



Appeal Decision

Site visit made on 7 March 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2023

Appeal Ref: APP/K1128/D/22/3311289

Thyme Cottage, 30a Fore Street, Kingsbridge, Devon, TQ7 1NY

- 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 P Robinson against the decision of South Hams District Council.
 - The application Ref 1901/22/HHO, dated 26 May 2022, was refused by notice dated 26 August 2022.
 - The development proposed is the demolition of an outbuilding and extension to existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's planning officer report refers to the existing dwelling as being of significant heritage value. However, given that no reference has been made to it being a non-designated heritage asset, I have not treated it as such for the purposes of my decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) The character and appearance of the Kingsbridge Conservation Area and the setting of nearby listed buildings, principally No's. 28 and 30 Fore Steet and the Catholic Church of the Sacred Heart.
 - b) The living conditions of the occupiers of No. 28 Fore Street, with particular regard to privacy, outlook and daylight.

Reasons

Designated heritage assets

4. The appeal site is located within the Kingsbridge Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. It is largely characterised by the presence of a number of historic buildings in the town centre area, many of which have traditional sash windows with white wooden frames and slate roofs. The exterior elevations tend to be rendered or clad with slate or tiles. The appearance and character of the buildings, when considered

as a whole, contributes towards the significance of Kingsbridge as a historic town.

5. No's. 28 and 30 Fore Street, and the Catholic Church of the Sacred Heart, are all Grade II listed and are directly within the setting of the appeal site. There are also several other listed buildings in the wider vicinity. Section 66(1) of the Act requires me to also have special regard to the desirability of preserving these buildings or their setting, or any features of special architectural or historic interest. In this instance, the significance of the buildings arises from the fact that they conform with the character and appearance of the wider Conservation Area, with traditional white wooden windows and slate roofs. The relatively enclosed nature of Fore Street means that the setting of the listed buildings is appreciated at fairly close range.
6. The proposed extension would have aluminium window frames, and a proportion of it would be clad in timber. While the slate roof tiles and rendering on the rest of the proposed extension would be sympathetic to local character, the windows and timber cladding would ensure that its overall appearance would be seen as being quite modern. This would be jarring and incompatible when viewed alongside the more traditional features of the existing dwelling, even though it would clearly appear subservient to the main and not be excessive in scale. For the same reasons, it would also look incongruous and out of place with the character and appearance of the wider Conservation Area, including the listed buildings nearby. The design therefore does not reflect the content of the National Design Guide (2021) as suggested by the appellant.
7. As a result, the proposed development would fail to preserve or enhance the character and appearance or settings of the identified designated heritage assets and would therefore harm their significance. The nature of the proposal is quite limited in scale, and the appeal site cannot be seen from the public realm. Given this, the level of harm would be less than substantial. Paragraph 202 of the National Planning Policy Framework (NPPF) sets out that, where this would occur, the harm should be weighed against any public benefits in favour of the proposal. In doing so, paragraph 199 requires me to afford great weight to an asset's conservation.
8. In this instance, the proposal would involve the demolition of the existing single storey outbuilding, which due to its general appearance, does little to contribute to the character or appearance of the immediate area, or the setting of the listed buildings. The proposal would extend the existing house, which would provide more space for current and future occupants. The appellant also suggests that the extended property would be more energy efficient, although it is not clear how this could only be achieved by building the proposed extension. In combination, these benefits are quite limited in nature and would not offset the cumulative harm that I have identified to the significance of a number of designated heritage assets, particularly given that the proposed extension would be significantly larger in mass than the current outbuilding, thereby resulting in a greater level of harm than currently exists.
9. I therefore find that the proposal is in conflict with Policies DEV20 and DEV21 of the Plymouth & South West Devon Joint Local Plan (2014 - 2034), Policies KWAC BE3 and KWAC BE4 of the emerging Kingsbridge, West Alvington and Churchstow Neighbourhood Plan (2021-2034) and paragraphs 130, 134 and 202 of the NPPF. Taken together, these policies require that new development

is of a good design and preserves the character and appearance and settings of designated heritage assets, including the Kingsbridge Conservation Area.

Living conditions

10. While I acknowledge that the occupiers of No. 28 have not objected to the proposal, this does not prevent me from identifying harm when coming to my decision. There are three windows on the first floor of the neighbouring property at No. 28 that would be facing the proposed extension and would be in extremely close proximity to it. One of the windows is currently blocked off. While it could be unblocked in the future, for the purposes of this appeal I shall consider the effects of the appeal scheme against the existing circumstances.
11. The two other windows are set slightly further back. However, the outlook from these windows would be significantly altered as a result of the proposed development, with a close-up view of the blank south elevation of the proposed extension, rather than the current views across to the church hall. This loss of outlook would likely provide a feeling of being cramped or 'hemmed in'. It is also likely that significantly less daylight would reach the two windows, thereby making the corresponding rooms in No. 28 feel darker and less pleasant to be in. This would not be mitigated by the white rendered finish of the proposed extension.
12. The proposed extension includes a balcony on the western elevation. Given that it is located at first floor level, it is likely that the occupiers would be able to look directly into the rear garden of No. 28. While development in the immediate area has a tight knit grain, and a degree of overlooking is to be expected, the proposed balcony would unreasonably reduce the level of privacy that the occupiers of that property currently experience. The appellant has suggested that the existing window on the southwest elevation of the existing dwelling could be enlarged, or new windows inserted, without applying for planning permission. While this might be the case, this would not cause the same level of harm to neighbouring privacy as an external balcony which would provide views directly towards private garden space.
13. As a result of these matters, I conclude that the proposal would harm the living conditions of the occupiers of No. 28, in respect of outlook, daylight and privacy. This is contrary to Policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014 - 2034) which seeks to prevent development that impacts negatively on living conditions. The Council's decision notice refers to paragraph 92 of the NPPF, however I do not consider this relevant given that it concerns the promotion of healthy and safe communities.

Other Matters

14. The appeal site is located close to the boundary of the South Devon Area of Outstanding Natural Beauty (AONB). It is not alleged by the Council that harm would arise to the setting of the AONB as a result of the proposed development. As the appeal site lies within the built form of Kingsbridge, and given the limited nature of the development proposed, I am satisfied that no harm to the setting of the AONB would occur.
15. The appellant has referred to advice that was received at the pre-application stage. However, the Planning Practice Guidance makes it clear that such advice

is not binding and that local planning authorities are able to come to a different view through the application process.

16. The appellant has also set out that the proposed development is required to provide accommodation for their teenage children and subsequently their elderly parents should the need arise in future. Therefore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which include age and disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
17. The proposed development would provide additional accommodation space for family members. However, having due regard to this, and the need to eliminate discrimination and promote equality of opportunity, I am satisfied that this issue does not outweigh the harm that I have identified elsewhere in this decision.

Conclusion

18. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
19. Furthermore, I have had due regard to the PSED set out under s149 of the Equality Act 2010. However, the harm caused by the proposed development outweighs its benefits in terms of eliminating discrimination against persons with the protected characteristics of age and disability, advancing equality of opportunity for those persons and fostering good relations between them and others. I therefore conclude that it is proportionate and necessary to dismiss the appeal.

C Butcher

INSPECTOR