



Appeal Decision

Site visit made on 4 April 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2023

Appeal Ref: APP/K1128/W/22/3301425

Sunny Ridge, Herbert Road, Salcombe, TQ8 8HN

- 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 Lawrence against the decision of South Hams District Council.
 - The application Ref. 4024/21/FUL, dated 26 October 2021, was refused by notice dated 24 March 2022.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for replacement dwelling at Sunny Ridge, Herbert Road, Salcombe, TQ8 8HN in accordance with the terms of the application Ref. 4024/21/FUL, dated 26 October 2022, and the plans submitted with it and subject to the conditions listed in the Annex to this decision.

Main Issues

2. The main issues are the effect of the proposed development on: (a) the character and appearance of the appeal site and surrounding area; and (b) the living conditions of neighbouring occupiers.

Reasons

Character and appearance

3. Policies DEV20 and DEV23 of the Plymouth and South Devon Joint Local Plan 2014-2034 (March 2019) (JLP) seek, amongst other requirements, to ensure that new development: secures a good quality of design that contributes positively to the local townscape; protects and improves the quality of the built environment; has regard to local distinctiveness and the pattern of development in terms of siting, layout, mass, scale and visual impact; conserves and enhances the landscape character; and avoids significant adverse visual impacts. Policy SALC B1 of the Salcombe Neighbourhood Plan 2018 to 2034 (June 2019) (SNP) sets out a similar approach in terms of securing design quality for new development, with policy SALC ENV1 requiring new development to respect and maintain the special qualities of the South Devon Area of Outstanding Natural Beauty (AONB), within which the appeal site is located.
4. A broadly similar approach to design and character is set out in paragraph 130 of the National Planning Policy Framework (July 2021) (Framework) but the

latter also states that being sympathetic to local character should not prevent or discourage appropriate innovation or change. Similarly, paragraph 134 b) of the Framework states that significant weight should be given to innovative designs that help raise the standard of design more generally in an area provided the proposal fits in with the overall form and layout of their surroundings. Paragraph 44 of the National Design Guide (NDG) (January 2021) also states that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.

5. The appeal proposal involves the replacement of an existing detached one and a half storey property with a new two storey dwelling on the southern side of Herbert Road. The road comprises a mixture of largely detached properties that range from chalet style bungalows to one and a half and two storey properties that, as with the host property, are set back from the road with their frontages given over to parking and landscaping.
6. The surrounding properties in the road vary in terms of their age, style, scale, layout, roof forms and materials. There is no uniform character or design. The built extent of a number of these properties extends the full width of their plots, whereas others retain modest gaps with their neighbours. Other notable characteristics of the road are: that it slopes downwards from west to east; that the rear gardens of the properties on the southern side slope steeply down towards the rear of the properties in Devon Road; and that a large number of properties have been extended, remodelled or redeveloped resulting in a mixture of old and new.
7. There is no objection in principle to replacing the existing property. The appeal site forms part of the built up area of Salcombe where high quality sustainable development will be supported, subject to other considerations. The Council contend, however, that the replacement dwelling, due to the increase in massing, scale and built form, is not commensurate with the plot size and would result in a disproportionate dwelling that would harm the character of the area. I do not agree. The size of the existing plot is more than sufficient to accommodate the proposed dwelling. The new buildings footprint, on the road frontage, would be broadly similar to existing and it would not extend beyond the front wall of the existing flat roofed garage. The new ridge height would also be in line with that on the existing property.
8. Whilst I accept that the scale and massing of built development on the upper (first) floor level would increase compared to existing, this would not be significant or harmful to the streetscene. The submitted plans show that there would remain a reasonable gap between the proposed dwelling and its neighbours, even with the added scale and bulk on the upper floor. The proposed two storey gabled roof design at either end of the new dwelling would also assist in securing an appropriate transition to its neighbours. Even so, the road contains numerous examples of where properties are or have been fully extended to the boundary with their neighbours or where the ridge line extends across the full width to the plot. Consequently, the proposal would reflect the established built rhythm of the road and would not be disproportionate or out of character with the streetscene.
9. I accept that there would be a material change to the scale, mass and built form on the appeal site when viewed from the road (and from the rear). Even

so, the contemporary design of the new dwelling would represent a significant improvement on the existing building, which, within the context of the road, is showing its age and is not of any value or merit. The result would be a modern dwelling that would add significantly to the quality, interest and variety of properties within the streetscene. Overall, I am satisfied that the new dwelling would sit comfortably on the appeal site and would secure a high quality innovative design that makes full and effective use of the land.

10. In relation to the AONB, as I confirmed earlier the site is located within the built up area of Salcombe and would replace an existing dwelling. The appeal site does not contain or contribute to any of the special qualities of the AONB designation and as I have found the proposal would not result in any harm to the local townscape. It would also not lead to any adverse visual impact but, on the contrary, secure a significant improvement to the character and appearance of the streetscene. It would, therefore, comply with the policies seeking to protect and maintain the special qualities of the AONB.
11. Accordingly, I find that the appeal proposal would comply with policies DEV20 and DEV23 of the JLP, policies SALC ENV1 and SALC B1 of the SNP and the corresponding policies of the NDG and Framework.

Neighbours living conditions

12. The Council contend that: the proposed reverse living layout would result in a harmful intensification of the use of the upper floor through increased noise and overlooking; that the proposal would be overbearing when viewed from the ground level of neighbouring gardens; and that the proposed size and height of terracing on the rear would increase overlooking of neighbouring properties. I do not agree. As I observed on site, the rear walls of adjoining properties currently extend beyond the rear walls of the host property, in the case of Strathmore the difference is marginal, but in the case of Rippling Water the difference is much greater. However, even with the rear gardens of the host and its neighbours sloping to the south, existing fencing and boundary landscaping provide a reasonable level of screening between the respective buildings.
13. Whilst the new dwelling would extend further at the rear than the existing property, it would broadly be in line with the rear of Strathmore but still set back from the rear of Rippling Waters. On the upper floor, the rear of the new building would be set back further to accommodate the proposed terrace. In view of this, I am satisfied that the proposed building relationships would be acceptable and that the proposal would not have any significant impact on outlook or appear overbearing when viewed from neighbouring gardens.
14. Turning to the concerns over the proposed terraces, I am again satisfied that these elements would not give rise to any harmful increase in overlooking or noise and disturbance. Mutual overlooking of neighbouring gardens is an inherent and common characteristic of built up areas particularly where, as in this case, there is a difference in levels and occupiers have extended their properties to take full benefit of existing views.
15. As I observed on site, the host property already affords views over the rear gardens to neighbouring properties. These views are possible from various parts of the host, including its rear windows and the existing unscreened first floor balcony. Having also viewed the appeal site from Strathmore and

Rippling Water those properties have similar views over the rear garden to the host. As such, there is already limited garden privacy due to the closeness of existing windows and balconies. Even so, the focus of most of the rooms and balconies is toward the significant coastal views and it is the latter that future occupiers would be seeking to maximise.

16. Given the above, the proposed balconies and new rear windows would largely replicate the overlooking that currently occurs. Whilst I accept that the enlargement of the proposed terraces compared to existing could lead to an increase in overlooking and noise, I am satisfied that any such increase would be limited and would not result in significant harm to the living conditions of neighbouring occupiers. Furthermore, the inclusion of 1.8 metre high screens at either end of the proposed upper floor terrace would assist in mitigating the level of overlooking and noise disturbance from this position.
17. In relation to reverse living, this form of layout is already evident in the area, with Rippling Water being a good example. Indeed, in my experience, this form of layout is very common in coastal locations where occupiers have sought to take full benefit of coastal views. I can see no reasons, therefore, as to why this form of layout would not work successfully on the appeal site given the findings I have reached above. As I confirmed, future occupiers would be able to take full advantage of the coastal views and not the views that may be afforded of neighbouring gardens.
18. As the Appellant has also pointed out the existing layout of the host property could be adapted for reverse living without the need for planning permission. Even so, there is no evidence before me to demonstrate why such a layout would be unacceptable or lead to significant harm. Whilst I accept that there would be some impact from reverse living, the level of impact would be limited and not harmful.
19. I note that interested parties have raised concerns in relation to the use of the proposal as a holiday let. However, that is not a matter that is before me in that the appeal simply seeks planning permission for a replacement dwelling, which is the basis on which I have determined the proposed development.
20. Accordingly, I find that the appeal proposal would not lead to any significant harm to the living conditions of neighbouring occupiers and would comply with policies DEV1 and DEV2 of the JLP and paragraph 130 f) of the Framework. These seek, amongst other requirements, to ensure that new development does not significantly harm the amenities of the occupants of neighbouring properties.

Conditions

21. I have considered the Council's suggested conditions against the advice in the Framework and the Planning Practice Guidance (PPG) chapter on the use of planning conditions. I have also taken on board the Appellants Final Comments, dated 30 September 2023, which includes their agreement to the suggested pre-commencement conditions .
22. I am satisfied that most of the conditions are necessary and reasonable in the interests of securing a high quality and sustainable development, to protect the living conditions of neighbouring occupiers, in the interests of highway safety, to secure biodiversity gains and ecology enhancements and to ensure adequate

drainage. Whilst the PPG advises that conditions restricting permitted development rights should only be imposed in exceptional circumstances, I am satisfied that those circumstances exist here and that controls over future alterations, extensions and other works are necessary and reasonable to ensure that future development does not harm the character and appearance of the area or neighbours living conditions.

23. The Council have also suggested a condition (number 13 in their Statement of Case) seeking approval of details 'Delivering Low Carbon Development' with reference to policy DEV32 of the JLP. I am not convinced that the wording of this condition is precise. I would also question whether it is necessary given that the submitted plans show that the proposal would include measures such as Solar PV panels and an Air Source Heat Pump. If the Council considered that additional measures, beyond those shown or as required by the Building Regulations, were necessary for the proposal to comply with policy DEV32, then these are matters that should have been discussed and agreed with the Appellant at the application stage. For these reasons, I have reworded the condition so that it simply requires the measures shown on the approved plans to be implemented prior to the first occupation or use of the new dwelling.

Conclusion

24. 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 be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans unless otherwise agreed in writing by the Local Planning Authority: drawings No. 2101-03B; 2101-04A; 2101-05A; 2101-01A.
- 3) The proposed roof lights shall be fitted so as to be flush with the existing roof profile.
- 4) The drainage scheme shall be installed in strict accordance with the approved plans and the report titled 'Storm Percolation and Soakaway Design', prepared by JMC Drain Consultants, dated January 2022, and maintained and retained in accordance with the agreed details for the life of the development unless agreed in writing by the Local Planning Authority.
- 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order, 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other

than those expressly authorised by this permission: (a) Part 1, Class A (extensions and alterations); (b) Part 1, Class AA (enlargement of a dwellinghouse by construction of additional storeys); (c) Part 1, Classes B and C (roof addition or alteration); (d) Part 1, Class D (porch); (e) Part 2, Class A (means of enclosure).

- 6) Details of any external lighting (including security lighting) to be erected, placed or sited within the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The work shall thereafter be carried out in accordance with the approved details and under no circumstances shall it cause light pollution nor shall external illumination be operated on the site other than in accordance with the approved scheme.
- 7) No side elevation openings shall be constructed on the proposed development.
- 8) The proposed integral garage, hereby approved as part of the scheme, shall be used solely as ancillary to the main dwelling known as 'Sunny Ridge', for the purposes of storage ancillary to the main dwelling of Sunny Ridge and/or as storage for private motor vehicles. The proposed integral garage shall not be separated, and not be used for commercial, business or separate residential related purposes.
- 9) 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.
- 10) The hardstanding hereby permitted shall remain available in perpetuity for the parking of motor vehicles in association with the use of the dwelling.
- 11) The development hereby approved shall be carried out in accordance with the submitted Protected Species Survey by Green Lane Ecology, in September 2021.
- 12) Provision shall be made for the installation of an electric vehicle charging point within the red line outlined on plan 2101-01A, and the electric vehicle charging point shall be a minimum of 7KW.
- 13) Prior to installation, a schedule of the stone facing material and sample of the stone facing material, to be used in the construction of some of the external surfaces, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

- 14) Notwithstanding the details shown on plan 2101-05A, above slab level building shall not be implemented until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority, indicating the boundary treatment of the proposed development and include details of the management and maintenance of existing and new landscape, wildlife and open space features, reflecting the recommendations of the ecology reports. The landscaping scheme should include enhancement, avoidance and compensation measures showing how impacts on wildlife will be avoided/minimised and how a net gain for biodiversity at the site will be achieved. The approved landscaping scheme shall be fully implemented in the first planting season following the completion of the development and the trees/plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the approved planting.
- 15) The Solar PV panels and Air Source Heat Pump hereby permitted and shown on plans 2101-05A and 2101-03B respectively, shall be provided prior to the first occupation or use of the new dwelling.
- 16) The cladding hereby approved shall be natural timber. This cladding shall not be stained, colour washed or otherwise treated in a manner which would obscure the natural finish.

End of Annex