



Appeal Decision

Site Visit made on 3 August 2021

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2021

Appeal Ref: APP/U1105/W/21/3271284

Sunbeams, Rhode Lane, Uplyme, DT7 3TX

- 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 Miss Willow Ray against the decision of East Devon District Council.
 - The application Ref 20/1473/FUL, dated 11 July 2020, was refused by notice dated 11 November 2020.
 - The development proposed is erection of a new two storey house in garden plot.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. Insofar as is relevant to this appeal, I have taken the Framework into account in reaching my decision.

Main Issues

3. The main issues are:
 - The effect of the appeal proposal on the character and appearance of the area, including the East Devon Area of Outstanding Natural Beauty;
 - The effect of the proposal on the living conditions of neighbouring occupiers by reason of privacy; and
 - The effect of the appeal proposal on an existing tree.

Reasons

Character and Appearance

4. The appeal site is located along Rhode Lane which is lined with hedgebanks which open up at intervals to provide private driveways to the dwellings along its length. These dwellings are generally large, set back from the highway and in generous size plots, with a mixture of dwellings, dormer bungalows and bungalows. As well as the linear form of development along the lane, there are also openings for driveways to dwellings located behind the main frontage. The land slopes down from Rhode Lane so that these properties and the rear gardens to the frontage dwellings are at lower level than the highway. There are glimpses between the houses from Rhode Lane to mature trees at the rear but otherwise, the rear garden areas are private.

5. The appeal site is located in the garden of 'Sunbeams', a detached bungalow. The appeal proposal includes the provision of driveway at the side of the host dwelling to provide vehicular access to the appeal site at the rear. As I have set out above, this type of arrangement is not uncommon on Rhode Lane, with the neighbouring property 'The Old Nurseries' also being served by an access from Rhode Lane with the main dwelling being set well back behind the main frontage development. As a result, I find that the principle of a dwelling on the appeal site would not be at odds with the prevailing pattern of development along Rhode Lane, and my view is strengthened by the fact that the Council has granted outline planning permission for a single storey dwelling on the appeal site as recently as 2019.
6. The provision of a driveway to serve the appeal site would open up the side boundary to Sunbeams. As a result, the appeal dwelling, being 2 storey, would be visible when viewed from Rhode Lane. However, the submitted section drawing indicates that the ridge of the appeal dwelling would be no higher than the host dwelling and I noted at my site visit that views into the site from the surrounding area would be limited to the immediate vicinity of the appeal site. As a result, the appeal dwelling would not appear prominent in the street scene nor harmful to the character and appearance of the area and the proposal would therefore comply with Policy D1 of the East Devon Local Plan 2013-2031 (LP) and Policies UEN2 and UEN3 of the Uplyme Neighbourhood Plan 2017 – 2031 (UNP) which seeks to provide for development which respects the scale and key characteristics of the local area by providing for development which relates well to it's context.
7. The site is located within the East Devon Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the National Planning Policy Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONB's. I have found that the appeal proposal, being dug into the site so that its ridge is no higher than the existing bungalow would be largely screened from public views and surrounded on all sides by other residential properties. As a result, the appeal proposal would conserve the special characteristics of the AONB.

Living Conditions

8. The existing neighbouring occupiers enjoy a high degree of privacy by virtue of the generous plots in which they are located and the established and mature planting along the boundaries. In the context of this appeal, this is accentuated by the fact that the host dwelling is a bungalow.
9. The provision of a 2-storey dwelling with limited window openings on the north and east elevations, together with the orientation, degree of separation and proposed positioning would not result in an unacceptable degree of overlooking to the nearest neighbours to the east known as the 'Rectory' and 'The Old Nurseries'. However, the appeal dwelling would be sited so that the south elevation with the windows serving all the principal rooms would be orientated towards the garden of 'South View'. A balcony is proposed at first floor level to serve the master bedroom and would be on the part of the appeal dwelling which would be closest to the boundary with South View. The result would be that the principal views out from the first floor of the appeal property would be towards the private garden of South View and the boundary planting in this location would not be sufficient to prevent overlooking from occurring. In my

view this would erode the privacy of that part of the garden currently enjoyed by the occupiers of South View to an unacceptable degree.

10. In order to seek to mitigate the impact, the appeal scheme includes the provision of a 1.8m high obscure glazed side panel to the balcony. It would assist with preventing overlooking of the rear garden of South View but only from one end of the balcony. It would not prevent overlooking and the sense of being overlooked from the remainder of the balcony and I am not satisfied that this would adequately mitigate the harm I have found. Consequently, I find that the appeal proposal is contrary to Policy D1 of the LP which seeks to prevent development which has an adverse effect on the amenity of occupiers of adjoining residential properties.

Trees

11. Section 197 of the Town and Country Planning Act 1990 places a duty on decision makers to ensure that in granting planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation and planting of trees. I have had regard to this in reaching my decision and I have also had regard to the 'Trees and Development' Supplementary Planning Guidance provided by the Council.
12. The appeal dwelling would be located in close proximity to an existing mature tree on the site which the Council refer to as a 'Cedar' and the appellant refers to as a 'Poplar'. The Council refer to the tree as being 'noteworthy' and 'worthy of retention' but I have not been advised that the tree is subject of any formal protection through a Tree Preservation Order.
13. During my site visit, I noted that there are a number of mature trees in the vicinity of the site. I also noted that the tree in question is visible from Rhode Lane but largely only through the gaps either side of the host dwelling and that it is not highly visible from other public vantage points nor a significant feature in the wider area.
14. The Council's principal concern relates to the impact of the tree on the living conditions of future occupiers of the appeal property through shading and that this would lead to pressure for the tree to be pruned, lopped or felled in the future. However, the appeal proposal has been designed so that there would be large openings to the principal rooms in the south elevation. This, together with the orientation and position of the proposed dwelling in relation to the tree in question would in my view limit the amount of shading to those rooms. In addition, I am also mindful that the Council have granted consent for a single storey dwelling on the same site (ref: 19/1043/OUT), accepting therefore the principal of a residential dwelling in close proximity to a mature tree.
15. As such, I am not persuaded that the impact of the development on the mature tree in question would be so harmful as to weigh against the proposal and conflict with Policies D1 and D3 of the LP and Policy UEN5 of the UNP which seek to deliver a harmonious and sustainable relationship between built structures and trees.

Other Matters

16. I note that representations from interested parties raise concerns about various other issues including the proposed materials for the construction of the appeal proposal and the impact of noise and light from the use of the proposed

driveway. I have also considered the limited contribution that the appeal proposal would make to housing supply and the local economy. However, none of these matters would not alter the conclusion I have come to on the main issues.

Conclusion

17. Although I have found that the proposed development would be acceptable in respect of two of the main issues I have identified, this is outweighed by its resultant effect on the neighbouring occupiers at South View. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alison Fish

INSPECTOR