
Appeal Decision

Site visit made on 12 August 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/N1160/W/20/3249741

The Lodge, Hartley Avenue, Plymouth PL3 5HP

- 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 Eliot Design and Build Ltd against the decision of Plymouth City Council.
 - The application Ref 19/01436/FUL, dated 29 August 2019, was refused by notice dated 7 February 2020.
 - The development proposed is demolition of existing dwelling and the erection of 8 apartments and associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Three amended plans have been submitted with the appeal:

- Proposed Elevations Sheet 1 (LOD BPC XX XX DR A 050 007 Rev P6);
- Proposed Elevations Sheet 2 (LOD BPC XX XX DR A 050 008 Rev P5); and,
- Elevation Boundary Detail (LOD BPC XX XX DR A 050 0002-010 Rev P5).

The plans show amendments to the materials and finishes to be used on the external surfaces of the building, and an increase in the height of the southern boundary treatment. The Council has had the opportunity to comment on the plans. They do not significantly alter the proposed development, so it is still, essentially, what was considered by the Council, and on which interested people's views were sought. Therefore, taking account of the Wheatcroft principles¹, my consideration of the amended plans would not prejudice anyone involved in the appeal.

3. The Council's decision notice refers to the Development Guidelines Supplementary Planning Document First Review (2013). This document has been superseded by the Council's adoption, in July 2020, of the Plymouth and South West Devon Joint Local Plan (2014-2034) Supplementary Planning Document (the SPD). It is common ground between the parties that adoption of the SPD has not introduced any new planning considerations that are relevant to the appeal proposals. My consideration of the SPD will not, therefore, be prejudicial to either party.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Main Issues

4. The main issues are:

- a) The effect of the development on the character and appearance of the area; and,
- b) The effect of the development on the living conditions of the occupants of 29 and 31 Park Road, with regard to overbearing impact and privacy.

Reasons

Character and appearance

5. The appeal site lies on sloping land, surrounded by established residential development. On the higher level, to the north, is a row of period houses with pitched slate roofs. Although constructed as a single terrace, the individuality of the dwellings is evident through the stepped ridge line, and the regularly spaced chimney stacks and lower floor bay windows. Together with the fine architectural detailing of the buildings, including decorative window surrounds, render bands and ornate ridge tiles, these features give the group a cohesive and characterful appearance. The Lodge, Southern House, and 31 Park Road also display some elements of this architectural detailing. As a result, the immediate surroundings of the appeal site to the north, east and south has a distinctive character.
6. The housing in the wider locality is more diverse in its design and materials. However, there are some areas of uniformity that define the general character of the area. Although many of the buildings are arranged in terraces, the sloping terrain results in these being stepped vertically and/or horizontally. Consequently, the component houses are easily identifiable, and the resultant pattern of development is finely grained. The roofscape comprises almost entirely of traditional ridged or hipped roofs covered in slate or tiles, and, with few exceptions, there is a marked verticality in the proportions of the individual buildings and their architectural detailing.
7. Section 12 of the National Planning Policy Framework (the Framework) seeks to achieve well-designed places. Paragraph 127 says planning decisions should ensure that developments are sympathetic to local character and history. The National Design Guide (the NDG) emphasises the importance of context to good design. It says well-designed buildings are influenced by, and influence, their context positively. Policy DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan) is consistent with this advice, in seeking to ensure that development has proper regard to the pattern of local development and the wider development context.
8. The apartments would comprise a single building stretching across a large proportion of the site. Although there would be some articulation to the front façade, the floor levels and eaves line would be common across the entire structure. As a result, the building would appear as a single edifice, with a distinctly horizontal emphasis. The amended plans seek to impose a sense of verticality, through the introduction of coloured renders, and panels of fibre cement cladding boards. However, these would appear as having been introduced as an afterthought, rather than as an integral part of the design, and would not successfully disguise the mass and horizontal form of the building, which would be out of character with its context.

9. Its uncharacteristic mass would be accentuated by the flat-roofed design, which would give the building a harsh, block-like appearance, out of keeping with the more traditional form and detailing of its immediate neighbours. The large roof area is identified as single ply membrane on the revised plans, which would be out of keeping with the prevalent slate and tiled roofs that characterise its context. The extensive use of wide areas of glazing would not accord with the vertical proportions of the windows in the surrounding period buildings. The large areas of unrelieved render would give the building a simple, flat appearance, unlike the more elegant detailing of the period buildings that it would be seen alongside. The design of the building would, therefore, fail to draw on the positive elements of the surrounding development.
10. Consequently, whilst the submitted visuals show that the scale of the building would be similar to that of the overall terrace in Hartley Avenue, the horizontal mass of the building would not be visually broken down into smaller elements. Combined with its uncharacteristic design, this would result in the building being incongruous in its context.
11. The building would not be readily visible from public viewpoints to the north and west. However, it would be seen from Park Road to the south, across the side gardens of Nos 29 and 31. Looking up from here, the uncharacteristic mass of the building would be particularly evident, in such close proximity to the smaller houses at the lower level. The building would also be visible from Hartley Avenue, through the widened access, and across the proposed carpark. From here, the uncharacteristic form of the roof would be seen in the context of the traditional roof forms of Southern House and the Hartley Avenue terrace.
12. The building would also be seen in longer distance views, from the other side of the valley to the southwest. I saw that, from Overton Gardens, the fine-grained pattern of development, and the traditional roofscape, that characterises the appeal site's surroundings were particularly evident. From here, the uncharacteristic mass and form of the building would be readily apparent.
13. I therefore conclude that the development would have insufficient regard for its context, and would, consequently, be harmful to the character and appearance of the area. As a result, it would be contrary to Policies DEV10 and DEV20 of the Local Plan, which seek to ensure that housing proposals contribute positively to the townscape. It would also fail to meet the aims of the NDG, and Section 12 of the Framework, to achieve well-designed places.

Living conditions

14. 29 Park Road lies close to the southern boundary of the appeal site, and at a much lower level. It has a triangular rear garden that is raised above the floor level of the house, which provides a sheltered and private outdoor amenity space. The proposed three-storey building, on higher ground, would be only about 8 metres from the boundary of this garden. The sectional drawings demonstrate that there would be no direct overlooking of this space from the balconies of the apartments. However, they also show the significant height of the building in such close proximity to the garden. At approximately 12 metres above the garden level, and extending along its entire length, the building would have an overbearing presence for the occupants of No 29.

15. There is no sectional drawing to show the impact on the eastern side garden of No 29. However, on the evidence before me, the looming presence of such a large building, so close to the boundary, would also be felt by occupants of this part of the garden. Consequently, the domineering impact of the building would affect virtually all of the garden. I am mindful that the sightlines resulting from the topography govern that only the upper part of the building will be visible, but it is the highest part that gives rise to the overbearing impact. I am also mindful that these sightlines could be further limited by raising the height of the southern boundary fence. However, this would not hide the building, and would result in a boundary feature which, itself, would have a dominant impact when viewed from the garden areas below the site.
16. The evidence demonstrates that there would not be a loss of privacy, in the house or garden, for the occupants of No 29 Park Road. However, I find that the overbearing impact of the building would have a harmful impact on their living conditions.
17. 31 Park Road is very close to the southern boundary of the appeal site, and at a much lower level. It has first floor windows in its north and west elevations. The proposed three-storey building would be within six metres of the boundary, and the appellant's drone images show that the windows would be overlooked from the balconies serving Apartments 4 and 7. Due to the distance, and angle of view, there would not be a significant loss of privacy for the occupants of the rooms served by the windows in the west elevation. However, the first-floor balcony to Apartment 4 would be directly opposite the window in the north elevation, and only about 9 metres away. The sectional drawings show that a person standing on the balcony would have a clear sightline to the window.
18. The SPD advises that habitable room windows facing directly opposite one another, should be a minimum of 28 metres when one of the buildings is three-storeys in height. The definition of a habitable room at footnote 260 of the SPD is "*a room used, or intended to be used, for dwellinghouse purposes (such as a living room, bedroom or kitchen)*". The evidence suggests that the window serves a bathroom, which is not specifically included, or excluded, from this definition. In any event, there would be harm to the living conditions of the occupants, as direct overlooking, at such close quarters, would reduce the efficacy of obscure glazing. Occupants may also feel that it is necessary to keep the window closed to maintain privacy.
19. Most of the garden of No 31 lies to the east of the house, so would be largely unaffected by overlooking or overbearing impacts from the development. However, there is a patio area to the west, accessed from doors in the ground floor of the side elevation. The sectional drawings indicate that there would be sightlines from the balconies of Apartments 4 and 7 down into this private amenity area, from commanding positions quite close to the boundary. The drone imagery does not persuade me that privacy would be maintained, as the viewpoints do not appear to be at the eye level of a person stood near the balcony edge. As this is the most private and most accessible part of the garden, the loss of privacy here would be harmful to the living conditions of the occupants.
20. The sectional drawings also show the relative heights of No 31 and the proposed building, and their close proximity. The building would be approximately 13 metres above the level of the patio, and within six metres of

the boundary. It would therefore be a very dominant presence for occupants. Even with the boundary fence raised to two metres, the section on the amended drawing still shows that a significant part of the building would be likely to be visible from the garden level at the side of the house. The overbearing impact of such a large building, in an elevated position, so close to the boundary, would diminish the degree of amenity value of the patio, and would therefore be harmful to the living conditions of the occupants.

21. The appellants have indicated that the balcony screens could be obscure glazed, but this would provide limited benefit, as people standing on the balcony would be able to look over them. The suggested privacy screen on the end of the balcony of Apartment 4 would not prevent the overlooking I have identified to the window or garden of No 31. Whilst landscaping could assist in reducing overlooking, there is little space between the building and the boundary to provide the scale of planting that would be necessary to screen the building, and to overcome its dominant impact on the houses and gardens below.
22. For the above reasons, I conclude that the development would result in a loss of privacy for the occupants of No 31, and an overbearing impact for the occupants of both properties. There would, therefore, be harm to their living conditions. This would be contrary to Policies DEV1 and DEV20 of the Local Plan, which seek to protect the amenity of existing residents through good standards of design. As the proposal would fail to provide a high standard of amenity for existing users, it would also conflict with the aims of Section 12 of the Framework to achieve well-designed places.

Planning Balance

23. The development would deliver eight additional dwellings, which would make a moderate contribution towards the Framework's objective of significantly boosting the supply of homes. Paragraph 68 of the Framework says great weight should be given to the benefits of using suitable sites within existing settlements for homes. There would also be economic benefits through employment during the construction phase, and through the future occupants' support for local services and businesses.
24. However, I have found conflict with development plan policies that seek to protect the character and appearance of the area, and the residential amenity of existing residents. The benefits of the scheme, although material considerations, are not of sufficient weight to dictate that I should make a decision that does not accord with the development plan.

Conclusion

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

Nick Davies

INSPECTOR