



Appeal Decision

Site visit made on 9 February 2022

By H Porter BA(Hons) MSc PGDip, IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th March 2022

Appeal Ref: APP/K1128/W/21/3268010

Land previously associated with 2 Moon Lane, Modbury

- 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 Matt Coppel against the decision of South Hams District Council.
 - The application Ref 1320/20/FUL, dated 4 May 2020, was refused by notice dated 31 July 2020.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Development Plan currently comprises the Plymouth & South West Devon Joint Local Plan 2014 – 2034, March 2019 (JLP). The Modbury Neighbourhood Plan 2015 – 2034, Submission Version March 2020 (ENP) has not been made nor independently examined and is not yet part of the development plan.

Main Issue

3. The Council gave four reasons for refusing the proposed development. Based on what I have seen and read, I consider the main issue to be the effect of the proposed development on the character and appearance of the area, giving special regard to the effect on relevant designated heritage assets and the South Devon Area of Outstanding Natural Beauty.

Reasons

4. The appeal concerns a portion of residential garden land bound by Church Lane in the market town of Modbury. The site is proximate to the Grade I listed Church of St George (the listed church) and its associated yard and is within the Modbury Conservation Area (CA); I am mindful of my statutory duties in respect of preserving and enhancing the South Devon Area of Outstanding Natural Beauty (AONB).
5. The listed church is situated on raised ground above Church Lane, within an enclosed yard that runs close to the appeal site's western boundary. In addition to its architectural interest, fabric and historic associations, the significance and special interest of the listed church is also underpinned by it being a social and spiritual focal point within Modbury and further afield. Legibility of the church's prominence and edge-of-settlement origins is emphasised by an enduring sense of its elevation and separation from the main body of Modbury. This

experience of the asset is underpinned by the country-lane characteristics of Church Lane and the undeveloped spaces around it, which includes the appeal site. Therefore, the appeal site is within the setting of the listed church and contributes to its significance as a highly graded heritage asset.

6. The settlement of Modbury ostensibly originated on the higher ground close to the church and evolved to present a linear townscape along principal streets, from which long narrow 'burgage plots' extend rearwards. Like many historic rural settlements, the concentration of development in Modbury thins out towards its edges and quickly transitions into a wider rolling verdant landscape. The special interest and significance of the CA as a whole is therefore informed by legibility of the settlement's evolution over many centuries, and the relationship between its historic buildings, street pattern, plot layout and enveloping countryside.
7. As Church Lane extends away from Modbury, it is distinguished by its narrowness, high stone or vegetal banked sides and intermittent views across a wider rolling landscape. While the appeal site is within the development boundary of Modbury, intervening gardens and its situation above Church Lane cause it to read as separate from the settlement's residential development. Rather, the appeal site is at a transitional point where the settlement shifts into the countryside, accentuated by the site's soft, green and undeveloped characteristics. The characteristics of the Church Lane environs correspond closely to the special qualities identified within the South Devon AONB Management Plan 2019 – 2024, as referred to in the Officer Report.
8. The appeal site underpins a synthesis between countryside and settlement, the rural sunken-lane nature of Church Lane, legibility of the historic prominence and edge-of-settlement origins of the church and plot evolution of the CA. Therefore, it makes a positive contribution to the character and appearance of the area, the special interest and significance of the listed church and CA as a whole, and, albeit in a small way, the natural beauty of the AONB.
9. The proposed development would introduce a detached two-bedroom dwelling on the appeal site. The proposal would sit apart from the concentration of smaller dwellings within Modbury and be equally unrelated to larger houses standing in generous plots further along Church Lane. Of itself, the proposed dwelling would be of high architectural quality and constructed of sympathetic materials. The proposal would involve retention of the frontage stone-faced walling, supplementary 'topping' planting and a set-back from the highway. Nevertheless, the dwelling would still have a looming impact above Church Lane, representing an obvious domestic intrusion, at odds with its historic sunken-lane character.
10. That the proposed development would instigate pruning or felling of surrounding trees is speculation. However, the footprint of the proposed dwelling relative to the overall plot would cause hard, permanent built form to dominate the site. Even with tree protection and supplementary planting, the urbanisation that would take place across the majority of the site would be at odds with its extant soft, green and open qualities. Even with limited inter-visibility between the church and the appeal site, the experience of the church's connection with its verdant, undeveloped setting would, in a small way, be eroded. By this effect, the legibility of the historic and social ascendancy the setting of the church contributes to its significance would be weakened.

11. Furthermore, something of the settlement-to-countryside transition that characterises this part of Church Lane and is of value to the character and appearance of the area, the CA and the AONB, would be undermined. Irrespective of the site's relative containment, the urbanising and dominating impact of the proposal would be appreciable from Church Lane, and from the Public Rights of Way that run along higher ground through the church yard. I judge that the proposed development would neither integrate with the pattern of development that characterises the settlement, would undermine legibility of its historic plot layout that informs part of the significance of the CA as a whole. As such, the proposed development would cause harm to the character and appearance of the area.
12. The setting of the listed church would not be preserved, contrary to the expectation of s66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act). The character and appearance of the CA as a whole would not be preserved or enhanced, leading to conflict with s72(1) of the Act. These are matters that carry considerable importance and weight. Conflict also arises with JLP policies DEV20, DEV21, DEV23 and DEV25 insofar as these require proposals to have proper regard to the pattern of local development and the wider development context; sustain the local character and distinctiveness by conserving its historic environment; contribute to the character and quality of the area; conserve and enhance the natural beauty of the protected landscape. By the same effect, conflict arises with the Framework policies, including at paragraphs 130 and 174, which require that decisions, amongst other things, ensure development is sympathetic to local character and history, including the surrounding built environment and landscape setting; and contribute to and enhance the natural and local environment.
13. Harm to the listed church and the CA as designated heritage assets would, in each case, be less than substantial. Paragraph 202 of the National Planning Policy Framework, July 2021, requires less than substantial harm be weighed against the public benefits of the proposal; I turn to this later in the overall planning balance.
14. The scheme would provide an open market dwelling in Modbury, within easy walking distance of the range of services and facilities and in accordance with the JLP settlement and development strategy policies. The proposed development would make a small but beneficial contribution to the choice of homes in the district and its supply of housing land; as well as providing social and economic benefits during construction and after occupation. However, even if the appeal site has fallen out of use as a domestic garden and does not lend itself for uses such as grazing, food production or public amenity space, the benefits associated with just one dwelling would be modest and attract moderate weight. An absence of harm in respect to neighbours' living conditions, trees, light-spill, highway safety, and high environmental building standards are all neutral factors and, while they do not weigh in the balance against the proposal, nor do they weigh in its favour.
15. On the other hand, even less than substantial harm to a designated heritage asset carries considerable importance and weight. The weight of these harms is compounded by the failure to conserve the AONB and harm to the character and appearance of the area, which conflicts with the development plan read as a whole. Therefore, even cumulatively, the sum of public benefits is not sufficient to outweigh the harm the appeal scheme would cause. This leads to

conflict with the historic environment protection policies of the Framework. More broadly, the proposal would not support the environmental objective outlined in paragraph 8 c of the Framework and not achieve sustainable development.

Other Matters

16. New housing developments within the boundaries of the CA, setting of the church, Central Bedfordshire nor East Budleigh, do not provide a useful parallel with the appeal site, given the characteristics and sensitivities of individual sites are inevitably nuanced. Rather, the appeal proposal has been determined on its merits and with regard to the site-specific circumstances and statutory duties. As I am dismissing the appeal based on the main issues, drainage and flood risk are not determinative. However, the Appellant's updated FRA indicates that a suitable drainage system involving a modular storage tank could be incorporated into the proposed development, along with a system of down-pipes and gullies to convey surface water from the impermeable areas into an attenuation tank. Had I been minded to allow the appeal, the matter of ensuring surface water control as appropriate for the Modbury Critical Drainage Area could, in my view, have been dealt with via conditions. Criticisms laid at the Council's handling of the application or interactions with the appellant have not played into my consideration of the appeal proposal, which I have assessed on its merits.

Conclusion

17. For the reasons given above, I do not find there to be material considerations that indicate a decision should be made other than in accordance with the development plan read as a whole. I therefore conclude that the appeal should be dismissed.

H Porter

INSPECTOR