
Appeal Decision

Site visit made on 25 August 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal Ref: APP/X1118/W/22/3292338

Lemons Cottage, Atherington, Umberleigh, Devon EX37 9HY

- 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 Rowland Kimber against the decision of North Devon District Council.
 - The application Ref 73020, dated 6 March 2021, was refused by notice dated 7 September 2021.
 - The development proposed is described as erection of one open market dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the scheme would preserve the settings of adjacent Grade II and Grade II* listed buildings; and
 - the effect of the development on highway safety.

Reasons

Listed buildings

3. The site is an enclosed piece of land which lies towards the south/south east of front elevations of Lemons Cottage and Lemons Farmhouse. Lemons Cottage is a Grade II listed building, and its immediate neighbour Lemons Farmhouse is listed at Grade II*. Whilst both are designated heritage assets, Lemons Farmhouse is a designated heritage asset of the 'highest significance'. Here Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) sets out the desirability of preserving listed buildings and their settings, and paragraph 199 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets.
4. Insofar as it is relevant to this appeal the special interest and significance of Lemons Cottage resides in its C16th origin, and of Lemons Farmhouse in its C15th origin, and in both in their historic fabric, layout, vernacular construction and appearance. The latter can be readily appreciated from land in front of the buildings, which, in the seasonal absence of foliage and undergrowth, is likely to include the site. Here I note the submission of a photo which seeks to

demonstrate otherwise, however, this is from a single selected viewpoint which cannot therefore be considered wholly representative.

5. The list descriptions state that each building was once a farmhouse, and this role endured longest in relation to Lemons Farmhouse, the more substantial and higher status of the 2 buildings. The site itself historically fell within the landholding of the latter, and continues to directly adjoin its large garden. The site as such forms part of a block of land which remains largely free from development other than outbuildings. This is appreciable both moving around and within the block, and from Lemons Farmhouse itself. Though no longer in agricultural use, this block of land preserves some sense of the historic rural setting and functional context of both listed buildings, but more particularly that of Lemons Farmhouse. These attributes thus make a positive contribution to appreciation of the significance of the listed buildings.
6. The fact that the block of land now lies in different ownerships does not alter my assessment above, even if it does mean that there has been fragmentation in its management and some obvious neglect of the site. In this regard the setting of a listed building is not the same as its curtilage.
7. A recreation ground adjoins both the site and garden of Lemons Farmhouse. Again, this occupies land once associated with the latter. The relationship is weaker than that which exists between the appeal site and Lemons Farmhouse. It is however notable that the recreation ground remains largely open. The recreation ground otherwise has little bearing on my assessment above.
8. The construction of a dwelling on the site would significantly alter both its character, and that of its relationship with surrounding land. In the first instance the development would have an immediately erosive effect on the largely undeveloped physical and visual setting of the listed buildings provided by the parcel of land of which the site forms part. This would be clearly appreciable from adjoining spaces, from the listed buildings themselves, and upon approaching them from the south. The adverse effect would be accentuated by the scale and massing of the proposed dwelling relative to that of the listed buildings, and the clear sense of suburbanisation that would arise. Efforts to give the dwelling a 'traditional' appearance would not alter this. The formation of a splayed access within the narrow lane to the front would itself appear stark, more broadly eroding the rural character of the wider setting.
9. It is proposed that planting would screen the development, thus helping to mitigate the scheme's visual impact. Though hiding the building would not alter its adverse spatial effects, it is otherwise improbable that the dwelling could be wholly concealed by planting. This is both given its scale and raised ground levels across the site. As this would be the case even if the dwelling was partly sunken into the ground, the latter would be of little assistance. There is also little certainty that screening would be permanently maintained. Such doubt extends to the trees currently on site given the acknowledged potential impacts of Ash Dieback disease. Planting would not therefore address the harm identified above.
10. The Council has approved developments elsewhere which the appellant perceives to be more harmful. However, this cannot be considered to provide direct justification for the harm that would specifically arise as a result of the appeal scheme. Insofar as further reference has also been made to approved buildings or additions of ultra-modern design, the absence of such a design was

not a reason for refusal by the Council, or a basis for Historic England's concerns. This therefore has little relevance to my assessment.

11. I therefore find that the development would modestly detract from appreciation of the significance of Lemons Farmhouse, and to a lesser extent that of Lemons Cottage. As such, it would fail to preserve the settings of both, contrary to the expectations of the LBCA Act. Harm to the significance of each listed building would be less than substantial. Such harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
12. The development would provide a single additional dwelling, both helping to meet the general need for new housing, and to address a shortfall in the Council's demonstrable 5-year supply of deliverable housing sites (5 YHLS). This shortfall was placed at 4.23 years by the Council at the time it assessed the application. Whilst this figure is now dated, no revision has been provided. The development of small sites makes an important contribution to housing supply, and in the context of a shortfall this is a consideration capable of attracting significant weight. Even so, the scale of the social and economic benefits generated by the provision of a single dwelling would be limited in relation to a shortfall of any size, and so attracts limited weight.
13. Insofar as reference has been made to housing need within the parish of Atherington, the development would not provide social housing, and nor would it provide housing of a size which is in need. This consideration therefore attracts no weight in favour of the scheme.
14. It is stated that the scheme would raise funds for the repair of Lemons Cottage. However, little to no evidence either of the need for repair or relating to finance has been provided. I cannot otherwise be certain that any funds generated by the development would be used in the manner suggested. This consideration therefore again attracts no weight in favour of the scheme.
15. The splayed access would create a space where pedestrians using the narrow lane to the front of the site could stand in. Though this is already possible in much the same location, in the absence of a footway, the access would make standing in more practical. Notwithstanding my findings above, this would provide a minor benefit to which I attach limited weight.
16. Thus, having attached no more than limited weight to the public benefits of the scheme, I find that these would be insufficient to outweigh the harm that it would cause to the significance of the listed buildings.
17. For the reasons outlined above I conclude that the scheme would not preserve the setting of the adjacent Grade II and Grade II* listed buildings. The development would therefore conflict with Policy DM07 of the North Devon and Torridge Local Plan 2011-2031 (the Local Plan), which seeks to secure proposals which conserve and enhance heritage assets and their settings, and Policy ST15 of the Local Plan, which more broadly seeks to preserve and enhance northern Devon's historic environment.

Highways

18. As noted above, the lane to the front of the site is narrow and lacks a footway. It obviously falls below the dimensions and specifications expected of a new road.

19. Whilst the recreation ground beyond the site is served by a car park, it can also be accessed through a pedestrian gate. Pedestrians, including children, are therefore likely to be regular users of the lane. Such use of the lane carries obvious risk, but the distance required to be travelled between the village centre and recreation ground is reasonably short, and, as noted above, some scope for standing in does exist. No record of any past accidents has been supplied.
20. The development would give rise to a small number of additional vehicle movements along the lane, which could thus in theory give rise to a minor increase in the level of risk for pedestrians. That said, a suitably splayed access would be provided giving good visibility along the lane, and as again noted above, the access would facilitate standing in. The likelihood of conflict between pedestrians and vehicles accessing or egressing the site would thus be small, and the development would otherwise be of some minor benefit to pedestrians at all other times.
21. The increased potential for vehicle conflicts has also been highlighted given the lack of current scope for pulling in. However, scope for such conflict involving vehicles using the access would again be limited given adequate visibility from and towards it, and the potential for its users to reverse back into it if necessary.
22. I therefore conclude that the overall effects of the development on highway safety would be acceptable. The development would therefore comply with Policy DM05 of the Local Plan which requires provision of safe and well designed vehicular access and egress, and protection and enhancement of existing public rights of way.

Other Matters

23. The parties provide differing interpretations of the positivity of pre-application advice. Ultimately however, such advice is not binding, and does not alter my findings above.

Conclusion

24. For the reasons set out above the effects of the development on the setting of adjacent listed buildings would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR