



Appeal Decision

Site visit made on 26 September 2023

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 26.10.2023

Appeal Ref: APP/P1133/D/23/3325593

54 Newlands, Dawlish, Devon EX7 0EA

- 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 M Penaligon against the decision of Teignbridge District Council.
 - The application Ref: 22/01587/HOU, dated 16 August 2022, was refused by notice dated 29 June 2023.
 - The development proposed is described as single storey front and single storey rear extensions and annexe in rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for single storey front and single storey rear extensions and annexe in rear garden in accordance with the terms of the application Ref: 22/01587/HOU, dated 16 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Block/Site Plan 11/08/2022; Floor Plan – Existing 22/21/01; Floor Plan – Proposed 22/21/02; Existing & Proposed Elevations 22/21/03; Elevations & Floor Plan – Proposed 22/21/04.
 - 2) The annexe which forms part of the development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 54 Newlands, Dawlish, Devon EX7 0EA.
 - 3) Within 3 months of the date of this decision, a scheme detailing the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system by JRC Consulting Engineers (Drainage Statement 2027/w0001_/AMA; Drainage Layout 0500 REV P1; and Impermeable Area Plan 0120 REV P1) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage management system in accordance with the details as agreed shall be fully implemented prior to the commencement in the use of the development hereby approved.

Procedural Matters

2. During my site visit it became evident that development in the location of the annexe forming part of the appeal proposal had commenced at the appeal site, it was also evident that works had commenced on the rear extension. I was

notified by the appellant that the works being undertaken had obtained a Certificate of Lawful Use or Development (the LDC) from the Council. As a consequence, I sought clarification from the Council on this matter following my visit, who subsequently providing me with plans and documents associated with the LDC¹ for an annexe. From reviewing the LDC, it shows an annexe of the same siting, and same footprint to the annexe forming part of the appeal proposals, the overall appearance is similar, and it differs only in that the height of the LDC annexe is shown at a lower maximum height of 2.5m. As a consequence, the LDC is material to my determination of the appeal as it represents a genuine fallback position. It should be noted that the front and rear extensions that also form part of the appeal proposal were not subject to the LDC decision.

3. I have used the description of the development from the decision notice as I consider this better reflects the proposal before me.

Main Issues

4. The main issues in this case are the effects of the development on the living conditions of existing and future occupiers of neighbouring properties; and on surface water drainage and flood risk.

Reasons

Living conditions

5. The Council do not raise objections to the front and rear extensions in their reason for refusal on this matter, and from all that I observed during my site visit and my consideration of the documents before me, I agree with the Council's conclusions in this regard.
6. The area of concern raised by the Council relates to the height and siting of the proposed annexe close to the northern boundary of the appeal site, and the resultant effects of such on the living conditions of neighbouring occupiers, in particular with regard to No. 15 Gatehouse Rise which is situated to the north and is positioned at a lower level to the proposed annexe.
7. From my site visit I observed that the annexe would be stepped partially away from the boundary with No. 15 and there would be an intervening means of enclosure between the annexe and the rear garden of this property. The massing of the annexe would be of a single storey and with a flat roof. Whilst I acknowledge the level differences involved, and that the annexe would be sited to the south of No. 15, I am satisfied that due to the separation distances involved, and the positioning and massing of the annexe itself, it would not prejudice sunlight, outlook or result in an overbearing impact to the rear of No.15 to any significant degree.
8. Turning to the effects on other properties in the area, for similar reasons to the above, I am satisfied that suitable standards of living environments would be maintained as a result of the proposed annexe.
9. As a result, I find that the proposal would have an acceptable effect on the living conditions of neighbouring occupiers. Consequently, the proposed development would accord with Policy WE8(c) of the Teignbridge Local Plan

¹ 23/01309/CLDP - Certificate of Lawfulness for proposed annexe in rear garden - Approved 20 July 2023

2013-2033 (the LP) and paragraph 130 of the National Planning Policy Framework 2023 (the Framework) which, amongst other matters, seek a high standard of amenity for existing and future occupiers.

Surface water drainage

10. The appeal site is located in the Dawlish Warren Critical Drainage Area (the CDA).
11. A CDA is defined by the Environment Agency in areas within Flood Zone 1 where surface water or sewer run off may increase existing flooding problems within the wider catchment. The CDA for Dawlish Warren sets out that all new development will have to play their part in reducing current rainfall runoff rates. The SuDS hierarchy should be followed, by using infiltration as far as is practicable.
12. Policy S2 of the LP and paragraph 167 of the Framework explain that in determining planning applications it should be ensured that development does not increase flood risk elsewhere.
13. The appeal proposal has been accompanied via a Drainage Statement; Drainage Layout and Impermeable Area Plan. These documents were submitted to the Council in October 2022. On 12 June 2023 a consultee response sought further details regarding the proposed surface water drainage system. The appellant has indicated in their Appeal Statement that this information was being prepared prior to a decision being issued on 29 June 2023.
14. From my review of all of the information before me, it seems to me this is a matter that could have been appropriately controlled via a planning condition, as in effect the objection from the Council does not relate to the principle of the surface water drainage system proposed, but requires further detail to be provided. Further, and whilst not critical in reaching my conclusions on this matter, I am also conscious that the LDC development, which represents a fallback position with the same footprint as the proposed annexe, is not subject to any surface water drainage planning conditions.
15. On the above basis, I am therefore satisfied that an acceptable standard of surface water drainage in accordance with the CDA, Policy S2 of the LP and paragraph 167 of the Framework, could be ensured by the imposition of a suitably worded condition.

Other matters

16. Concern has been expressed that the annexe could be used for other purposes, such as a holiday-let. I am satisfied however that the use of the annexe could reasonably be enforced through a condition. Ultimately, if the accommodation is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the appeal development would be at risk of enforcement action if such permission is not granted.

Conditions

17. As works have commenced at the site, the standard time limit is not required. A condition listing the plans is necessary in the interests of certainty.

18. As I have set out above, a condition which seeks to restrict the use of the development to a residential annexe is also reasonable, necessary and enforceable, to prevent the proposed development being used or occupied as a separate and independent dwelling.
19. I have also included a condition regarding the submission of further details regarding surface water drainage. The Council have suggested that this should be a pre-commencement condition, however as the works have commenced at the site, I have worded this to require the information to be provided within 3 months of this decision and for the agreed details to be implemented prior to the commencement in the use of the development.
20. The Council have sought a condition seeking to retain a boundary enclosure to the rear of the site. However, I do not consider this condition is necessary, there is currently no control over the retention of boundary enclosures, and even if the boundary enclosure was not in situ, I do not consider it would thereafter render the development unacceptable.

Conclusions

21. For all of the above reasons, having regard to all matters raised, I conclude that the appeal should be allowed.

J Evans

INSPECTOR