
Appeal Decision

Site visit made on 3 August 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/P1133/W/20/3250666

9 Leaze Road, Kingsteignton TQ12 3JR

- 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 Corner Stone Newton Abbot Ltd against the decision of Teignbridge District Council.
 - The application Ref 19/02487/FUL, dated 2 October 2019, was refused by notice dated 31 March 2020.
 - The development proposed is for a new dwelling in grounds to side with new access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted new and amended plans with the appeal to overcome the first part of the Council's second reason for refusal. In considering whether to accept them, I have had regard to the 'Wheatcroft Principles', including in relation to whether they materially alter the nature of an application and whether the amendments indicate that it is in substance different from that for which the application was made.
3. The new plan (PL1) shows the existing layout, floor plans and elevations of the dwelling at 9 Leaze Road and is thus not controversial. However, the amended plans – covering the proposed site (PL3 Rev B) and proposed plan and elevations (PL2 Rev B) – show various proposed changes. The appellant asserts that the changes shown in the amended plans are minor, showing the two flank windows in No 9 relocated to the front and rear, that there is no reason why the plans cannot be considered as part of the appeal and that No 9 is unoccupied and no one would be prejudiced by the changes.
4. I note that the Council has not specifically objected to the amended plans and it has been put to me that a Grampian condition could be used to secure the changes to No 9. Be that as it may, this appeal relates to the appeal proposal originally determined by the Council, and accepting amendments at appeal stage could deprive other parties of the opportunity to comment on the amendments. I note that the amended plans also include not only the relocated flank windows but, amongst other aspects, other revisions to front, side and rear fenestration and what appears to be a small rear extension to No 9.
5. Taking the amended plans into account could therefore prejudice other parties' interests. The Planning Inspectorate's Procedural Guide (Planning Appeals – England, 2020) sets out that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is

essentially what was considered by the local planning authority, and on which interested people's views were sought. It seems to me that the changes shown in the amended plans would also materially alter the nature of the development and make it different in substance from that for which the application was made. Consequently, I have determined the appeal on the basis of the proposal determined by the Council and have not taken into account the amended plans.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area;
- whether the living conditions of future occupiers of the proposed development would be adequate, with particular regard to internal space; and
- the effect of the proposed development on the living conditions of the occupiers of 9 Leaze Road, with particular regard to light and outlook.

Reasons

Character and appearance

7. The appeal site forms part of the garden of the bungalow at No 9. That property is currently set in a relatively open plot and is well separated from adjoining properties, which are set within similar sized plots. Although garages and side projections reduce the space between built form on Leaze Road in some instances, those elements are generally either set-back or have flat roofs and are relatively small. The surrounding area therefore has a relatively spacious character and open appearance and does not read as particularly tightly grained. The site reflects this and the broadly consistent pattern of development and well-spaced layout of the row of bungalows on the street.
8. The proposed development would in-fill the space between Nos 7 and 9. With the new dwelling extending across much of the site and being positioned close to the shared boundaries and side walls of adjoining properties, there would be limited space between built form. The appeal proposal would therefore appear as a cramped feature confined within a noticeably restricted plot. Accordingly, it would read as an incongruous addition that would conflict and fail to integrate with its surroundings. The development's pitched roof, providing some open space between adjoining gabled roofs, would not mitigate this.
9. In coming to this view, I have taken account of the fact that existing properties in the locality have mixed boundary treatments and varied relationships to the street, and that the Council has not raised concerns with the appearance and scale of the dwelling or the parking, bin store areas and garden size. Neither the flat roof projection at No 7 nor the National Planning Policy Framework (Framework) supporting increasing density lead me to a different conclusion.
10. 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 to integrate with the character of the adjoining built environment and to perform well against

various criteria including the maintenance or enhancement of the character and appearance of street scenes. These policies appear to be broadly consistent with the provisions in the Framework regarding achieving well-designed places.

Future occupiers

11. The proposed development would create a two-bedroom bungalow with an internal floor area measuring approximately 53.05 square metres. The government's Technical housing standards – nationally described space standard (2015) sets out a minimum gross internal floor area of 70 square metres for a two-bed single-storey dwelling accommodating four people and 61 square metres for three people.
12. The proposed floor plan shows two double beds, indicating that the dwelling could accommodate up to four people. On this basis, the internal area would be some 17 square metres smaller than the minimum set out in the nationally described space standard. This would be a significant shortfall. If the dwelling were to only accommodate three people, the shortfall would be less but it would not be negligible.
13. The technical housing standards are non-statutory and not compulsory and the Planning Practice Guidance describes them as optional standards. Although they can be applied through a local plan, with the emerging local plan still in draft form, they have not been adopted by the Council. The Planning Officer did also not mention them when corresponding with the appellant during the course of the Council's determination of the planning application and the Council has not raised concerns about the internal layout. Be that as it may, this does not mean that the standards are irrelevant and I place significant weight on them providing informative guidance as to whether the dwelling would provide an acceptable amount of internal space.
14. Designed to serve the older downsizing market, it has been put to me that the proposed dwelling is aimed at the two-person bungalow market and that the second bedroom would be used as a second reception room or study and only occasionally as a guest bedroom. Be that as it may, even if it were in demand for such purposes, there is nothing before me which indicates that this would be the case and that the dwelling would not regularly accommodate more than two people.
15. Accordingly, in this instance and even taking a flexible approach to the application of the standards, the extent of the shortfall in overall internal floorspace compared to the government's recommended minimum indicates that the living conditions for occupiers of the proposed two-bed bungalow would be inadequate. I have little substantive evidence that the proposal would not be viable if internal floorspace which met the minimum standards were provided.
16. For the above reasons, I conclude that the living conditions of future occupiers of the proposed development would be inadequate, with particular regard to internal space. I therefore find that it conflicts with TLP Policy S1 which, amongst other things, requires development to perform well against various criteria including in relation to the amenity of occupants or users of the proposed development. This policy appears to be broadly consistent with the provisions in the Framework relating to providing a high standard of amenity for future users.

Adjoining occupiers

17. The proposed dwelling would be situated in close proximity to the south elevation of No 9 and what would become the shared boundary between the two properties. The limited degree of separation between the properties and the proposed boundary treatment indicates that the living conditions of the occupiers of No 9 would be harmed through a reduction in light and outlook for the side windows shown on the existing plan and elevations (PL1).
18. However, I observed on my site visit that the two side windows at No 9 which previously faced the site no longer exist, having been blocked up on what appears to be a permanent basis. Accordingly, with the windows no longer there, the appeal proposal cannot now be described as reducing light and outlook at No 9.
19. For the above reasons, I conclude that the proposed development would not harm the living conditions of the occupiers of No 9, with particular regard to light and outlook. I therefore find that it accords with TLP Policy S1 with respect to its requirement for development to perform well against, amongst other aspects, the residential amenity of existing dwellings. This policy appears to be broadly consistent with the provisions in the Framework relating to providing a high standard of amenity for existing users.

Other matters

20. I note the appellant questions whether the Council adopted a positive and proactive approach when determining the planning application. However, I have limited my considerations to the planning matters before me, and I have determined the appeal on the submitted evidence.
21. The TLP is over 5 years old and was adopted before the latest version of the Framework. It has been put to me that this means that parts of the TLP are therefore out of date and that the approach to decision making in paragraph 11d of the Framework is applicable in this case. However, the Framework sets out that existing policies should not be considered out-of-date simply because they were adopted prior to its publication. It also indicates that due weight should be given to local policies according to their degree of consistency with the Framework.
22. The 5 Year Review of the Teignbridge Local Plan submitted with the appeal sets out that review of the changes to national policy and regulations has demonstrated that in general TLP policies comply with national policy and legislative changes. Although it identifies that TLP Policy S1A is now out of kilter with the latest Framework, it seems to me that the wording is nevertheless broadly consistent with it. I am also satisfied that the development plan policies which are most important for determining the application are sufficiently consistent with the Framework and are not out-of-date. Furthermore, the evidence before me indicates that the Council has a sufficient supply of housing land.
23. Consequently, I consider there is no reason why the approach set out in paragraph 11d of the Framework should be applied and that the development plan policies that are most important for the determination of this appeal should not be accorded very substantial weight in this instance. I have thus

determined the proposal in accordance with the development plan and material considerations.

Planning Balance

24. The site is within the settlement limits of Kingsteignton where the TLP indicates that development will be permitted where it is consistent with other local plan policies. It has been put to me that the in-fill development would make use of underutilised land and facilitate the refurbishment and bringing back to market of No 9. With sufficient parking, bin storage and private garden space, the bungalow has also been designed to serve the older downsizing market.
25. The evidence before me indicates that there is a significantly ageing population in the district and that dwellings of this nature are in high demand. Within an accessible urban environment with good access to services, facilities and public transport, the proposed development would provide an additional windfall dwelling which would not harm the living conditions of adjoining occupiers. The development would also add to the supply of housing in the area, as supported in general by local and national policy, and the proposed bungalow would meet the needs of an ageing population.
26. However, given the development's scale and that there is a sufficient supply of housing land in the district, I am satisfied that the benefits would be relatively limited. The harm I have identified above and the conflict with the TLP, which could not be overcome by the imposition of planning conditions, is therefore not outweighed by these considerations and is sufficient for me to find against the proposal. Given the development would harm the character and appearance of the surrounding area and not provide future occupiers with adequate living conditions, it cannot reasonably be described as making effective use of land and neither can the site be regarded as suitable for it. I also have little substantive evidence which indicates that No 9 cannot be put back into use if the appeal proposal does not succeed.

Conclusion

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

Tobias Gethin

INSPECTOR