



Appeal Decision

Site visit made on 24 January 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal Ref: APP/Q1153/W/23/3327228

22 Glanville Road, Tavistock, Devon PL19 0EB

- 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 Ms J Williams against West Devon Borough Council.
 - The application Ref 4288/22/FUL, is dated 6 December 2022.
 - The development proposed is erection of dwelling (amendment to approved scheme - 1622/21/FUL).
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Decision

1. The appeal is dismissed and planning permission for erection of dwelling (amendment to approved scheme - 1622/21/FUL) is refused.

Preliminary Matters

2. The appeal was submitted against the failure of West Devon Borough Council to give notice within the prescribed period of a decision on the planning application.
3. During the course of the appeal, the appellant submitted further information regarding the effect of the proposal on a tree on the site. These details have not been subject to public consultation. The information relates to a main issue with which the Council raise concerns. Given that the information relates to a fallback position, a matter to which no third parties have raised concerns, given that the Council have had an opportunity to comment on this information, and given my findings below, I am satisfied that no party would be prejudiced by my consideration of this information. Therefore, having regard to the principles of Holborn¹, acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.

Background and Main Issues

4. As part of the appeal the Council submitted a Planning Application Report detailing its assessment of the proposal and confirmed that they would have refused planning permission had they retained the power to determine the application. The report references five reasons for refusal and the policies of the development plan to which the Council considers there is conflict. The appellant had an opportunity to respond to the Council's evidence and suggested reasons for refusal in her final comments.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

5. The first reason relates to the increased size, scale and massing of the dwelling being disproportionate for the plot with insufficient usable outdoor space. As a result, the Council state that the proposal would harm the character and appearance of the area with an overbearing impact on the living conditions of neighbouring properties. The second reason states that the design, massing, fenestration pattern and detailing would appear bulky and incongruous having an adverse impact on the character and appearance of the area, including the Cornwall and West Devon Mining Landscape World Heritage Site, Tavistock Conservation Area and the setting of Non-Designated Heritage Assets. The associated report also references the nearby Grade II listed Railway Viaduct.
6. The third reason states that there would be harm to two trees on the site from the siting and proximity of the proposed dwelling. The fourth reason states that it has not been demonstrated that the development has been designed to proactively deliver on-site low carbon or renewable energy systems. The final reason states that in the absence of a completed and signed Unilateral Undertaking to secure appropriate mitigation, the proposal would add additional recreational pressure upon the Plymouth Sound and Estuaries European Marine Site comprising the Plymouth Sound and Estuaries Special Area of Conservation and Tamar Estuaries Complex Special Protection Area.
7. In light of the above, the main issues are:
 - the effect of the development on the character and appearance of the area, with particular regard to the effect on the Tavistock Conservation Area, Grade II listed Railway Viaduct and the Cornwall and West Devon Mining Landscape World Heritage Site,
 - the effect of the proposal on trees within the site,
 - the effect of the proposal on the living conditions of future occupiers of the appeal proposal with regard to the provision of outdoor space,
 - the effect of the proposal on the living conditions of the occupiers of Bannawell Street and Madge Court with particular regard to outlook and overlooking; and,
 - whether the proposal demonstrates suitable carbon reduction benefits.

Reasons

Character and appearance

8. The site lies within the Tavistock Conservation Area (CA) on an escarpment that has informed the way that the settlement has developed and contributes to the views and setting of the west side of the town.
9. On the western side of Glanville Road are a row of attractive, bay windowed and well-articulated Victorian Villas. On the other side of the road where the appeal site is located are a mix of individually designed Victorian buildings and more modern development. The Tavistock Conservation Area Character Appraisal (March 2014) (the Appraisal) identifies the historic villas on Glanville Road as Positive Buildings. Their significance is largely derived from their architectural interest comprising well detailed dwellings in spacious gardens, with mature trees and attractive front boundaries which remain intact demonstrating the local history and evolution of the area. These buildings are

highly visible allowing an appreciation of their significance in the street scene to which the appeal site contributes. The bay windows, chimneys, slate roofed form and detailing of No 22 adjoining the appeal site broadly reflects the locally distinctive character of the street, wider area and the positive buildings identified in the Appraisal. Together all of these elements form the significance of the CA.

10. The CA also includes the Grade II Listed Railway Viaduct (List Entry Number 1163049) which is a prominent feature of the town located within close proximity to the appeal site. There is a public path running along the top of the Viaduct from which there are extensive views across Tavistock, including glimpsed views towards No.22 Glanville Road and the appeal site. These surroundings form part of the setting and significance to this heritage asset.
11. As a result of the location of the site within the CA and setting to the listed Viaduct, there is a statutory duty as set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring special regard to be paid to the desirability of preserving the setting or any features of special or architectural interest and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
12. In contrast with the villas on Glanville Road, the proposal seeks the addition of flat roofed front elements with minimal openings, a green roof and full height glazing to parts of the north and south elevations. Although the east elevation has been designed to replicate the proportions, materials and windows of No.22 and the nearby villas, the openings are off-centre, include full height glazed doors, Juliet balconies and an inset balcony below a shallow roof that does not extend to the eaves. These features do not make a suitably contemporary reference to the local architectural treatment and vernacular and as a result would be at odds with and be incongruous in this setting. I acknowledge the buildings nearby and elsewhere in Tavistock that comprise a range of window openings and patterns that the appellant draws my attention to. However, these do not form the predominant vernacular within which the site is viewed.
13. The scale and footprint of the dwelling has been enlarged in comparison to the dwelling granted planning permission² on the site. Despite the appeal proposal being slightly lower in height, the increased scale and footprint significantly reduce the distances to the boundaries. Although I acknowledge that the appeal proposal includes part of the escarpment to the rear of the site, visually there is a clear transition between the less formally managed escarpment and the area where the footprint of the dwelling is proposed, that generally follows the rear gardens to properties on Glanville Road. As a result, the scale and footprint of the proposed dwelling would appear at odds with the wider immediate area characterised by villas within sizable plots with well vegetated outdoor space that collectively provide a verdant setting to the area.
14. Although the proposed dwelling would not be highly visible from Glanville Road as it would be set back in the site on a lower level to the road, the elements of the roof, frontage and new block and fence wall to the car park would be visible and would detract from the area and its predominately stone/rendered boundary walls with railings. Moreover, the proposal would be visible in association with, and from No.22 and within parts of the appeal site. In this

² 1622/21/FUL

context, the dwelling would provide a sharp contrast that would not sit sympathetically with, or complement, the positive form of No.22 or the wider CA.

15. The proposal would also be viewed from sections of the public path running along the Viaduct from where the proposal would contrast with No 22, which would form the backdrop to the proposed dwelling. Seen in the context of the wider street and the extensive vista from the Viaduct, the appearance of the building would have a minor adverse effect on the setting of the Viaduct and to the character and appearance of the CA.
16. For the above reasons, the scheme would not preserve the character or appearance of the CA, would be harmful to the setting and significance of the listed Viaduct and would not meet with the National Planning Policy Framework (the Framework) requirement that development should be sympathetic to local character and fit with the overall form and layout of their surroundings.
17. The effect of the proposal would cause minor harm to the character and appearance of the CA when considered as a whole and to the setting of the listed Viaduct. As a result, it would detract from the significance of these heritage assets. The harm to the CA and the setting of the listed building would be less than substantial within the meaning of paragraph 208 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
18. The benefits of the scheme would be the provision of an additional unit of accommodation. The proposal would make efficient use of land in a location that has good access to services, facilities and to public transport. There would be social and economic benefits during construction and from occupation of the dwelling. However, given that the site already benefits from planning permission for a dwelling, and given the small scale of the proposal, the public benefits would be very limited.
19. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal are very limited and therefore do not outweigh the harm to the CA and the setting of the listed Viaduct.
20. It follows that I conclude that the proposal would harm the character and appearance of the area, would not preserve the character or appearance of the CA and would harm the setting and significance of the listed Viaduct. It would therefore conflict with policies DEV20 and DEV21 of the JLP and the Framework which, amongst other things, require proposals to meet good standards of design, have proper regard to the pattern of local development and the wider development context and surroundings in terms of local distinctiveness, detailing, historic value, and character and conserving and where appropriate enhancing an areas historic environment and designated heritage assets.
21. In terms of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS), based on the evidence before me, the proposal would not adversely affect the significance or Outstanding Universal Value of the WHS. This is because of the extensive nature of the WHS, the scale of the proposal in relation to the WHS and its location on garden land with no direct mining-

related connections. Nevertheless, this does not alter the harm I have identified above in relation to the other heritage assets.

Trees

22. The appeal proposal as originally submitted sought to retain a Sweet Chestnut tree (T3) close to the southern site boundary. This tree was also proposed to be retained as part of the previous planning permission. During the course of the appeal, further information was submitted in the form of a copy of a discharge of condition application to the Council seeking to justify the removal of the tree in relation to the previous consent on the basis of its position close to a retaining wall and necessary engineering works. This evidence runs contrary to the Arboricultural Impact Assessment (AIA) accompanying the planning application that states that T3 can be retained, although acknowledging that it is not entirely suited to grow to maturity in the confined space.
23. During the course of the appeal the Council refused the discharge of condition application due to harm to visual amenity and as it considered engineering options were likely to be available to ensure the trees retention. It is noteworthy that T3 has not been removed from the appeal plans before me.
24. The Council state that the appeal proposal would have a harmful impact upon the root protection area of T3 with insufficient room for crown growth leading to requests to prune or fell the tree. It also raises concerns regarding the loss of a Cedar tree (T1) on the site boundary as it is relatively young allowing crown development of value helping to preserve and enhance the character and appearance of the CA. The Council advise that the previous consent did not grant the removal of T1.
25. The retaining wall proposed as part of the current appeal is almost identical to that approved as part of the previous consent. The principle established by the grant of that permission represents a genuine 'fallback' position and there is every prospect that the dwelling would be constructed should this appeal fail and a clear intent to develop the site has been demonstrated. As a result, the effect of the retaining wall on T3 would be no worse than the 'fallback' position.
26. Notwithstanding that the effect on the tree from the retaining wall would be no worse, given the impact upon the future of the canopy that predominately overhangs the site, and growth of the tree from the closer position of the proposed dwelling and associated raised entrance deck, the appeal proposal would result in a harmful impact upon T3. The lack of sufficient room for crown growth would lead to pressure to prune or fell the tree in the future.
27. In light of the above and given that the glimpsed views of the tree contribute to the verdant character of the area, potential of an engineering solution for its retention, combined with the evidence within the appellants original AIA stating that the tree could be retained, the loss of T3 has not been adequately justified.
28. Given the position of T1 on the site boundary making a positive contribution to the character and appearance of the area and given that it is only semi-mature with little evidence that it would not recover from previous unsympathetic pruning, the loss of T1 has not been adequately justified. Moreover, given the extent of hard surfacing to the site, opportunities for suitable compensatory

planting are limited and would not adequately mitigate the loss of T1 and T3 that add to the verdant character of the area.

29. In conclusion on this matter, the proposal would have a harmful effect on trees within the site. As such, it is contrary to Policies DEV28 of the JLP that states that development should be designed so as to avoid the loss or deterioration of woodlands, trees or hedgerows.

Living conditions of future occupiers

30. By reason of the increased footprint of development compared to the 'fallback' proposal, the appeal would result in less outdoor living space. The Council state that the outdoor space would fall approximately 10sqm below the minimum space required for detached dwellings under the Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document 2020 (SPD).
31. However, the Site Location Plan accompanying the appeal shows the full extent of the site extending down the escarpment towards Bannawell Street. Inclusion of this land within the appeal site results in outdoor space considerably in excess of the 100sqm required by the SPD.
32. In conclusion, the proposal would not harm the living conditions of future occupiers with regard to the provision of outdoor space. As such, the proposal complies with Policy DEV10 of the JLP and the SPD that, amongst other things, state that housing development should be of a high quality in terms of design and resilience and provide adequate space to achieve high living standards.

Living conditions of neighbouring occupiers

33. The appeal site is raised above Bannawell Street and Madge Court with a significant landscaped escarpment between. The appeal building would be located a considerable distance from the rear elevations of properties on Bannawell Street and Madge Court.
34. The rear elevation of the appeal proposal would be positioned further from the road than No.22 Glanville Road and the 'fallback' proposal. However, given the distances to the rear elevations of properties on Bannawell Street and Madge Court with the intervening landscaped escarpment and viaduct incorporating a public walkway, the proposed development would not result in any significant overbearing effect on the properties on Bannawell Street or significant overlooking of Madge Court.
35. In light of the above, the proposal would not harm the living conditions of the occupiers of Bannawell Street and Madge Court with particular regard to outlook and overlooking. As such, the proposal would comply with policy DEV1 of the JLP that, amongst other things, ensures that new development provides for satisfactory outlook and privacy for existing residents.

Carbon reduction

36. Policy DEV32 of the LP and the Plymouth and South West Devon Climate Emergency Planning Statement (November 2022) (the Statement) outline the need to deliver a low carbon future for the area with the aim of reducing carbon emissions and addressing the climate emergency. They state that this should be considered in the design and implementation of all development.

37. The appeal is supported by a Checklist for Policy DEV32 for Minor development applications. This details that the materials to be used would be local from sustainable sources in the construction of the dwelling, states that it would benefit from solar gain with A or A+ rated roof, timber windows, timber floors and external materials. The proposed dwelling would benefit from shading and air flow from trees on and around the site, solar gain to the ground floor bedrooms, bird and bat boxes and electric vehicle charging points. Such provision would generally accord with the guidance in paragraph 9.11 of the SPD for minor development and the aims of the Statement.
38. I acknowledge that the proposal makes no commitment to on-site energy production and energy storage. However, from the information before me, the 'fallback' proposal does not include any on site energy production and energy storage. As a result, the proposal would be no worse than the fallback position in this regard. Moreover, paragraph 9.38 of the SPD states that such provision is required for major development proposals.
39. The proposed footprint of the dwelling covers a larger part of the site than the dwelling already consented, but I have little evidence before me that the loss of the small additional area of soil and water storage would be so significant that it would meaningfully undermine the other carbon reduction benefits proposed.
40. In conclusion on this matter, the proposal adequately demonstrates that it would provide suitable carbon reduction benefits. As such, it would comply with Policy DEV32 of the LP and the Framework.

Other Matters

41. The site falls within the 12.3km Zone of Influence for new residents having a recreational impact on the Plymouth Sound and Estuaries Marine Site. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

Conclusion

42. The appeal proposal would have a significantly harmful effect on the character and appearance of the area, the Conservation Area, setting of the listed Viaduct and on trees on the site. In my view, these are the prevailing considerations. Although I have found that the proposal could provide acceptable living conditions for future occupiers of the proposed dwelling, neighbouring occupiers and adequately demonstrates that it would provide carbon reduction measures, the proposal should be regarded as being in conflict with the development plan, when read as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal is dismissed.

C Rose

INSPECTOR