



Appeal Decision

Site visit made on 23 May 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2023

Appeal Ref: APP/P1133/W/22/3309117

Ogwell Green House, Ogwell Green, Ogwell, Devon TQ12 6AQ

- 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 Dr Adam Revill against Teignbridge District Council.
 - The application Ref 22/01263/HOU, is dated 26 June 2022.
 - The development is a children's tree house in a sweet chestnut tree.
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Decision

1. The appeal is allowed and planning permission is granted for a children's tree house in a sweet chestnut tree at Ogwell Green House, Ogwell Green, Ogwell, Devon TQ12 6AQ in accordance with the terms of the application, Ref 22/01263/HOU, dated 26 June 2022.

Preliminary Matters

2. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, I have had regard to the Council's statement, in so far that it provides clarity on the reasons why the Council would have approved planning permission had it been able to do so.
3. However, while it appears that there are no issues in dispute, the Council's statement does set out the key considerations for this case. I am in agreement, and therefore the issues identified below are based on those matters.
4. I observed on my site visit that the development appears to have been completed in accordance with the submitted plans. I have made my decision based on the plans before me as well as my observations on the site visit.

Main Issues

5. The main issues are the effect of the development on the character and appearance of the surrounding area, including the likely long-term effect on the host sweet chestnut tree and setting of the East Ogwell Conservation Area, as well as the living conditions of the occupiers of nearby properties, with particular regard to privacy.

Reasons

Character and appearance

6. The appeal site is located in a rural village which contains a range of house types and styles. Many of the dwellings have substantial sized gardens and

there is an abundance of mature trees in the area which adds to its verdant character.

7. The tree house is located within a sweet chestnut tree, which itself is situated within the very large garden of the host property. The tree house is visible when viewed along the access drive from Rectory Road, although it is partly obscured by a larger tree immediately adjacent to it. Given the limited size of the tree house it is not a dominant feature and a development of this type or design does not appear out of place or incongruous with its surroundings.
8. The appeal site is immediately adjacent to the East Oghwell Conservation Area. The significance of the heritage asset largely arises from its spacious and verdant character, as well as the appearance of the historic cottages in the immediate area. Paragraph 199 of the National Planning Policy Framework makes clear that great weight should be given to the conservation of designated heritage assets. In light of my reasoning set out above, I am satisfied that the setting of the Conservation Area would not be harmed.
9. The appeal site also forms part of a locally important view, as identified by Policy EO1 of the Oghwell Neighbourhood Plan, 2018 to 2033 (NP). The view, referenced as View A within the policy, is of East Oghwell and Dartmoor beyond, as seen from the village green and East Hill. The tree house is not visible from this location and so the view is unaffected.
10. Due to its modest size, the host tree makes a very limited contribution to the character of the area. The feather board material that the tree house has been constructed from is very lightweight and it is unlikely that the structure would have any long-term effect on the health of the tree.
11. As a result, the development would not cause harm to the character and appearance of the surrounding area, including the host sweet chestnut tree. It is therefore in conformity with Policies S1, S2 and WE8 of the Teignbridge Local Plan 2013 to 2033, adopted 6th May 2014 (LP). Taken together, the relevant aspects of these policies seek to ensure that new development, including ancillary buildings, is well designed and preserves character and appearance. In addition, it is also in conformity with LP Policies EN5 and EN12 which aim to protect designated heritage assets and trees respectively, as well as Policy EO1 of the NP which seeks to protect locally important views.

Living conditions

12. The tree house is situated in an elevated position in the host tree, within a large garden. Given that the tree is some distance from neighbouring properties, it is very unlikely that the tree house is high enough to offer views of surrounding gardens. As a result, the development would not cause harm to the privacy of the occupiers of neighbouring properties. It is therefore in conformity with LP Policy S1, which in part, seeks to protect the living conditions of neighbours.

Conditions

13. Given that the development has already been completed, the standard time condition, and a condition to identify the relevant plans, are not necessary. Given the very limited size of the structure, its location, and the feather board material used, I am satisfied that it could not be used as living accommodation. A condition to prevent this is therefore again unnecessary.

Conclusion

14. The development is in accordance with the development plan when considered as a whole. Having had regard to all matters raised, I conclude that the appeal should be allowed.

C Butcher

INSPECTOR