



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: 26 November 2021

Appeal Ref: APP/K1128/W/21/3279039

5A Butt Park Terrace, Churchstow TQ7 3QN

- 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 Nick Grodhunce & Dave Pollard against the decision of South Hams District Council.
 - The application Ref 3629/20/FUL, dated 6 November 2020, was refused by notice dated 27 April 2021.
 - The development proposed is described as the demolition of outbuildings, reconfiguration of Post Office and Shop and construction of 2 no. new dwellings with associated parking and infrastructure.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs has been made by Nick Grodhunce & Dave Pollard against South Hams District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. The main parties have had the opportunity to comment on the changes. I have therefore determined this appeal with regard to the current version, published in July 2021.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of the existing dwelling, with particular regard to outlook and the provision and quality of outdoor space;
 - the effect of the proposed development on the retail function of the post office and shop; and
 - whether or not the development makes adequate arrangements for the disposal of surface water drainage.

Reasons

Living Conditions

5. One of the new dwellings (plot 2) would be sited directly south of the existing living accommodation comprised in the appeal property, which means its rear windows would directly face the front of the new dwelling. At ground floor level, the separation distance between the two would be approximately 6 metres, and at first floor level (on account of the balcony), it would be approximately 8.3 metres. Given the close proximity, the development would seriously obstruct the levels of natural light currently experienced in the rooms to the rear of the existing dwelling, particularly at ground floor level. On the basis that the land to the rear of the existing accommodation is largely undeveloped, the development would also detract from the sense of openness currently experienced to the rear of the property. Both of these factors would harm the living conditions of its occupiers.
6. When the first-floor balcony is factored in, the existing living accommodation would retain sufficient outdoor amenity space to comply with the minimum space standards set out in the Council's SPD¹ (SPD). However, given the proposed layout of the development, the quality of this outdoor amenity space would be severely compromised by the new dwellings. The frontage of plot 2, which would be two-storey, would face out directly over the garden to the existing accommodation. Not only would this detract from the existing garden's open outlook, but given its close proximity, the new dwelling's frontage would also appear imposing and overbearing in this space. Moreover, the car parking space to serve plot 2 would abut and run parallel with the entire western boundary to the existing garden. This would lead to a sense of enclosure which would again harm the outlook from this amenity space. Finally, even though the window from the habitable room at first-floor level of plot 2 would be positioned to reduce its impact so far as possible, the proximity of this window to the garden would invariably still lead to a significant degree of overlooking.
7. Taken together, these factors would severely detract from the quality of the outdoor amenity space to the rear of the existing living accommodation, which would be harmful to the living conditions of its occupiers. Whilst the proposals would meet the minimum amenity space dimensions set out in the SPD, the development would conflict with Policies DEV1 and DEV10 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (adopted 2019) (Joint Local Plan). These seek to ensure that new development safeguards the quality of living space of neighbouring occupiers, specifically in terms of daylight, outlook and privacy.

Retail Function

8. The appeal property includes a small post office and shop which serves as an important service to the local community. Whilst it is compact, the shop does accommodate a good range of essential products. There is a separate outbuilding next to the shop, which is partly used to support this use, however aside from storage, the outbuilding is mainly reserved for newspapers, fruit and vegetables. On my site visit, it appeared that no more than half of the outbuilding was being actively used in conjunction with the shop. It was also clear that there was no direct intervisibility between the internal part of the

¹ Plymouth & South West Devon Joint Local Plan 2014 – 2034, Supplementary Planning Document (adopted July 2020)

shop and the outbuilding, which does pose certain risks in terms of shop security and surveillance.

9. The outbuilding would be demolished as part of the development in order to facilitate access to the proposed new dwellings. To help compensate for the consequent reduction in overall floorspace, the main part of the shop would be slightly extended by assuming some of the existing living space of the appeal property. The shop floor would also be reconfigured to maximise the use of space. The reconfigured layout, together with the additional space given over to the shop, would improve its functionality, and would overcome the security issues associated with the separate outbuilding, by ensuring the entire retail offering is within the same space. Irrespective of whether a forecourt would be feasible, the redesign would also free up much of the space needed to accommodate most, if not all of the products currently offered across the two buildings, thereby ensuring that the customer experience would not be adversely affected.
10. The reconfigured layout would integrate a certain amount of storage within the shop floor itself. The rise of "point-of-sale" re-ordering would also help reduce the need for extensive levels of on-site stock. Therefore, even accounting for the net reduction in available floorspace, the proposed development should not compromise the long-term viability of the shop use due to a lack of storage space. Whilst the increased reliance on "point-of-sale" re-ordering may necessitate more frequent deliveries, given the shop's limited size, any increase in the number of deliveries is unlikely to make a meaningful difference to the number of vehicle movements on the local highway network, nor to associated carbon emissions.
11. For these reasons, I am satisfied that the proposed development would not unduly compromise the retail function of the shop, nor its longer-term viability. The development would therefore be consistent with Policy DEV18(6) of the Joint Local Plan, which seeks to safeguard local services and their continued business use. The development would also be consistent with Policy DEV32 of the Joint Local Plan, which promotes low carbon development throughout the plan area.

Drainage

12. The site layout plan shows the proposed location of a soakaway for each of the new dwellings, which would be consistent with the Council's requirement for new development to prioritise the use of infiltration systems to address surface water drainage. Whilst the site is small, no substantive evidence has been presented to suggest that infiltration would not be workable or achievable on the site. If, after testing, it was determined that infiltration was not feasible, it has been indicated that off-site discharge can still be considered.
13. On this basis, and given the logistical difficulties in terms of access to the site for percolation testing until such time as the outbuilding has been removed, it would be reasonable in this instance for the precise details of the proposed drainage system to be addressed via condition.
14. Therefore, subject to an appropriately worded condition to secure approval and implementation of a sustainable drainage system, I am satisfied that the development would make adequate arrangements for the disposal of surface water drainage. The development would be consistent with Policy DEV35 of the

Joint Local Plan, which requires sustainable water management measures to be incorporated into development proposals in order to minimise surface water run-off, and ensure development does not increase flood risk.

Other Matters

15. Whilst the development would confer certain shop benefits in terms of designated parking spaces and refuse storage, these factors would not outweigh the harm to the living conditions of the occupiers of the existing accommodation as identified above. Whilst I also acknowledge the appellant's contention that the shop and post office would likely cease trading if the development was not permitted, there is no meaningful evidence before me to demonstrate that the continued operation of these services would be secured even if the development were allowed. As such, this only carries limited weight in my decision.
16. The appeal property is located within the South Devon Area of Outstanding Natural Beauty (AONB). AONBs are designated for the purposes of conserving and enhancing natural beauty, and section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to these purposes in this decision. The proposed design, siting and landscaping of the new dwellings and associated parking would complement the prevailing character of development in the wider area, so in design terms, I am satisfied that the development would conserve the intrinsic quality of the AONB. Nonetheless, this is a neutral factor, and would not outweigh the harm identified to the living conditions of the occupiers of the existing living accommodation.

Conclusion

17. Although I have accepted the appellant's arguments with regard to the main issues concerning retail function and drainage, the proposal would nonetheless harm the living conditions of the occupiers of the existing residential accommodation, which I have found to be the overriding issue in this appeal. The development would therefore conflict with the development plan, and there are no other considerations, including the provisions of the Framework, which would outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR