



Appeal Decision

Site visit made on 30 January 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2023

Appeal Ref: APP/Y1138/W/22/3309111

The Shieling, Silver Street, Culmstock, Devon EX15 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs T Giddings against Mid Devon District Council.
 - The application Ref 22/01174/HOUSE, is dated 12 June 2022.
 - The development proposed is described as “alterations and extensions (revised submission following withdrawn application 21/01682/HOUSE).”
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Decision

1. The appeal is dismissed and planning permission for alterations and extensions is refused.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period. The Council has confirmed that, had it been in a position to determine the application, it would have refused planning permission for reasons relating to the impact on the Culmstock Conservation Area (CA). Third party representations raise additional concerns over the living conditions of nearby residents. The appellant has had the opportunity to comment on these matters and therefore would not be prejudiced by them forming the basis for the main issues.

Main Issues

3. From the evidence before me I consider the main issues are: (i) whether the proposed development would preserve or enhance the character or appearance of the CA; and (ii) the effect of the proposal on the living conditions of the residents of nearby dwellings, with particular regard to privacy, outlook, and daylight.

Reasons

Character and appearance

4. The appeal site comprises a small bungalow of no particular architectural merit set in a long plot amongst the rear gardens of street fronted properties. It forms part of the wider CA where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the conservation area; and where great weight should be given to the asset's conservation. The CA is characterised by picturesque street

fronted properties amongst well established trees and contains various groupings of listed buildings that are some distance from the site.

5. There is a variety of architectural form found in some of the newer properties within the wider CA which reduces the impression of a prevailing local vernacular. Despite this, red brick and rendered street fronted properties of modest scale and simple design with their associated verdant rear gardens form a key component of the historic village core. This adds to the overall distinctive and pleasant character of the area and its significance within this part of the CA. With a tree lined backdrop, glimpsed views into the site with its unimposing and modest sized existing bungalow can be appreciated from Town Hill.
6. The proposal is to raise the roof of the bungalow to provide first floor accommodation, and to attach a linked extension to the north elevation. The sustainably constructed design would maximise solar gain, take into account site contours within the ample plot size, and would make use of traditional materials of reclaimed slate, stone and timber cladding. Nevertheless, it would introduce a substantial increase in massing and scale of built form when compared with the low-key existing bungalow. The development would stand proud, resulting in a particularly prominent and incongruous building which would draw the eye from surrounding gardens and Town Hill. Backland development in this part of the CA is the exception rather than the norm, but where buildings do exist, they tend to be subservient in scale to those on the main street frontage. The proposal would alter this relationship by creating a form of development which is unduly prominent in this verdant and tranquil garden setting. As such, the development would fail to integrate with the traditional pattern of development in the CA.
7. The proposal would cause less than substantial harm to the CA's significance as a designated heritage asset due to the relatively small scale of the development proposed. Paragraph 202 of the National Planning Policy Framework explains that in such circumstances, it is necessary to balance the harm against the public benefits of the proposed development. The proposal would generate employment during the construction phase, and it would thereby bring some short term benefits to the local economy. The appellant further argues that the proposal would create a larger and more functional family home and thereby enable them to remain resident in the area. To my mind, this is more of a private benefit, but even if I were to treat it as a wider community gain, the public benefits would not outweigh the harm to designated heritage assets.
8. Therefore, I conclude on the main issue that the proposal would fail to preserve or enhance the character or appearance of the CA. Consequently, the proposal would be in conflict with Policies DM1 and DM25 of the Mid Devon Local Plan 2013-2033 (MDLP) which amongst other things promote developments that demonstrate a clear understanding of the characteristics of the site and that preserve or enhance designated heritage assets.

Living conditions

9. Fenestration would be prevalent around the property without being focussed on the north and south elevations. Although there would be obscure glazing on the east elevation, the unobscured 1.4m sill level window proposed on the same elevation would discourage but not prevent overlooking into adjacent gardens

on this side. Despite the efforts made by the appellant to avoid conflict with neighbours to the east, there remains limited screening between the site and the garden to the west. Even if landscaping were to be introduced, the orientation of the proposal and the positioning of its first-floor windows would introduce close range views and look directly down towards the majority of this private garden space, which would harmfully erode existing levels of privacy for the neighbours.

10. Separation distances between the appeal site and the open gardens and properties located on Town Hill would be sufficient to avoid overshadowing or loss of daylight. Whilst the proposal is unlikely to significantly restrict natural light to the garden immediately to the west, the development would be positioned very close to the boundary. At 2 storey high, and with imposing gable ends, it would be a dominant feature which would have an overbearing and enclosing effect for users of this adjoining garden.
11. For the above reasons, the proposal would result in unacceptable harm to the living conditions for residents of nearby dwellings with particular regard to privacy and outlook. As such, the proposal would be in conflict with Policy DM1 of the MDLP which in this respect seeks to avoid development that would have an unacceptably adverse effect on the privacy and amenity of neighbouring properties and uses.

Other Matters

12. I note the appellant's comments in relation to the processing of the planning application, however these have little bearing on my decision which is based on the planning merits of the development.
13. Reference is made to other planning permissions and an appeal that was allowed for a plot off Threadneedle Street. Whilst I note those cases, the circumstances of each will be different. A lack of public visibility is not determinative when considering proposals within conservation areas and it is always necessary to consider the intrinsic qualities which define the character of the area. I have dealt with the appeal proposal on its own merits.
14. I have taken account of the appellant's argument that the bungalow is poorly constructed, though any such benefits associated with the new development would not outweigh the harm I have identified above.

Conclusion

15. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed, and planning permission is refused.

J Hills

INSPECTOR