The Planning Inspectorate

Appeal Decision

Site Visit made on 31 March 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/K1128/W/20/3261020
Hayes Barton, Vicarage Road, Stoke Gabriel TQ9 6QP

- 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 Moore against the decision of South Hams District Council.
- The application Ref 3538/19/FUL, dated 23 September 2019, was refused by notice dated 22 July 2020.
- The development proposed is demolition of garage and construction of dwelling.

Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and construction of dwelling at Hayes Barton, Vicarage Road, Stoke Gabriel TQ9 6QP in accordance with the terms of the application, Ref 3538/19/FUL, dated 30 January 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr & Mrs Moore against South Hams District Council. This application is the subject of a separate Decision.

Procedural matter

3. The development was described on the application form as construction of a self-build dwelling. The appeal form indicates that the above description was an agreed amendment. The Council considered the proposal on the basis of the above description, and so have I.

Main Issue

4. The main issue is whether the provision of an unrestricted dwelling is appropriate in this location, with regard to the provisions of the development plan.

Reasons

5. The Council refused planning permission because there was no mechanism to ensure that the proposed dwelling will meet a locally identified need. The evidence explains that this should have been a planning obligation limiting occupancy to a person who could demonstrate a local connection, such as individuals from within the plan area.

6. Policy TTV2 of the Plymouth and South West Devon Joint Local Plan 2014-2032 (LP) sets out specific objectives of rural sustainable development, including locating housing where it will enhance or maintain the vitality of rural

communities and delivering affordable housing. LP Policy TTV1 sets out a broad spatial strategy for the rural area. It contains a hierarchy that seeks to focus development on main towns, with more limited development at other identified villages.

7. Stoke Gabriel is not identified as a settlement for development and is, therefore, within the fourth 'tier' of the Policy TTV1 hierarchy of smaller villages, hamlets and the countryside. In these locations, the policy indicates that, amongst some other scenarios that do not apply here, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities set out in LP Policies SPT1 and SPT2.

8. Policies SPT1 and SPT2 set out broad credentials of sustainable development. Meeting local needs is a feature of the principles therein and a theme of the development plan as a whole, but my attention has not been drawn to a specific policy requirement to impose an occupancy restriction in this case. Policy SPT2 sets out characteristics of sustainable neighbourhoods and communities, including accessibility to services and facilities. The Council has confirmed that the proposal performs well against these criteria.

9. A number of appeal decisions have been cited where a lack of mechanism to secure a local connection has contributed to their dismissal. However, having reviewed the decisions, the Council has suggested that other specific policy conflicts may also have been present in those cases. Moreover, having reviewed the appellants' case in respect of this appeal, the Council now accepts that the lack of local connection restriction alone, does not render the proposal contrary to adopted policy.

10. In light of this, and having considered the requirements of those policies set out above, I find no reason that the proposal would not support the principles of sustainable development set out in the development plan or result in a conflict with those policies that have been identified.

Other Matters

11. The site is within the Area of Outstanding Natural Beauty. However, it is a clear part of the settlement and the dwelling would replace an existing building. Therefore, the landscape and scenic beauty would be conserved.

12. The site is close to two listed buildings. Their settings are as part of the general townscape, into which the proposal would integrate well. Therefore, there would be no harm to the settings or significance of these heritage assets.

Conditions

13. A plans condition is required in the interests of certainty. To safeguard the character and appearance of the area, conditions are necessary to confirm details of facing materials and a landscaping scheme. In the interests of highway safety, parking and turning facilities must be secured and to prevent any increase in off-site flood risk, a drainage scheme must be approved. To safeguard living conditions, a boundary wall must be erected between the existing and proposed dwelling.

14. The Council has suggested that permitted development rights should be removed, but there is no detailed evidence as to the harm that would arise if

they were not. As I have found no conflict with policies in terms of the type of housing, there is no clear justification for their removal to support local needs. I have not, therefore, imposed such a condition.

Conclusion

15. With regard to the foregoing, I find that the proposal is in accordance with the development plan. Therefore, the appeal is allowed.

M Bale

INSPECTOR

Schedule

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: S-001 Rev A; S-002 Rev A; S-GA-001; S-GA-002; S-GA-003; S-GA-004; S-GA-005; S-GA-006; PL-100 Rev B; PL-011 Rev A; PL-012 Rev A; PL-013 Rev A; PL-014 Rev A; Site location plan.

3) Prior to their installation details/samples of facing materials, and of roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved and thereafter maintained as such.

4) Prior to the first occupation of the dwelling, the proposed wall on the boundary between Hayes Barton and the new dwelling hereby approved shall be erected and thereafter the boundary wall shall be retained in perpetuity.

5) No part of the development hereby approved shall be brought into its intended use until the parking facilities and turning area have been provided and maintained in accordance with the application drawings and retained for that purpose at all times.

6) Notwithstanding the submitted details, prior to the installation of any part of the surface water management scheme or before development continues above slab level, whichever is the sooner, full details of a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate:

(a) Soakaway testing to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in a report;

(b) if infiltration is suitable then the soakaway should be designed for a 1:100 year return period plus an allowance for Climate change (currently 40%);

(c) if infiltration is not suitable then an offsite discharge can be considered. Attenuation should be designed for a 1:100 year return period plus an allowance for Climate change (currently 40%);

(d) any offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods. Full details of any flow control device will be required;

(e) the drainage details of the car parking area and access will be required. If it is proposed to be permeable then it should be designed in accordance with CIRIA C753. Full design details and sectional drawing showing the specification and make up will be required;

(f) a scaled plan showing the full drainage scheme, including design dimensions and invert/cover levels of the soakaways/attenuation features, within the private ownership.

The drainage scheme shall be installed in strict accordance with the approved scheme prior to the occupation of the development and thereafter, maintained and retained in accordance with the agreed details for the life of the development.

7) Within three months following the commencement of development details of a hard and soft landscape scheme shall be submitted to, and approved in writing by the Local Planning Authority. The landscape scheme shall include:

(a) details, including design and materials, of ancillary structures such as bin stores;

(b) materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas;

(c) the location, number, species, density, form and size of proposed tree, hedge and shrub planting including boundary treatments;

(d) the method of planting, establishment and protection of tree, hedge and shrub planting;

(e) maintenance schedules for the establishment of new planting and its ongoing management;

(f) a timetable for the implementation of all hard and soft landscape treatment.

All elements of the landscape scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All work shall be completed and thereafter maintained as such in accordance with the agreed timetable.