



Appeal Decision

Site visit made on 11 September 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/K1128/W/20/3248200

8 Thurlestone Gardens, Dartmouth TQ6 9HG

- 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 & Mrs Thorneywork against the decision of South Hams District Council.
 - The application Ref 0904/19/FUL, dated 12 December 2018, was refused by notice dated 27 September 2019.
 - The development proposed is described as New one bedroom dwelling and three garage bays proposed at base of garden, backing onto Fair View Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: the character and appearance of the surrounding area; and the living conditions of adjoining occupiers, with particular regard to outlook and overlooking.

Reasons

Character and appearance

3. The appeal site forms part of the sloping garden of 8 Thurlestone Gardens. Number 8 is situated within a row of properties with relatively large gardens extending down to Fair View Road, which is a narrow and reasonably enclosed lane. Extensive soft landscaping on and bounding the site and in adjoining gardens means that the site and its immediate surroundings appear from the public realm as verdant, relatively open and undeveloped. Despite the retaining wall fronting the lane along the rear plots of Nos 7 and 8 and the high hedging above it and to the sides, the site reads as providing open green space and forms part of a break in the built environment in the locality. This positively contributes to the section of lane which contains no properties immediately to the north.
4. The surrounding area is relatively built up, with the density of built form increasing and the character and development pattern changing to the east and west of the site. However, I observed on my site visit that the lane reads as having a number of separate sections, each with a somewhat distinct character and appearance. There is a reasonable degree of separation between the site and other properties and buildings which front the northern side of Fair View Road. The extensive soft landscaping which fronts the lane in the vicinity of the site also provides a clear differentiation. The harder, more urban landscapes to the west – such as in the vicinity of Capri and the various retaining walls and garages – and the new dwelling on land adjoining Woodford to the east are thus not particularly notable

- from the section of lane which the development would front. Consequently, those buildings and the different extent of soft landscaping and differing layout and density of built form elsewhere on the northern side of the lane do not form part of the site's context. Accordingly, they do not influence the distinctive verdant and more open, undeveloped character and appearance of this part of Fair View Road.
5. The appeal proposal would introduce a reasonably significant amount of hard landscaping and built form on the site. Although each storey would be progressively set-back into the site and the development would step down in response to the topography, it would nevertheless be a notable and relatively sizeable feature in the locality and would not appear from Fair View Road as a single storey dwelling. Given the development pattern in the vicinity of the site, the development would not reflect its surroundings and would read as a harmful intrusion into the more open, verdant and undeveloped section of lane that it would front. Accordingly, it would be experienced as an incongruous, unrelated addition that would harm the character and appearance of the lane and locality, and neither integrate nor positively contribute to its surroundings.
 6. Although the dwelling would have a contemporary appearance and would be constructed of high quality and locally distinctive materials to match the vernacular of Fair View Road, its design does not lead me to a different conclusion. Even if it could be considered as outstanding or innovative, it would not fit in with the overall form and layout of its surroundings. In coming to this view, I have taken account of the soft landscaping proposed on the site and the varied scale, design and layout of properties in the locality, including those on the southern side of the lane.
 7. Given my findings with regards to the different sections of Fair View Road containing the new dwellings at Capri and adjoining Woodford, neither their presence and previous approval by the Council, nor the allowed appeal for a garage and parking bay at Woodford, are determinative as to the acceptability of the appeal proposal. I note that those developments were also determined under a previous development plan, while the Inspector for the garage and parking bay indicated that the character of the lane changed to the west of that site. Given the appeal decision at Rock Point relates to a different development in a different context and town, its relevance to the appeal proposal is limited. I have thus dealt with this case on its individual merits.
 8. The Council has not alleged that the appeal proposal would harm the South Devon Area of Outstanding Natural Beauty. Having considered the development and visited the site, I concur with this view. However, this does not indicate that it would not harm the character and appearance of the surrounding area.
 9. 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 DEV10 and DEV20 of the Plymouth & South West Devon Joint Local Plan 2014 - 2034 (JLP). Amongst other aspects, these: set out that development of garden space will only be permitted where it does not adversely affect the character of the area; and require high quality development that integrates with its surroundings and does not appear to be an unrelated addition to the rest of the town, that contributes positively to townscape and landscape and which has proper regard to the local development pattern. The proposal would also be inconsistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving well-designed places and making effective use of land.
 10. The Council also alleges a conflict with JLP Policy DEV1 with regards to this matter. However, my attention has not been drawn to any words in the policy that are

relevant to it. The policy has therefore not been determinative in my decision on this main issue.

Adjoining occupiers

11. Located on the north side of Fair View Road, the proposed development would face towards the highway and properties opposite. The layout and orientation of those properties indicates that their main aspect and amenity areas face across the valley rather than towards the site. Their fenestration facing the highway and site is also generally obscure glazed.
12. Although it would have a total of three storeys, the development would be set-back into the hillside. This would progressively increase the degree of separation between the habitable accommodation in the proposed dwelling and the properties it would face. There would also be space for some soft landscaping in front of the first-floor balcony/walkway while a frosted privacy screen would be situated on top of the wall running along the front of the second-floor balcony.
13. On this basis, and as indicated on the sight lines on the Proposed Site Section A-A (Drawing No 91, Rev F), views from the proposed dwelling to the properties opposite would be relatively limited. Despite its height and elevation above the highway, the increasing set-back of each storey and the proposed soft landscaping means that the development would also not appear as an unacceptably overbearing or dominating feature from the properties on the other side of Fair View Road. With those properties also orientated to look across the valley, they essentially appear as having turned their back on the highway and site.
14. Accordingly, the extent of overlooking of adjoining occupiers from the proposed development and its effect on their outlook would not be significant. This is also a residential area with several dwellings located in relatively close proximity. As such, a certain degree of limited outlook and mutual overlooking would not be unusual.
15. For the above reasons, I conclude that the proposed development would not harm the living conditions of adjoining occupiers, with particular regard to outlook and overlooking. I therefore find that it accords with JLP Policy DEV1 which, amongst other aspects, requires satisfactory outlook and privacy for existing residents. The proposal would also be consistent with the provisions in the Framework in relation to providing a high standard of amenity for existing users.

Other matters

16. I note the appellants' reference to their pre-application discussions with the Council and that amendments were made to the proposal during the Council's determination of the planning application. However, these issues are not determinative as to the acceptability of the appeal proposal. I have therefore considered the proposal on its merits, based on the evidence before me.
17. Given its size, it has been questioned whether the proposed development could accommodate more than one bedroom. However, the proposed plans show one bedroom, and although changes in internal layout could in theory create space for an additional bedroom, that is not what has been applied for. If the appeal were to be allowed, conditions such as removing permitted development rights or requiring the storage area to remain available for its proposed use could also be used. This would ensure that external works could not be carried out to change it into a larger property without the acceptability of such a change being considered as part of a further planning application. Accordingly, I have determined the appeal proposal on the basis that it would provide a one-bedroom property, as per the drawings listed

on the Council's Decision Notice rather than in relation to the amended plans submitted with the appeal.

18. A number of other matters have been raised by interested parties, including with regards to access, parking, construction and the effect of the development on flora and fauna. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Planning Balance

19. It has been put to me that the proposed development is acceptable in principle and is supported by various development plan policies. I have found that it would not harm the living conditions of adjoining occupiers. The Council has not raised objections in relation to matters such as traffic and highway safety, designated heritage assets, the AONB and biodiversity. I recognise that existing on-street parking provision would be retained and the appellants' Preliminary Ecological Appraisal concludes that mitigation and enhancement measures would mean that there would be a positive biodiversity impact/net gain, in accordance with local and national planning policy. Close to the various local services, facilities and public transport, the site is also in an accessible location within the settlement boundary of Dartmouth, which the JLP identifies as a main town.
20. Furthermore, in line with JLP Policy DEV8, the development would widen the choice of homes and contribute to the existing housing stock in the locality. Providing a one bedroom dwelling, it would help to address the identified shortage of one bedroom houses in Dartmouth. There would also be some economic and employment benefits arising from its construction while occupiers would support local services and facilities.
21. However, although not insignificant, the benefits would nevertheless be limited given the scale of the development. I also have little substantive evidence that it is needed to ensure a sufficient supply and mix of housing in the area. Furthermore, although providing high quality accommodation and described as a very modest dwelling, it is not clear to me that a one bedroom house with such a significant internal size would actually cater to those in need of smaller homes. It seems to me that this therefore limits the social benefit that it is asserted to have. In coming to this view, I have taken account of the Technical Housing Standards setting out recommended minimum rather than maximum floor areas, that there is no requirement in the JLP for single dwellings to be provided as affordable housing and that the proposed size and type of dwelling is not a reason for refusal.
22. Consequently, the harm I have identified above and the conflict with the development plan and Framework, which could not be overcome by the imposition of planning conditions, is not outweighed by these considerations and is sufficient for me to find against the proposal. Although topography is said to limit use of the lower end of the existing garden and the proposal would make use of previously developed land and the site's direct connection to Fair View Road, the harm I have identified also means that the proposed development cannot reasonably be described as making effective use of land.

Conclusion

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

Tobias Gethin

INSPECTOR