



Appeal Decision

Site visit made on 27 July 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/U1105/W/20/3251738 10 Fairfield Close, Exmouth EX8 2BN

- 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 Mrs Ruth Jones against the decision of East Devon District Council.
 - The application Ref 19/2818/FUL, dated 19 December 2019, was refused by notice dated 8 April 2020.
 - The development proposed is a new dwelling of passive house principles in land adjacent to 10 Fairfield Close.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application has been accompanied by an undertaking under Section 111 of the Local Government Act 1972 to make a financial payment to mitigate the recreational impacts from future occupiers on the Pebblebed Heaths and Exe Estuary Special Protection Area (SPA). This is a matter I will consider later.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area, and
 - whether the proposal would provide adequate living conditions for future occupiers of the dwelling having regard to the relationship to the adjoining tree.

Reasons

Character and appearance

4. The site lies within the "Avenues" area of Exmouth where the general pattern of development is mainly large properties, occupying spacious and landscaped plots. I noted the character of this wider area at my site visit, and that there was some infill developments which had taken place over the years, including some more contemporary infill, such as the example drawn to my attention in Salterton Road. I have taken into account all these various buildings, including their plot size, design and external materials, and how they contribute to the character and appearance of the area.

5. Within this wider “Avenues” area, Fairfield Close has a distinctive character itself. The evidence indicates that the red brick and slate roofed dwellings were built about in the 1920s. They are fairly sizeable properties, with a reasonably consistent appearance, set in landscaped grounds. Together with the reasonably generous spacing between the two storey elements of the buildings, the mature hedges that front the fairly narrow road, the surrounding trees, the lack of footways, and the generally verdant appearance of the street scene give a mature, attractive and cohesive identity to the Close.
6. The proposed dwelling with its more modest size, single storey form and contemporary shape and materials would be in stark contrast to the adjoining properties and their proportions, form, detailing and distinctive character. The proposed design would appear to make little reference to, or complement with, even in a contemporary way, the more positive characteristics and identity of the adjoining buildings and their setting. Furthermore, the scheme would appear quite tight on the site with most of the frontage taken by the parking area and, with the property reasonably close to the side boundary, this would limit opportunities for the more extensive landscaping that often accompanies the adjoining properties.
7. Consequently, taking all these matters into account, the proposal would not respect the key characteristics and special qualities of the area in which the development is proposed as required by Policy D1 of the East Devon Local Plan 2013 to 2031 (adopted January 2016)(the Local Plan). Indeed, it is acknowledged by the appellant that the proposal would not adhere to most of the points in Policy D1¹. The case is made that the design decision to not replicate the surrounding building design and form was, in summary and mainly, because it was not appropriate to do so and it is argued that the opportunity has been taken to provide a dwelling of high quality, highly energy efficient design that is effectively obscured and hidden from its surroundings not adding to or subtracting from the existing street scene of local characteristics.
8. The dwelling would not be apparent in much of the street scene although it would be visible at the end of the Fairfield Close and from some adjoining buildings. The energy efficiency and sustainability elements of the design weigh in favour of the proposal and it is accepted to some extent that this approach is facilitated by the proposed external materials and form of the building. However, I am not satisfied that the more positive aspects of the proposal are outweighed by a design which conveys little local distinctiveness and would not appear sympathetic or complementary with the immediate surroundings in this case.
9. Accordingly, the scheme would not meet the National Planning Policy Framework (the Framework) policy requirements that decisions should ensure that development adds to the overall quality of the area and is sympathetic to local character.
10. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area. Accordingly, the proposal would not comply with Strategy 6 and Policy D1 of the Local Plan, Policy EB2 of the Exmouth Neighbourhood Plan 2018-2031 and the Framework which seek,

¹ Paragraph 2.2.5 of the appellant’s appeal statement.

notably, that development should be compatible with the character of the site and its surroundings.

Living conditions

11. A red oak tree lies on land adjoining the site and a section of the canopy would overhang the garden of the proposed dwelling. The Council has served a Tree Preservation Order on the tree and the tree makes a valuable contribution to the verdant surroundings at the end of Fairfield Close.
12. The application has been accompanied by an Arboricultural Appraisal. This explains that the construction activities, with appropriate tree protection in place, can be undertaken without harm to the surrounding trees. I have found no reason to disagree with these findings.
13. The Appraisal includes a plan showing the Shade Path which would result from the position of the adjoining trees, including the red oak. While I have had regard to this information, the Appraisal also explains that the red oak is a relatively young specimen with good future potential. In all probability, the tree will continue to grow and the height and canopy would extend in the years ahead.
14. Some of the main and most useable parts of the modest garden area of the proposed dwelling would be in the vicinity of the tree. It is likely that these areas would be shaded at times and increasingly so as the tree grows, particularly as the tree is broadly south of the proposed dwelling. Furthermore, some of the principal windows to the living room would face towards the tree and this adjoining garden area. The tree would affect some of the outlook from these windows and, on occasions, it is likely there would be an impact on daylight and sunlight to parts of the residential accommodation, increasingly so as the tree grows. It is such that I am not satisfied in the longer term that the garden area and some of the internal space would provide the high standard of amenity for future users as required by the Framework.
15. In all likelihood, notwithstanding the protected status of the tree and its location on adjoining land, there would be requests to cut back parts of the tree to allow more light to sections of the garden and some of the adjoining windows. These works may be difficult to resist given the likely adverse impact on the living conditions of occupiers of the proposed dwelling from the tree. Such works to the tree could adversely affect its long term growth and reduce the valuable contribution it makes to the surroundings at the end of Fairfield Close.
16. In conclusion, the evidence does not demonstrate satisfactorily that the protection of the red oak and the provision of a high standard of living conditions for future occupiers of the dwelling would be mutually compatible. If the tree is to be protected in the interests of the character and appearance of the area, then I am not satisfied that the living conditions of future occupiers would be of an adequate standard. In this way, the scheme would not comply with Policies D1, D2 and D3 of the Local Plan and the Framework which seek, amongst other things, to ensure that development should deliver a harmonious and sustainable relationship between structures and trees.

Other Matters

17. The proposal would make a small boost to housing supply and make efficient use of the land within a built-up part of the town where the principle of a dwelling is acceptable. The scheme would be on a windfall site and in a location that has very good access to services, facilities and to public transport. There would be social and economic benefits during construction and in subsequent occupation. The scheme would deliver, in all likelihood, a highly energy efficient and sustainable dwelling and there could be ecological benefits, including from the sedum roof. The location is outside the Conservation Area and the layout would not adversely affect the living conditions of any adjoining neighbour.
18. The size of the dwelling would make the accommodation more affordable than other larger dwellings in the locality and thereby increase the range of dwellings available. The single storey nature of the dwelling may make the accommodation suitable for those with reduced mobility and meet a need in this respect. However, as only a single unit of accommodation would be provided the cumulative benefits would afford limited weight.
19. The proposal was substantially amended through the planning application process and it is clear that the appellant engaged with Council Officers to seek to resolve outstanding planning issues to find an acceptable solution. I have also taken into account in reaching my conclusions all the representations, including those in favour of the scheme and those against, including the Residents Associations and the Town Council.
20. The undertaking within the Section 111 Agreement would, in all likelihood, mitigate the recreational impacts arising from the development in respect of the SPA. However, in the light of my overall conclusion I do not need to consider this matter further and the related duties under the Conservation of Habitats and Species Regulations 2017.

Conclusion

21. There would be benefits with the provision of the further dwelling within the built-up area of Exmouth. However, for the reasons explained above, these would afford limited weight.
22. I have also found that the scheme would harm the character and appearance of the area and the provision of adequate living conditions for future occupiers would not be compatible with the protection of the adjoining tree. These are matters that are contrary to development plan policies and weigh heavily against the scheme. This harm would not be outweighed by the benefits of the proposal.
23. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR