figures in the DGSPD are guidelines rather than a requirement, and that regard should be had to other developments within the locality of the appeal site with small gardens. The Council's refusal reason does not refer to this matter and there is no need for me to consider it further as the development is unacceptable for other reasons.
17. The Framework refers to boosting significantly the supply of housing, and encourages the effective use of land in meeting the need for new homes, including giving substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. The appellant has drawn my attention to JLP Policy DEV7, which seeks the delivery of a wide choice of high quality homes, and identifies a particular need for smaller dwellings, and housing suitable for households with specific needs, which, the appellant contends, the appeal scheme would help address.
18. I acknowledge that the site is in an accessible location with respect to public transport and community facilities and services. Also, there would be a small social benefit in providing an additional housing unit, and economic benefits as a result of the construction and occupation of a new house.
19. However, the aforementioned benefits would not overcome the harm identified to the character and appearance of the area and the living conditions of the occupiers of No 88a. The conflict with the development plan is not outweighed by other considerations including the Framework.
20. I acknowledge the appellant's reference to the Council's pre-application advice, which confirmed there is potential to erect a new property on the appeal site, subject to a number of detailed considerations, which the appeal scheme has sought to address. However, I am not bound by the advice given by the Council prior to the submission of the planning application and it does not alter or outweigh my conclusion on the main issues.

Conclusion

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

S Leonard

INSPECTOR