



Appeal Decision

Site Visit made on 18 October 2021

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/K1128/D/21/3277812

16 Yorke Road, Dartmouth TQ6 9HN

- 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 Dave Cawley against the decision of South Hams District Council.
 - The application Ref 0673/21/HHO, dated 23 February 2021, was refused by notice dated 14 May 2021.
 - The development proposed is described as the erection of an amateur radio aerial (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part of the radio aerial has already been installed at the property. References to the development therefore relate to development which has already been carried out in part.
3. The appellant submitted revised plans as part of the planning application, showing the mast with a reduced height of approximately 2m. The revised plans were submitted too late to be consulted on as part of the planning application. Given the reduction in height would be a significant amendment to the proposal, these changes would need to be consulted on properly to ensure fairness and transparency to all concerned parties. Notwithstanding my comments at paragraph 13 of this decision, I have therefore determined this application with regard to the originally submitted drawing (TE.040211 E).
4. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issues of this appeal, so I have therefore determined this appeal with regard to the current version, published in July 2021.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupiers of no. 18 Yorke Road.

Reasons

Character and Appearance

6. The appeal property is a detached dwelling which sits between Yorke Road to the front and Crossparks to the rear. There is a separate garage and driveway to the rear of the property which abut Crossparks, and access to the property is gained via some steps leading downwards from the garage. Due to the sloping topography of land in the area, the appeal dwelling, along with neighbouring properties, have sweeping downward views across the River Dart. The locality is distinctly residential in character.
7. The radio aerial is sited on the southern side of the property, in front of the garage and close to the shared boundary with no. 18. When the aerial is not extended (referred to as its “down and parked” position), its height is roughly in line with the ridge height of the garage. In this position, the mast is scarcely visible along Crossparks, as it is largely blocked from view by the garage. Whilst it can be seen along Yorke Road below, its limited height allows it to assimilate more effectively with the fabric of the appeal property as a whole, without appearing overly incongruous.
8. The situation would be very different when the aerial is “up”, as its height would significantly increase, extending upwards to approximately 11.7m. In this position, the aerial would sit significantly taller than the garage, protruding well above the roofscape of properties along the road. As a result, it would appear very prominent in the street scene along both Yorke Road and Crossparks.
9. When operative, the aerial equipment affixed to the top of the structure would also extend outwards by approximately 3m. In this position, the mast would take on a distinctly industrial appearance, which would appear stark and alien in the residential context of the surrounding area. Due to the prominence of the mast arising from its significant height, this juxtaposition with the prevailing residential nature of the area would be keenly felt throughout the street scenes of Yorke Road and Crossparks, which would be harmful to the area’s overarching character.
10. For these reasons, the development harms the character and appearance of the area. It therefore conflicts with Policies DEV20 and DEV23 of the Plymouth & South West Devon Joint Local Plan (2014 – 2034), which require new development to contribute positively to the townscape, through high quality design which responds properly to the pattern of local development in terms of height, character and visual impact. The development would also conflict with the overarching design objectives of the Framework.

Living Conditions

11. The radio aerial is sited close to the northern boundary of no. 18. The front entrance to no. 18 is approximately 4.5m from the mast, and is located on its northern elevation directly facing the mast. Even when the aerial is “down and parked”, it sits significantly higher than the boundary fence between the two properties. Given its close proximity, the combined height and industrial appearance of the mast is therefore felt acutely when exiting no. 18 through its front entrance, which creates a significant imposing and overbearing impact.

This impact would be significantly exacerbated when the aerial is operative and extended to its full height.

12. This overbearing impact is harmful to the living conditions of the occupiers of no. 18. The development therefore conflicts with Policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014 – 2034), which seeks to ensure new development safeguards the outlook of neighbouring residents.

Other Matters

13. Whilst I note the appellant has sought to reduce the height of the mast by approximately 2m, even with this reduced height, when fully extended and operative the aerial would still appear incongruous and alien in the context of the area's residential character. Moreover, the reduced height would not materially lessen the overbearing impact of the mast on the occupiers of no. 18. The identified harm would therefore remain even if the height of the mast were reduced as proposed by the appellant.
14. I note the support of OFCOM with regard to the development, and recognise the contribution that amateur radio can make to community life, particularly in terms of emergency communications. Nonetheless, any such benefits would not outweigh the harm identified to the character and appearance of the area, nor to the living conditions of the occupiers of no. 18.
15. The proposed development concerns the erection of a structure which would constitute development pursuant to planning legislation. S55(2)(d) of the Town and Country Planning Act 1990 concerns the "use" of a dwelling for "*purposes incidental to the enjoyment of a dwelling house*", rather than physical development. This provision is therefore not applicable to the proposal in this instance.
16. I acknowledge that there are examples of other radio masts within Dartmouth. However, each application must be determined on its own merits, and these examples do not override nor justify the harm to the character and appearance of the area nor to the living conditions of the occupiers of no. 18 arising from the development in this instance.
17. This decision concerns the planning merits of the development only, and not any procedural matters raised by the appellant regarding the progression of the planning application. Such matters cannot therefore weigh on my decision.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR