



Appeal Decision

Site visit made on 13 June 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/K1128/W/23/3315428

The Cedar House, Moulton Hill, Salcombe TQ8 8LF

- 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 and Mrs Simon and Jane Greaves against the decision of South Hams District Council.
 - The application Ref 2380/22/FUL, dated 31 August 2022, was refused by notice dated 8 November 2022.
 - The development proposed is construction of detached annex.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It is clear from the application form and the evidence that the appellant is not applying for a separate dwelling but for an annex to provide ancillary accommodation for a family member. I have dealt with the appeal on that basis.

Main Issues

3. The main issues for the appeal are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on tree T4; and,
 - whether the proposal would be ancillary to the existing dwelling or form a separate dwelling.

Reasons

Character and appearance

4. The appeal site falls within the South Devon Area of Outstanding Natural Beauty (AONB) and Heritage and Undeveloped Coast. It forms part of a residential garden adjoined by further residential properties roughly to the south. There are two mature trees to the northern site boundary with a mature hedgerow screening the site from Moulton Hill roughly to the north. There is an area of woodland to the east and a public footpath running roughly to the west of the site. The only public views of the site are from a limited section of the public footpath as it nears Moulton Hill. The garden is undulating descending to the proposed location for the accommodation.

5. The building is proposed over two floors, with the lower floor built into the garden and comprising a void, storage, and plant areas. It is proposed with a flat sedum roof and darkened metal and timber cladding above natural stone. The nearby properties comprise a variety of designs with timber clad and render finishes under traditional pitched tiled roofs.
6. By reason of the angular and box like shape of the accommodation over two floors and use of metal cladding under a flat roof, the proposed building would be at odds with the prevailing built form. Moreover, when viewed from the public footpath, given the distance from The Cedar House and differing design it would be viewed as distinctly separate from the principal dwelling, appearing incongruous in an open verdant setting against the backdrop of the adjacent woodland. This would be despite its subservience to the main dwelling, its limited openings and notwithstanding the flat green sedum roof, distance from the footpath and it not being identified as an important view in the development plan.
7. Whilst the two mature trees to the northern site boundary would provide some screening of the building, it would still be viewed under and through the tree canopies detracting from the open verdant views and setting to the public footpath. As a result, the proposal would fail to conserve or enhance the landscape and scenic beauty of the AONB, the conservation of which I am required to attribute great weight as an area which has the highest status of protection in the Framework.
8. When taking account of all of the above, I conclude that the proposal would harm the character and appearance of the area. The proposed development would be contrary to Policies DEV23, DEV24, DEV25 and TTV29 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) (LP) and Policy SALC Env1 of the Salcombe Neighbourhood Development Plan 2018-2034 (2019) (NP). Amongst other things, these require development to conserve and enhance the landscape and scenic and visual quality, avoid significant adverse landscape or visual impacts, seek to ensure development does not have a detrimental effect on the Undeveloped Coast and Heritage Coast, conserve and enhance the natural beauty of AONBs and be designed to respect their scenic quality, and maintain the intrinsic character of the landscape.

Tree T4

9. The proposed accommodation would be located in close proximity to a Sycamore Tree annotated as T4 within the appellants Arboricultural Impact Assessment and as referenced on the decision notice.
10. It is clear from the Planning Application Report and Statement of Case that the close relationship of the canopy and root protection area of the tree to the accommodation would have an impact upon the tree's future growth.
11. By reason of the close proximity of the proposed building to T4, there would be a risk of impact upon below ground constraints and a lack of room for future growth to the tree. Although only a small percentage of the built form would extend under the root protection area, in light of this and the close relationship restricting natural growth, the proposal would provide a significant threat to the tree from likely pressure for excessive pruning or felling. This would be the case regardless of there being no direct shading of the building, its use as an

annex with its main patio to the south and no interruption of any views. This would also be the case despite the tree not being protected by means of being within a Conservation Area, being a Veteran tree or through a Tree Preservation Order.

12. Considering the available space within the site for the annex and associated hard surfacing, and the need to prevent the deterioration of the tree, the benefits of the development in the proposed location would not outweigh the harm posed to the tree.
13. Even if I considered it reasonable to impose a condition to reduce the extent of paving in close proximity to the tree, this would not address the concerns that I have in relation to the building restricting future growth and similarly creating an increased threat of excessive pruning or felling as a result.
14. Consequently, the proposal would result in a harmful effect on tree T4. As a result, the proposal would be contrary to Policy DEV28 of the LP and Policy SALC Env2 of the NP which, amongst other things, ensures development is designed so as to avoid the loss or deterioration of trees and the protection of existing mature trees, unless the benefits of the development in that location clearly outweigh the loss.

Ancillary or a separate dwelling

15. The proposed building would be detached from the principal dwelling with living accommodation over a lower ground storage area that would be associated with the principal dwelling. It would share the access to the existing dwelling with a proposed Grasscrete access leading down to the accommodation. The accommodation would comprise a lounge/office and two en-suite bedrooms. The application is made on the basis that it would be an annex occupied by a family member.
16. Although not referenced in the decision notice, both parties have drawn my attention to the Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document (SPD) which relates to Policy DEV10 of the LP. The eight bullet points and supporting text under Section DEV10.4 Residential Annexes of the SPD outline factors to be taken into account when assessing whether this proposal would be considered as ancillary to the existing dwelling or as a separate dwelling.
17. The accommodation would: be within the garden of the existing dwelling; remain in the same ownership; share a vehicular access off the road and share the garden. The appellant states there would be a functional link with the annex being occupied by a family member. In addition, they have demonstrated that the internal floorspace would not be of an excessive size comprising a lounge/office and two en-suite bedrooms and I note there is no maximum size requirements detailed under Policy DEV10.4 of the LP. I concur with the appellant that the Nationally Described Space Standards do not apply to annexes as they are only relevant in determining compliance for new dwellings. In these respects, the application details adequately demonstrate compliance with six of the eight bullet points in the SPD.
18. In relation to the remaining two bullet points and demonstrating its use in conjunction with the principal dwelling and being reliant on facilities and floor space such that it cannot be occupied completely independently, I note that the

SPD states that problems can arise where self-contained units are created. Such circumstance can occur where accommodation is either severed from the principal dwelling or which could, with little or no adaption, potentially be severed from the principal dwelling to form a separate unit.

19. The building would not benefit from a kitchen and the appellant states that meals for the family member would be taken in the principal dwelling. Although the annex would be located at the opposite end of the garden some distance from the principal dwelling, I see no reason why this, or the desire for the family member to have some independent space but with reliance on the principal house, would not represent a functional relationship with the principal dwelling.
20. I acknowledge that kitchen facilities could be provided within the unit, and the existing garden sub-divided with little adaption but this does not form part of the proposal and it does not necessarily follow that this would occur. Moreover, if I were to allow the appeal, it would be reasonable to condition that the building remain ancillary to the principal dwelling which would mitigate these concerns.
21. Due to the width of the Grasscrete access, it could be accessible by vehicles off the parking area for The Cedar House. However, the appellant advises that this would be for pedestrians only with provision of associated parking on the existing driveway preventing any sub-division. To ensure the proposed Grasscrete area would not be used as a vehicular access or for parking, the use of this area could be controlled via a suitable condition in the event that I were to allow the appeal.
22. In light of the above, I conclude that the appeal demonstrates that the annexe would be clearly ancillary to the principal dwelling via a functional link. As a result, the proposal does not comprise a separate dwelling and would comply with Policy DEV10.4 of the LP which amongst other things, supports residential annexes where they are within the same curtilage and ownership as the principal dwelling, and clearly ancillary via a functional link with no separate demarcation or boundary.
23. As a result of my findings above, there would be no conflict with Policies TTV1, TTV2, SPT1, SPT2, and TTV26, of the LP and Policies SALC Env1 and SALC H4 of the NP in relation to this main issue.

Other Matters

24. I acknowledge the declaration of a 'Housing Crisis' by the Council and very high cost of housing in the area. However, these matters do not alter my findings above. Nor does the acknowledgement of a climate emergency and the use of sustainable/low carbon construction techniques.
25. The lack of harm to ecology, living conditions of nearby occupiers and highway safety with adequate off-street parking are neutral in my consideration of this appeal.
26. I have considered the details of the other appeals put forward by the appellant. However, I have limited information regarding them, and I am required to consider the appeal proposal on its merits. As a result, they do not alter my findings in relation to the harm to the character and appearance of the area and trees that I have identified above.

Conclusion

27. For the reasons given above I conclude that the appeal proposal conflicts with the development plan taken as a whole. There are no considerations which indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Rose

INSPECTOR