



Appeal Decision

Site visit made on 15 November 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/Y1138/D/21/3280155

19 Lower Millhayes, Hemyock EX15 3SL

- 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 Marie Ingersoll against the decision of Mid Devon District Council.
 - The application Ref 20/01537/HOUSE, dated 14 September 2020, was refused by notice dated 18 June 2021.
 - The development proposed is retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground.
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Decision

1. The appeal is allowed and planning permission is granted for retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground at 19 Lower Millhayes, Hemyock, EX15 3SL, in accordance with the terms of the application, Ref 20/01537/HOUSE, dated 14 September 2020, and subject to the conditions in the schedule below.

Preliminary Matters

2. The description of development has been taken from the Council's decision notice as it more concisely describes the proposed development.
3. I saw from my site visit that the building detailed in the plans was already constructed and that an area of decking was situated in front of it, though this appeared to have been recently reduced in size and partly replaced with patio slabs at a lower level. From the evidence, I am aware that the proposal includes further adaptations to the building and the provision of water and drainage infrastructure.

Application for costs

4. An application for costs was made by Miss Marie Ingersoll against Mid Devon District Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues are the effects of the proposal on i) the character and appearance of the area and ii) the living conditions of neighbouring occupiers at Nos 18 and 20 Lower Millhayes, with particular regard to privacy and outlook.

Reasons

Character and appearance

6. The appeal site is formed from the rear garden of No 19 Lower Millhayes, the host dwelling, which is semi-detached, two storeys high and situated in a linear arrangement of similar dwellings which all have long rear gardens enclosed by fencing. The gardens all rise up moderately at the rear towards the more sloping agricultural field to the north.
7. The appeal building is a rectangular timber-clad, shed-like structure at the end of, and filling the width of the garden. It is a little higher than the wooden fencing separating the garden from its neighbours but has a flat roof. It is situated on an area of decking of marginally higher height than the level of the garden. The end of the garden has a boundary with an open agricultural field.
8. The building and the decking have a typical domestic scale and appearance and are clearly situated within the confines of the garden. From the evidence, the dimensions of the building appear to be in the region of 7.3m by 4.5m by 2.5m high with a porch projection of around 3.4m x 1.8m and the decking a modest area in front thereof, elevated marginally from the ground level beneath it.
9. I note that the site is within the Blackdown Hills Area of Outstanding Natural Beauty (AONB), although the appeal site does not contribute in any material way to the reason for the designation. Whilst I note the relationship of the building to an adjoining area of sloping agricultural land which is more befitting of the AONB character, the building does not materially harm it. I noted a similar building in a garden a short distance away from the appeal site which had similar negligible effects on the area's character and appearance.
10. Considered in the round, taking into account the modest scale of the building, its position within a domestic garden and its appearance which is typical of such a structure, I do not consider that it is harmful to the character and appearance of the area. Consequently, the proposal does not conflict with, in particular, Policies DM1 and DM11 of the Mid Devon Local Plan 2013-33 (2020) (Local Plan). These policies collectively seek to ensure that new development is well integrated with surrounding buildings, streets, and landscapes and do not result in over-development of the dwelling curtilage. The proposal would also comply with Local Plan Policy DM27 which seeks to conserve the character, appearance, setting and other special qualities of the protected landscape.

Living conditions of neighbours

11. The appeal garden is separated by wooden fencing from neighbouring gardens on both sides belonging to Nos 18 and 20 respectively. Those gardens are of similar proportions and their levels also rise with increased distance from the rear elevation of the respective dwellings.
12. I was invited to enter into both gardens, in addition to the appeal site, to understand the effects of the proposal on the living conditions of neighbouring occupiers. From No 18 in views similar to that obtained from the kitchen window, the building is around 22 metres away and does not form a significant feature of the view. Whilst I anticipate that the view towards the field at the rear was more open before the existence of a building on the appeal site, I do not consider that the building is overbearing to the neighbouring occupiers at No 18. Similarly, due to the scale and location of the building in relation to the

occupiers of No 20, I do not consider that it forms an overbearing feature that could be held to harmfully affect the living conditions of occupiers thereof.

13. In terms of overlooking, the building and decking are situated in excess of 21 metres from the rear elevation of the appeal dwelling and neighbouring occupiers. This distance is commonly held to be the minimum required to prevent overlooking between facing windows. The existing glazed door is to be changed for an obscure glazed window which would further reduce the number of openings from which views could be obtained towards the general direction of the neighbours.
14. The decking does not provide a platform of such an elevated level relative to the garden that it results in harmful overlooking to the neighbouring occupiers that could not otherwise be achieved with the level differences and existing degree of mutual overlooking. Furthermore, I noted an area of similar decking in the garden of No 20, and though I cannot assume the nature or level of its use, I consider that has the scope to have similar effects on neighbouring occupiers as that forming part of the appeal.
15. For the above reasons, the proposal would not harm the living conditions of neighbours at Nos 18 and 20 Lower Millhayes, with particular regard to privacy or outlook. It would therefore comply with Policy DM11 of the Local Plan which seeks to ensure that extensions and other ancillary development should not have significantly adverse impacts on the living conditions of occupants of neighbouring properties.

Other Matters

16. I note that the proposal involves the provision of water and drainage to facilitate the provision of a bathroom. Notwithstanding that this would involve engineering operations, I consider that this would be of limited consequence visually or in other respects once completed.
17. Whilst I note the concern of neighbours in relation to the creation of a precedent, I do not consider that the building is so different than those already in existence nearby, or its intended ancillary use so unique so as to suggest that it would create a new precedent. Without fettering the interests of any future decision maker, independent occupation of the building would be undesirable as the access would be highly contrived, resulting in occupants of the host dwelling suffering a loss of privacy and adverse impacts from noise and disturbance, were this to occur.
18. It has been suggested that there would be greater demand for off-road parking spaces. However, the provision of modest ancillary family accommodation would not have a material impact on the demand for parking.
19. The correspondence includes reference to the immunity, or otherwise, of the building from enforcement action. As the proposal seeks permission for the building to remain, albeit with alterations, which I find acceptable, the length of time it has stood substantially complete is not a decisive matter in any event.
20. I understand that any use of the building by occupants other than those forming part of the same household within the host dwelling would constitute an unacceptable change of use that could harm the living conditions of neighbouring occupiers. However, the proposal is to allow the building to be used by occupants that are essentially living with the family in the host

dwelling and to use it separately of such would necessitate a separate planning application.

Conditions

21. As the development has already started, it is not necessary to impose the condition requiring the statutory time limit for commencement.
22. In the interests of certainty, a condition requiring the completion of development in accordance with the approved plans is necessary.
23. For the reasons already set out, a condition specifying the permitted use of the building is necessary to prevent it from being used independently of the host dwelling.
24. A condition is also necessary to ensure that the proposed bathroom window is provided with obscure glazing prior to its first use as such.

Conclusion

25. The development complies with the development plan. For this reason and taking account of all other matters raised, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, scale 1:1250
 - Proposed Plan dated 26.05.2021
 - Proposed Elevations dated 26.05.2021
- 2) The accommodation hereby permitted shall be used solely for purposes ancillary to 19 Lower Millhayes only and shall at no time be used, let, sold or otherwise be disposed of as a separate unit of living accommodation.
- 3) Prior to first use of the WC and shower room hereby permitted, the window in the south elevation shall be provided with obscure glazing and shall thereafter be permanently retained as such.