



Appeal Decision

Site visit made on 14 July 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/K1128/D/21/3273376

Cross Garden Cottage, Market Street, Salcombe TQ8 8DE

- 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 A Perkins against the decision of South Hams District Council.
 - The application Ref 3966/20/HHO, dated 2 December 2020, was refused by notice dated 3 February 2021.
 - The development proposed is householder application for reinstatement of historic vehicular access, with associated works and landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are (i) the effects of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of Salcombe Conservation Area; and, (ii) the effects of the proposal on highway safety.

Reasons

Character and appearance

3. The appeal site lies within Salcombe Conservation Area (CA) and within the South Devon Area of Outstanding Natural Beauty (AONB). Due to the site's position within the CA, I am required under Section 72 of the Listed Building and Conservation Areas Act 1990, to pay special regard to the desirability of preserving or enhancing the character or appearance of the CA.
4. The host dwelling is a detached dwelling which sits in an elevated position above one of the main thoroughfares of the historic centre (Market Street). The rear garden extends away from the dwelling towards Church Street and has level pedestrian access therefrom. The garden is enclosed to the rear by high stone walls. The dwelling also appears to perch above its high side retaining wall from Market Street. Due to the area's varied topography and tight-knit urban form, retaining walls and stone boundary walls are a prevalent feature.
5. Whilst the estuary setting and relationship between the town and its waterfront are obvious special factors that attract the wider AONB designation, the CA is characterised more for its enclosed, winding streets, tightly-arranged and lined with C19 vernacular buildings in the historic centre with Victorian villas on the surrounding perimeter roads. Stone boundary walls, flights of stone steps and

- the general sense of enclosure and intimacy combine to add to the significance of the CA.
6. The appeal proposal would remove a section of wall which was reinstated following the creation of a temporary access. The fabric of the relevant section of the wall itself is therefore modern, rather than historic, but has been constructed to appear as though it were an original feature. The Salcombe Conservation Area Appraisal (2010) shows it as being one of the area's 'historic walls and steps'. It has been reinstated on the natural alignment of the wall with the edge of the footway and the sense of enclosure of the site in such a way is characteristic of the CA.
 7. The creation of a wider opening, even with the original parts of the wall left intact either side, would reduce the degree of enclosure of the curtilage and open the view into the back garden and parking area. The bin store enclosure itself, subject to details, could be sufficiently well designed so as not to be a harmful addition within the streetscene, but the infilling of the gap by a timber gate which would be a poor substitute for the stone wall and which would be more likely to remain open for ease of use, would be to the detriment to the area's character and appearance, and thus, that of the CA.
 8. Whilst I note that the use of vernacular materials and additional planting could play a role in mitigating the impact, they could not result in the proposal preserving the character or appearance of the CA, less so enhancing it.
 9. In view of the above, the proposal would conflict with, in particular, Policies DEV20 and DEV21 of the Plymouth and South West Devon Joint Local Plan (2019) (JLP) and Policies ENV1 and B1 of the Salcombe Neighbourhood Development Plan (2019). These Policies, amongst other things, seek to ensure new development contributes positively to townscape, and conserves and, where appropriate, enhances the historic environment, using and protecting locally distinctive features like stone boundary walls.
 10. The harm to the significance of the designated heritage asset, the CA, would be 'less than substantial' under the terms of the National Planning Policy Framework (the Framework), and towards the lower end of such a scale. Nevertheless, such harm requires clear and convincing justification and, as per Framework Paragraph 196, should also be weighed against the public benefits of the proposal. I return to this matter below.

Highway safety

11. Cross Garden Cottage's rear garden and rear pedestrian gates are accessed via Church Street (B3204), which becomes Market Street. The area has a 30mph speed restriction in place. The two existing pedestrian gates serving the rear garden of Cross Garden Cottage are situated between and adjacent to high stone walls which are characteristic of the area. The pedestrian gates are broadly equidistant between two sharp corners. The street also rises steeply upwards towards the south-west.
12. A continuous pedestrian footway exists on the southern side of the street, outside of the appeal site. No footway exists on the opposite side of the street. There are, however, two junctions situated broadly opposite each of the bends on Church Street. There are also two separate vehicular accesses between

these junctions, one to a private residence and the other to the Church of the Holy Trinity.

13. With the single continuous footway, steep incline, sharp bends and existence of the junctions and accesses within such a small area, the highway environment is complex and navigating the area requires a high degree of care and attention, particularly during busy holiday times with high volumes of vehicular traffic and pedestrian footfall.
14. It is accepted by the appellant that visibility in both directions from the new access would be restricted, and the evidence suggests that there would be 9 metres of visibility to the east and 10 metres to the west, 0.5 metres back from the carriageway edge. If the visibility is taken as 2 metres back from the double yellow lines which is alleged to be the more appropriate carriageway edge, then the visibility would extend to 16 metres and 21 metres respectively. Neither visibility splay would extend to the 43 metres suggested in the Manual for Streets (2007) for a new access in a 30mph area.
15. The limited visibility of drivers emerging from the access itself between two high walls would be problematic. Whilst drivers would be in forward gear, they would be waiting on an incline to make a sharp turn out onto a hill. Even if using the 'peep and creep' tactic, due to the position and height of the walls, drivers would likely need to commit to exiting the site before readily getting a chance to see how many other road users would be put at risk or inconvenienced by such.
16. For drivers travelling towards the town centre that would be braking to maintain a steady speed down the hill and to navigate the bends, there would be better advance notice of vehicle emerging from the access. However, whilst it is alleged that drivers travelling uphill past the site are moving slowly, they are doing so whilst placing demands on their vehicles to continue making progress up the hill. On rounding the corner, they would have very little time to register an emerging vehicle and act accordingly. Braking suddenly immediately after or on the position of the corner on a hill would be hazardous to other road users behind them.
17. I note the use of Sight Stopping Distances (SSDs) from the Highway Code of 12 metres and 23 metres for vehicle speeds of 20 and 30 miles per hour respectively. However, I am not persuaded that an average speed of 16 mph of vehicles recorded on a late September date in one year dictates that such marginal visibility splays would be suitable. Despite alternative views reached by colleagues in other appeal decisions, in my view, manoeuvres into and out from the driveway would not be simple to execute. Placing additional demands on other drivers and pedestrians to account for the use of the driveway within such a constrained highway environment would be unwise, particularly in a destination which receives high volumes of visitor traffic in peak holiday season and which involves many visitors being unfamiliar with the road layout. Despite the accident data which may suggest that there is not an existing safety issue, adding a poorly-designed vehicular access into the equation would be to the detriment of the safety of all highway users.
18. In view of the above, the proposal would harm the safety of highway users, contrary to, in particular, Policy DEV29 of the JLP which seeks to ensure proposals provide safe and satisfactory traffic movement and vehicular access to and within the site.

Other Matters

19. The evidence suggests that the proposal constitutes a 'reinstatement' of an access. Though I note a temporary permission for such to facilitate past building works, it is clear that such an opening was not an original feature of the property.

Planning balance and conclusion

20. The proposal would result in harm to the significance of a designated heritage asset contrary to the development plan and Framework. In terms of the public benefits of the proposal, it would facilitate the use of an electric vehicle charging point and provide ambulant access to the cottage. It would also reduce the pressure on the availability of parking locally by removing the car/s associated with Cross Garden Cottage from the local highway network and car parks. Whilst these minor benefits attract weight in the overall balance, they are insufficient to outweigh the harm to the significance of the designated heritage asset and risks to the safety of highway users, contrary to the development plan when considered as a whole.
21. In the absence of considerations to indicate that a decision should be taken other than in accordance with the development plan, the appeal is dismissed.

Hollie Nicholls

INSPECTOR