



Appeal Decision

Site visit made on 3 January 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 FEBRUARY 2024

Appeal Ref: APP/K1128/D/23/3315056

Townsend Cottage, Higher Town, Malborough TQ7 3RL

- 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 David Whittington against the decision of South Hams District Council.
 - The application Ref 3332/21/HHO, dated 26 August 2021, was refused by notice dated 27 October 2022.
 - The development is the replacement of existing ground floor lean-to corrugated asbestos roof with first floor balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development description on the application form includes reference to the construction of garden access steps. However, the evidence before me confirms that that part of the development was omitted from the scheme prior to the Council's determination of the application. As such, I have not included reference to the garden access steps in the banner heading above.
3. There are two planning appeals, both for the same site, but for materially different proposals. I have considered each development on its individual merits and the other appeal is the subject of a separate decision¹.
4. The appeal site, Townsend Cottage, is a residential property located in the Malborough Conservation Area (CA). In considering whether to grant planning permission, I have been mindful of my statutory duties under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
5. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework and in determining this appeal, I have had regard to the most recent version.

¹ Appeal Reference APP/K1128/D/23/3328624

Main Issues

6. The main issues are the effect of the development on:

- the character and appearance of the host building and the surrounding area, with special regard to the Malborough Conservation Area; and
- the living conditions of occupiers of neighbouring properties, with particular regard to privacy.

Reasons

Character and appearance

7. The CA designation encapsulates the historic core of the village of Malborough, which includes All Saints Church and the streets of Higher Town and Lower Town. Properties in the CA are predominantly rendered with tile or thatched roofs. The special interest of the CA is in part derived from the village core's long history, evident within the diversity of its heritage assets, layout and traditional materials.
8. The site is located next to the junction of Higher Town and the A381. The street is noteworthy for its historic character formed by its narrow width and intimacy with traditional terraced properties on both sides for most of its length. Further, the gardens of the properties on the northern side of the street, where the site is located, have long and thin layouts. The absence of balconies and other raised platforms in the wider context of the site is notable. The pattern of development, cohesive building groups and traditional materials along Higher Town are important components that contribute to the significance and special interest of the CA as a whole.
9. The balcony has been constructed on top of a small lean-to addition on the rear of the building. It is surrounded by a balustrade consisting of a timber frame and horizontal wires pulled tight between the horizontal components of the frame.
10. The balcony is visible when travelling along the A381 from the direction of Kingsbridge. It is also visible from a longer distance when travelling along the A-road in the opposite direction before the road rounds the bend near the appeal site. It is apparent that there are no other balconies visible within the context of the site. As such, it is highly prominent, standing out as a strident feature amongst the surrounding built form, causing material harm to the host building and its surroundings. Consequently, it is very much against the grain of the character and appearance of the CA, as outlined above, such that it fails to preserve or enhance either to the detriment of the CA's significance.
11. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
12. Given the scale and nature of the development, I consider that the degree of harm to the significance of the designated heritage asset in this case would be less than substantial, which Paragraph 208 of the Framework indicates should be weighed against the public benefits of the development including, where appropriate, securing its optimum viable use.

13. The appellant submits that the benefit arising from the development is that there is now an easy and safe access to outdoor amenity space as the garden can only be accessed by walking around the side of the building next to the A381. Given that the benefit identified is largely private rather than public in the terms of the Framework, and bearing in mind that great weight should be given to the conservation of heritage assets such as the CA, the identified less than substantial harm would very comfortably outweigh the suggested benefit.
14. For these reasons, the development conflicts with Policies DEV20 and DEV21 of the Plymouth and Southwest Devon Joint Local Plan 2014 – 2034 (LP), which collectively seek, in part, to conserve and maintain the significance, character and local distinctiveness of heritage assets and the historic environment.
15. The development also fails to comply with Policies 5 and 15 of Malborough's Neighbourhood Plan 2014 – 2034, which seek, in part, the demonstration of high-quality design, integration with the existing built form and compliance with national planning policy in respect of heritage assets.
16. Additionally, the development conflicts with the Framework, which places great importance on the design of the built environment and on the conservation of heritage assets.

Living conditions

17. The balcony sits in a raised position in close proximity to the boundary of the neighbouring property's rear garden. The areas of the neighbouring garden where the occupier of that property can retain a suitable degree of privacy are severely limited due to the presence of the balcony. Given its elevated position and rearward projection, the overlooking of the neighbouring garden from the balcony is substantially greater and more sustained than would have been the case from the first-floor window in the rear of the appeal property that was replaced with the door onto the balcony.
18. The position of the balcony close to the boundary of the site and the extent to which it projects from the rear elevation of the host building has resulted in the creation of intrusive views into the rear window of the neighbouring property. Someone stood on the part of the balcony nearest to the neighbouring property is able to see directly into the first-floor room served by the aforementioned rear window. There is therefore a significant loss of privacy within that room.
19. For these reasons, the development has resulted in an unacceptable loss of privacy within the neighbouring garden and a first-floor room in the neighbouring dwelling. Consequently, it conflicts with Policy DEV1 of the LP, which seeks to safeguard the amenity of the local community by ensuring that development provides, amongst other things, privacy for existing residents.

Other Matters

20. Whilst the appeal site is on the same road as Porch Cottage and Hope Thatch, Grade II listed buildings, there is a degree of both physical and visual separation between them and the appeal site. Given this separation, the balcony is not directly read in relation to the listed buildings and as such the proposal would preserve their settings.
21. As set out earlier in this decision, the development has result in an improvement to the living environment at the property. However, this benefit

to the use and enjoyment of the property does not outweigh the conflict with the development plan.

Conclusion

22. For the above given reasons, the development conflicts with the development plan, when taken as a whole. It also conflicts with the Framework and other material considerations do not indicate that I should take a decision otherwise than in accordance with the development plan. Indeed, Section 16 of the Framework as a material consideration alone indicates that planning permission should be refused. Accordingly, I conclude that the appeal should be dismissed.

K Reeves

INSPECTOR