



Appeal Decision

Site visit made on 2 February 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/U1105/W/21/3280492

Site off Cheese Lane, Cheese Lane, Sidmouth EX10 8QY

- 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 Pia-Maria Boast against the decision of East Devon District Council.
 - The application Ref 21/0106/FUL, dated 13 January 2021, was refused by notice dated 31 March 2021.
 - The development proposed is new dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal is accompanied by alternative plans which show the creation of a vehicular entrance at the site. It is not clear if these drawings were subject to public consultation. As such, I have assessed the appeal on the basis of the plans subject to the Council's decision, as set out within the decision notice.

Main Issue

3. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the Bickwell Valley Conservation Area (the CA).

Reasons

4. The site is a roughly square plot of garden space, enclosed by fencing on three sides, set atop a bank above and open to Cheese Lane to the north, within the CA. Close by to the southeast stands a short terrace forming Nos 1-4 Cheese Lane, beyond which is the adjacent, larger Colaton Terrace, which fills the inside corner of Cheese Lane's junction with Cotmaton Road.
5. The contribution Cheese Lane makes to the CA, by virtue of its verdant and enclosed character, is well rehearsed by the two appeal decisions at the appeal site in 2014 and 2020 respectively¹. The Devon Historic Environment Record also positively identifies Colaton Terrace, owing to its composition, noting its polychromatic brickwork. The Cheese Lane terrace is similar in form and design and benefits from a degree of reflected value by close association.
6. The site is one of several plots demised to these terraces in the nineteenth century as allotments. Whilst largely enclosed by fencing and populated by domestic outbuildings, their absence of development relative to the terracing is

¹ Appeal Refs APP/U1105/A/14/2218923 and APP/U1105/W/20/3248708

tangible. The delineation of most plots is clear on site and on the plans, and their continuing use and intimate association with the terracing is experienced first-hand as one accesses the site along the common passageway, accessed through Colaton Terrace. This is an interesting, well-preserved historic pattern of development, which contributes positively to the significance of the CA.

7. The dwelling has been designed to appear as an honest, modern addition to the CA, and I agree that this is a valid approach. Nonetheless, the historic pattern of the relatively undeveloped garden plots, and the interplay between them and the terraces, would be sullied by the proposal, particularly given the way in which the dwelling would fill much of its plot.
8. I recognise that the appellant has gone to great lengths to respect the sense of enclosure within Cheese Lane. However, the pedestrian entrance would inevitably erode this attribute to a limited extent. I also consider it likely that the side profile of the dwelling would be visible rising above Cheese Lane on the approaches to the site. This would cause the lane's verdant character to be subject to an unwelcome, albeit modest, further urbanisation, which would not be mitigated by replanting native vegetation along the bank.
9. The appellant has sought to address the comments made in the two previous appeal decisions. However, I must consider the appeal on the evidence before me now, which I cannot be sure is the same as that before the previous inspectors. I do not know if the origins of the gardens, historically allotted to the terraces, was a matter fully put forward or explained. As such, in this specific regard, the appeal decisions have carried little influence on my own assessment. Furthermore, that both Inspectors focused on the design merits of the schemes should not be taken to deliver any tacit support for or indeed objection to the principle of any future proposal being developed; this would step beyond the role of the Inspector as it may fetter a future decision maker.
10. Given the relatively limited impact of the development, I would quantify the harm to the CA as less than substantial. However, Paragraph 199 of the National Planning Policy Framework (the Framework) explains that great weight should be given to the conservation of designated heritage assets.
11. Paragraph 202 goes on to require decision makers to weigh any less than substantial harm to a designated heritage asset against the public benefits of the scheme, including securing its optimum viable use. That balancing exercise must take place in the context of s.72(1) of the Planning Listed Buildings and Conservation Areas Act 1990, which sets a strong presumption against a grant of planning permission for development that would fail to preserve or enhance the character or appearance of a conservation area.
12. The economic and social benefits of the construction and then occupation of the dwelling would be small. As such, the weight I attach to these benefits falls decisively short of justifying the harm that would be caused; harm that must be given considerable importance and weight in the balancing exercise.
13. Consequently, I conclude that the proposal would fail to preserve the character and appearance of the CA. It would conflict with the design and heritage aims of Policies Strategy 6, D1 and EN10 of the East Devon Local Plan 2013-2031 (adopted 2016), Policies 7 and 9 of A Neighbourhood Plan for the Sid Valley 2018-2032 (made 2019) and the Framework.

Other Matters

14. The appeal site is within influence of the Pebblebed Heaths Special Protection Area and it cannot be ruled out in the first instance that likely significant effects would occur to this habitat site as a result of the proposal through increased recreational use. I also note the submission of a S111² agreement by the appellant in order to seek to mitigate such effects. Had I been minded to allow this appeal, it would have been necessary for me to consider this matter further within an Appropriate Assessment. As I am not, I have not done so.

Conclusion

15. The proposal would conflict with the development plan when read as a whole and there are no other considerations, including the Framework, which outweigh this conflict. For the above reasons, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

² Of the Local Government Act 1972