



Appeal Decision

Site visit made on 17 August 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2022

Appeal Ref: APP/Q1153/W/22/3297128

10 Ford Street, Tavistock, Devon, PL19 8DY

- 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 & Mrs Selley against the decision of West Devon Borough Council.
 - The application Ref. 1355/19/FUL, dated 26 April 2019, was refused by notice dated 27 October 2021.
 - The development proposed is erection of 6 flats, 1 cottage and associated car parking (resubmission of 2147/17/FUL).
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Decision

1. The appeal is allowed and planning permission granted for the erection of 6 flats, 1 cottage and associated car parking (resubmission of 2147/17/FUL) at 10 Ford Street, Tavistock, Devon, PL19 8DY in accordance with the terms of the application, Ref. 1355/19/FUL, dated 26 April 2019 and subject to the conditions listed in the Annex to this decision.

Application for costs

2. An application for costs was made by the Appellant against West Devon Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's refusal of planning permission alleged that the proposed development would impact on the amenity of the neighbouring occupiers at 9 Ford Street (No.9) due to loss of light to the ground floor windows in that property and that the development was thus contrary to policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014-2034) (March 2019) (JLP). No other objections to the appeal proposal were raised by the Council.
4. Since the appeal against that refusal was lodged, the Appellant and the owners of No.9 have entered into a Party Wall Agreement (PWA) after it was established that the wall in which the ground floor windows were inserted was a party wall under the provisions of the Party Wall Act 1996. In line with the PWA, the windows in question were subsequently removed by the owners of No.9 and bricked-up, which I observed on my site visit.
5. As a consequence, I invited both parties to comment on these developments and on 19 August 2022 the Council confirmed, in an email, that in light of the fact that the windows had now been removed their reason for refusal could be withdrawn and that they had no outstanding objections to the appeal proposal.

I concur with the Council's findings in this respect. As there is no other evidence before me to the contrary and no other main issues to be considered, I have proceeded to determine the appeal on that basis and with regard to the other matters that have been raised in the appeal submissions.

Other Matters

6. Interested parties raised concerns in relation to the impact of the appeal proposal on highway safety, the lack of sufficient car parking, flood and drainage risk and the overdevelopment of the site. There is no detailed evidence before me to suggest that any of these concerns would result in material harm or in any conflict with the relevant policies of the JLP, and they are not issues that the Council have raised. In relation to highways, the Highway Authority were satisfied with the proposed layout and raised no objection. Whilst an objection was raised in relation to flood risk, the Council determined that the heritage benefits of the proposal outweighed the risk that could arise. There is no evidence before me that would lead me to question that finding, which I concur with and further mitigation is sought in the form of a Flood Protection Plan, which can be secured by a condition. I am satisfied, therefore, that none of these issues would give rise to any harm or any material conflict with either the National Planning Policy Framework (July 2021) (Framework) or the JLP, when read as a whole.
7. The appeal site lies within the Tavistock Conservation Area (TCA) and World Heritage Site (WHS). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of those areas. Similar advice is to be found in the Framework and in the JLP. The appeal site also lies within the setting of various listed buildings, including 17 Ford Street (Grade II), the Church of our Lady & St Mary Magdalene (Grade II*) and the Drake Memorial (Grade II). Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 also requires that special regard must be had to the desirability of preserving these building's setting. Similar advice is again to be found in the Framework and in the JLP.
8. A detailed analysis of the impact of the proposed development on all of these designated heritage assets is set out in the Council's Planning Committee Report. This analysis found that the development of the site would enhance the TCA and that there were no intrinsic WHS features or attributes that would be affected by the proposal. It also found that the proposal would preserve views of the Church and would not result in any harmful impact on the setting of any of the nearby listed buildings. I note that these findings were reached following consultations with Historic England, who raised no objection to the proposed scheme and the Council's Heritage Specialist. Based on this, the evidence before and my observations on site, I am satisfied that the appeal proposal would enhance the character and appearance of the TCA and WHS, and would not result in any harm to the setting of nearby listed buildings.
9. The Appellant has submitted a completed Unilateral Undertaking (Deed) dated 30 August 2022. The Deed secures a contribution to mitigate recreational pressure generated by the development on the Tamar European Marine Sites (Tamar Valley EMS contribution) and a contribution towards open space, sport and recreational provision within the local area, as the latter requirements cannot be met on site. The Council's email of 19 August 2022 confirmed that

the proposed obligations were acceptable. The Deed obligates the owner or successors in title to pay the Tamar Valley EMS contribution in full prior to the occupation of the first dwelling and the open space, sport and recreational contribution in three stages, prior to the commencement of development and on occupation of the 1st and 4th dwelling.

10. Having reviewed the Deed I am satisfied that these obligations are reasonable and effective, and would meet the requirements of policies SPT14, DEV4 and DEV27 of the JLP. The obligations within this Deed are necessary to make the appeal proposal acceptable in planning terms; they are directly related to the proposed development; and fairly and reasonably related in scale and kind to the development. As such, all three tests set out in paragraph 57 of the Framework are met, and all the three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are similarly met.

Conditions

11. The Council has suggested a number of conditions which I have considered against the advice in the Framework and the Planning Practice Guidance chapter on the use of planning conditions.
12. Conditions relating to compliance with the approved plans and for details of various external materials and finishes including doors/windows/walls/roofs and balustrades and for a landscaping scheme to be submitted and approved are reasonable and necessary in the interests of ensuring that the development is of a high quality and enhances the TCA and WHS.
13. Conditions requiring the submission and approval of a drainage scheme and flood protection plan, a bat and bird boxes scheme, an archaeological programme, to address any unexpected contamination, to confirm details of access, parking and turning and a construction method statement, are also reasonable and necessary in order to ensure that the site is satisfactorily drained and any flood risks mitigated, to safeguard biodiversity interests, to ensure that any archaeological remains are properly recorded, to protect local amenities and in the interests of highway safety.
14. Conditions that require the proposed parking to be retained for the permitted residential use, to ensure the development secures low carbon credentials and electric charging facilities, and for various windows to be top hung and/or obscure glazed are also necessary and reasonable in the interests of highway safety, to mitigate the impact of climate change and in the interests of protecting neighbouring occupiers living conditions.

Conclusion

15. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex – Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed elevations 2163 (PL-) 12H; Site plan as proposed 2163 (PL-) 10C; Proposed floor plans 2163 (PL-) 11G; Location Plan DK - GA01.
- 3) The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development. The attenuation scheme should be installed so as to avoid flood water ingress to keep it functional during the flooding situation. If any other drainage scheme than that approved as part of this permission is proposed, then a mitigating drainage alternative shall be agreed in writing with the Local Planning Authority before it is installed.
- 4) No part of the development hereby approved shall be brought into its intended use until the amended access, parking facilities, turning area and reinstated footway to full height kerbs (except at the location of the vehicular access) have been provided and maintained in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority, and retained for that purpose at all times.
- 5) No development shall start until a Method of Construction Statement, to include details of: parking for vehicles of site personnel, operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; programme of works (including measures for traffic management); and provision of boundary hoarding behind any visibility zones, has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.
- 6) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme.
- 7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority.
- 8) Prior to development above slab level, a scheme to demonstrate compliance with the requirements of policy DEV32 of the Plymouth & South West Devon

Joint Local Plan (2014-2034) detailing the low carbon credentials of the development shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with these details.

- 9) Prior to development above slab level, a scheme detailing the location and specification of Electric Vehicle Charging Points within the development shall be submitted to and approved in writing by the Local Planning Authority and the development carried out in accordance with these details.
- 10) No development shall take place above slab level until a hard and soft Landscaping Plan has been submitted to and approved in writing by the Local Planning Authority. The Landscape Plan shall include: proposed new landscape features to include details of levels, layout, plant/tree species, size of stock and densities; and hard surfacing materials and boundary treatments. All elements of the landscaping plan shall be implemented and maintained in accordance with the approved details. All work shall be completed: i) prior to the occupation of the development for its permitted use; or ii) before the end of the current first available planting season following practical completion of the development hereby permitted. Any trees or plants that within five years after planting are removed, die or become seriously damaged or defective shall be replaced with other species, size and number as originally approved, unless consent is given by the Local Planning Authority to any variation. The Landscaping Plan shall be strictly adhered to during the course of the development.
- 11) All windows in the south eastern and north eastern elevations serving bathrooms, as shown on the approved plans in the flats, shall be top hung and obscurely glazed prior to the first occupation of the units hereby permitted and remain as such in perpetuity. All the south eastern elevation side bay windows shall be obscurely glazed as shown on approved plan 2163 (PL-) 11G prior to the first occupation of the units hereby permitted and remain as such in perpetuity.
- 12) Prior to first occupation of any unit hereby permitted, a plan showing the location, detail and integration of bat and bird boxes as per the recommendations of the ecological survey shall be submitted to and approved by the Local Planning Authority and these shall be installed prior to first occupation of any unit hereby permitted and retained thereafter.
- 13) Prior to any stonework commencing a sample panel shall be prepared for inspection and written approval by the Local Planning Authority. Not less than two weeks' notice shall be given to the Local Planning Authority when the sample panel is ready for inspection. All stonework shall match the approved panel.
- 14) Notwithstanding the information provided, full details of the materials, design and installation of all lintols, voussoirs and sills shall be agreed in writing with the Local Planning Authority before development proceeds above slab level. These items shall be installed and thereafter retained as agreed.
- 15) Prior to their fabrication or installation, full details of the oriel windows and balustrades, with sections and elevations at a minimum 1:20 scale, shall be

agreed in writing with the Local Planning Authority. These items shall be installed and thereafter retained as agreed.

- 16) Prior to their installation, samples of the external wall finishes, other than the natural stonework covered in condition 13, shall be submitted to and agreed in writing by the Local Planning Authority and the development carried out in accordance with the approved details.
- 17) Prior to their installation, details of all new doors and windows, including their materials, method of opening and proposed finish, shall be submitted to and agreed in writing by the Local Planning Authority, and the development carried out in accordance with the approved details.
- 18) The roofs hereby approved shall be clad in natural slates, a sample of which and details of the fixing method shall have been submitted to and approved in writing by the Local Planning Authority prior to their installation and the development shall be carried out in accordance with the approved details.
- 19) Prior to any development above slab level, a Flood Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan shall include details of flood warning measures and flood protection measures within and around the permitted buildings. Once approved these measures shall be put in place prior to the first occupation of any unit hereby permitted and retained as such thereafter.
- 20) The 6 parking spaces shown on approved plan 2163 (PL-) 11G shall be completed and made available for use by future residents of the approved units prior to the first occupation of any of the units hereby permitted and retained as such thereafter.

End of Annex.