



Appeal Decision

Site visit made on 4 January 2024

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/K1128/W/23/3325620

3 Hilltop, St Ann's Chapel, Devon TQ7 4HG

- 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 Matthew Conde against the decision of South Hams District Council.
 - The application Ref 1471/23/FUL, dated 27 April 2023, was refused by notice dated 29 June 2023.
 - The development proposed is new 2-bedroom detached house in garden plot west of 3 Hilltop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023. I have had regard to the updated Framework in reaching my decision but do not consider the changes so material that either party has been prejudiced by not having been invited to comment on the updates.

Main Issues

3. The main issues in this appeal are:
 - the effects on the character and appearance of the area;
 - whether the external amenity space retained for the host dwelling would be adequate;
 - whether the proposal would comply with local policies that require dwellings to be used as a principal residence; and
 - the effects of the proposal on the Plymouth Sound and Estuaries Special Area of Conservation and Tamar Estuaries Complex Special Protection Area (the Protected Sites).

Reasons

Character and appearance

4. The small settlement of St Ann's Chapel has a mixed character. The main street has buildings, including many former commercial buildings, direct onto the narrow highway giving it a compact feel. There is more recent development of larger estate housing with a more spacious feel on the outer edges of the village. The settlement, and a large part of the surrounding coastal landscape, falls within the South West Devon Area of Outstanding Natural Beauty (AONB).

5. The residential estate of Hilltop is a more established residential estate on the eastern side. Houses generally take the form of either semi-detached pairs with a mansard roof form incorporating the first floor of accommodation, or more commonplace two storey dwellings with either hipped or traditional pitched roofs, entirely rendered walls or some with slate hanging. The way that the dwellings in Hilltop interact with the street differs throughout, but there is typically some degree of set back of the front elevation from the estate road. Though I acknowledge that my visit occurred during the winter months, my impression of Hilltop was that, whilst it appeared relatively spacious in comparison with the more compact core of the village, its tree cover and greenery was still relatively sparse.
6. The appeal site forms the side garden of an existing dwelling which also benefits from a front and rear amenity space. The host dwelling is one of the semi-detached pairs under a mansard roof, which face south towards the rural road that leads to Aveton Gifford. As the side garden on the estate road side of Hilltop, the appeal site is prominently positioned. It is currently well enclosed by a combination of a block wall, 1.8m timber close boarded fence and a high evergreen hedge and has some small trees and domestic outbuildings within it. Within the site, it appears more spacious than is apparent from the plans.
7. The proposal is to construct a detached two bedroom dwelling on the appeal site, with similar front and rear building lines as the host dwelling and its semi-detached pair. The dwelling would have its parking to the rear (using the surplus parking area that already exists there). It would also have a front and rear garden. The dwelling would have a pitched roof, with a slate hung upper and rendered lower.
8. In my view, the way in which the dwelling would stand away from the adjoining pair and project into the open corner of the estate would appear contrived and insensitively designed, contrasting with a more organic solution that could see the extension of the pair to form a short terrace or similar. The harmful effects of a standalone, detached dwelling on this plot would be exacerbated by its proportions appearing to exceed that of the neighbouring semi-detached pair at Nos 3 and 4, and with a large expanse of gable end bearing onto the estate road. Whilst I appreciate that there are number of dwellings in the surroundings that directly address or are exposed to the street in such a way, this would be a step change for such a prominent corner plot, also given that there is a bungalow directly to the rear.
9. Though the 'Cornish unit' or mansard style is not a building form that is replicated much these days, the fact that the appeal site is so intimately related to and influenced by such a built form cannot be overlooked in this instance. Harmonising the dwelling with the more contemporary parts of the estate would make the estate appear more incoherent. Furthermore, based on the limited information before me, I cannot conclude that the appeal proposal is the only building regulations-compliant and financially viable way of constructing a dwelling on the site.
10. Despite the scale of the proposal relative to the scale of the AONB as a whole, given the prominence of the site and the harms that would occur, the proposal would have an erosive effect on part of the AONB landscape, albeit of a very minor magnitude.

11. In view of the above, the proposal would harm the character and appearance of the area, contrary to, in particular, Policies DEV20 and DEV25 of the Plymouth and South West Devon Joint Local Plan (2021) (JLP) and Policies BP3, BP7 and BP18 of the Bigbury Parish Neighbourhood Plan (BNP) (made 2020) (BNP). Together, and amongst other things, these Policies seek to ensure that development is locally distinctive, conserves the AONB, reflects the character and appearance of the area and in respect of the subdivision of a plot (BNP Policy, BP3), requires that the proposed plot sizes and dwelling sizes are in keeping with other building plots and dwelling sizes in the surrounding area.

External amenity space

12. The existing dwelling has a front garden which is largely hardsurfaced and used as a parking area for two cars and for pedestrian access to the front of the house. The rear garden is enclosed by fencing and the shed, and, despite being largely hardsurfaced with some shrubs and ornamental planting, is pleasant and relatively secluded. It is already separated from the appeal site which forms an extra area of garden.
13. I acknowledge that relative to the current situation where occupants of the host dwelling enjoy the use of two gardens, the loss of the appeal site would result in a qualitative and quantitative reduction in garden space. However, the standard of amenity space that would remain available to the occupiers of the host dwelling would still be satisfactory, given the size, orientation, outlook and relatively secluded nature of the garden that would be retained.
14. Drawing these points together, I consider that the proposal would retain adequate amenity space for the host dwelling, in accordance with Policy DEV1 of the JLP and BP7 of the BNP. Together these Policies encourage development to support good residential amenity and accessibility and avoid unacceptable impacts on the living conditions of neighbouring occupiers.

Principal residence

15. BNP Policy BP4 requires that new market dwellings built within the Bigbury Neighbourhood Plan Area, will only be supported where there is a S106 planning obligation in place to ensure its occupancy as a principal residence. It goes on to say that proposals for open market housing without a S106 will not be supported.
16. As part of the appeal, a letter was submitted to indicate that the Appellant would agree to signing a planning obligation for the property to be restricted to a principal residence to accord with the Policy. No such planning obligation has been submitted with the appeal. Consequently, the proposal conflicts with BNP Policy BP4.

Effects on Protected Sites

17. The qualifying features of the Protected Sites, designated under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) (as amended), include a range of sandbanks, estuaries, mudflats and sandflats not covered by seawater at low tide, large shallow inlets and bays, reefs, Atlantic salt meadows, Shore dock; Allis shad and bird species of Avocet and Little Egret. There is an agreed 'Zone of Influence' up to 12km from the Protected Sites, within which new housing development would be likely, either

on its own or cumulatively with other similar development, to have a significant effect due to the risk of increased recreational pressures from new residents.

18. The appeal site falls within the Zone of Influence for the Protected Sites and therefore, significant adverse effects are likely without mitigation measures. The mitigation measures to be employed in this area include contributions towards the Recreation Mitigation and Management Scheme¹, totalling £435.89 for a two bedroom dwelling, as is applicable in this appeal.
19. As part of the appeal, a letter was submitted to indicate that the Appellant agrees to signing a legal agreement for the contribution to be secured to offset the adverse effects of the proposal. No such planning obligation has been submitted with the appeal.
20. On the basis of the above, the development would harm the integrity of the Protected Sites, thus failing to meet the requirements of the Habitats Regulations and Policy DEV26 of the JLP which, amongst other things, supports the protection, conservation, enhancement and restoration of biodiversity across the Plan Area.

Other Matters

21. I note that the proposal has received the support of the Parish Council, as was the case for an earlier scheme for a larger dwelling. However, this factor does not override my view on the incompatibility of the form of development proposed or other identified harms.

Conclusion

22. Despite the adequacy of the external amenity space that would be retained for the host dwelling, the proposal would harm the character and appearance of the area and for this reason, the proposal conflicts with the development plan, when taken as a whole. The absence of a S106 planning obligation for reasons relating to the need for an occupancy restriction and to mitigate effects on the Protected Sites also draws the proposal into conflict with the development plan, though I note the willingness of the Appellant to remedy these issues had I been minded to allow the appeal.
23. The development plan policies carry full weight in this case and the benefits of the scheme, including the addition of a modest dwelling to the local housing stock in a sustainable location and the economic benefits that would be generated during the construction phase are not sufficient to outweigh the identified harms or conflict with the same.
24. For the reasons outlined, the appeal is dismissed.

H Nicholls

INSPECTOR

¹ Plymouth Sound and Estuaries European Marine Sites, Recreation Mitigation and Management Scheme, 2019