

Appeal Decision

Site visit made on 8 April 2024

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/U1105/W/23/3330231

Little Knowle Court, 32 Little Knowle, Budleigh Salterton EX9 6QS

- 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 Harry Carter of CBSM 2012 Ltd against the decision of East Devon District Council.
 - The application Ref 23/0180/FUL, dated 27 January 2023, was refused by notice dated 16 May 2023.
 - The development proposed is construction of new two bedroom dwelling with garden room/store.
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Decision

1. The appeal is dismissed.

Main Issues

- The main issues are: (a) the effects of the proposal on the character and appearance of the area, and (b) the effects of the proposal on trees.

Reasons

Character and appearance

2. The area surrounding the appeal site has a semi-rural character with a predominance of detached dwellings set in spacious, verdant plots. The area includes a blend of architecture, with Georgian and Victorian style villas, to more modern, modest dwellings which blend to give the area a polite and restrained character despite its topographically varied setting. Pitched and hipped roof forms feature more regularly than flat roofs, and building materials vary, with stone boundary walls providing a regular defining feature at the highway edge.
3. The appeal site is occupied by a two storey block of flats, which have recessed balconies to the front elevation. The building presents itself as a far more horizontal and blockier built form than neighbouring counterparts. However, due to its spacious plot, degree of setback from the highway by its tiered and manicured garden and curved driveway, it is relatively unobtrusive.
4. The proposal seeks to introduce a dwelling into the frontage space between the block of flats and the road. The new two bedroom dwelling would take access from the existing driveway and provide parking for two cars. The main living spaces and bedroom one would be on the upper floor, with the second bedroom, garden room and store on the lower level. The building would be a flat roof, horizontal form, albeit segmented with some variation in projection height and materials. The plot would be defined by two retaining walls at the

front and back of the plot, above which would be two beech hedges. The large Oak tree in the back corner of the plot would be retained, as would the Cedar tree to the side of the driveway. The ornamental shrubs and group of small trees would be removed, along with a single Cherry tree. Other trees on the edge of the amenity area belonging to the flats would be retained.

5. In my view, due to the way in which the proposal's mass would largely fill the width of the prominent front part of the plot and necessitate the removal of vegetation and replacement with additional retaining forms, it would result in the plot appearing cramped when taken cumulatively with the building behind. It would appear from the roadside as if the two buildings were layered one above the other, unlike the way in which the area is generally a single building per spacious plot. Furthermore, the increased visibility of the horizontal form of Little Knowle Court and the contemporary proposal, albeit with a different geometric, blocky quality, would result in an incongruously urban and hard development that would undermine the polite and restrained qualities that the area currently possesses. Though the evidence highlights that there are some instances of dwellings with geometric forms in the wider locality, none are so close, so conspicuous or so similar to suggest that the proposal could integrate well with its immediate surroundings.
6. Overall, the effects would not be softened to a satisfactory degree by the retained vegetation, or otherwise by the proposed planting.
7. For the above reasons, the proposal would be harmful to the character and appearance of the area, contrary to, in particular, Strategy 6 and Policy D1 of the East Devon Local Plan (2016) (Local Plan) and Policies H2 and H3 of the Budleigh Salterton Neighbourhood Plan (2017) (BSNP). Collectively, these Policies seek to ensure that new housing development maintains local distinctiveness and reflects the existing grain, density and pattern of surrounding development.

Tree retention

8. The appeal application was submitted with evidence detailing the arboricultural implications of the proposal¹ (Arb Report), though this does not include reference to a previously felled twin stemmed Sycamore.
9. The Arb Report states that the proposal would involve the removal of T2 (a Cherry) and group A3 which is a mixed species group of mainly shrubby specimens. The proposal would include hard landscaping situated partly within the root protection area (RPA) of the Oak tree named T3. The Arb Report also details that construction protection methods along with specific fencing posts and foundations in the vicinity of T3 would avoid harm to its root system. A further group of trees, group A2, to the southwest of the proposed dwelling would be retained, with construction protection measures as necessary.
10. The evidence indicates that the Council has imposed a tree preservation order (TPO) to protect the trees from future works. Indeed, the potential for future works is one of the Council's concerns given the proximity of the proposal to the trees, particularly group A2, which includes immature Oak trees. I have limited evidence to indicate that the TPO was actually confirmed, but if it had been, it would prevent future works without consent other than necessary

¹ Advanced Arboriculture, Ref JG/B510/0123, dated January 2023

works to dead, dying or dangerous trees. This would serve some use as a means of control over works taking place.

11. However, in my view, future occupiers would have a reasonably limited garden area with the trees in an elevated position relative to the garden spaces, such that they would undermine the enjoyment and useability of the garden. These effects would worsen as the trees matured. Therefore, even if approval would need to be sought, the relationship of the trees with the garden would make lopping, topping or felling works more desirable for future occupiers. This issue links back with the relatively constrained nature of the plot.
12. Though I note that the Arb Report refers to the significant number of new trees that would be planted along the driveway to mitigate for the direct q losses, the linear form of beech hedging proposed and otherwise small pockets of trees would not overcome the direct harm from the losses or future threat to the retention of others.
13. Therefore, my overall conclusion is that the proposal would have a harmful effect on trees and therefore conflicts with Policies D1, D2 and D3 of the Local Plan. These Policies collectively seek to ensure developments have a harmonious and sustainable relationship between structures and trees and incorporate existing features of landscape or nature conservation value, and where their removal is unavoidable, provision made for suitable replacement elsewhere on the site.

Other Matters

14. A unilateral undertaking (UU) made as a deed under S106 of the Town and Country Planning Act 1990 has been completed² and submitted. It seeks to secure mitigation for the single dwelling proposal under the South-East Devon European Site Mitigation Strategy (2014) and in accordance with the Conservation of Habitats and Species Regulations 2017, as amended, to avoid harmful effects on the Pebblebed Heaths and Exe Estuary Special Protection Area. Such effects would result from the additional recreational pressures placed on these designated sites from new residents within a 10km radius.
15. This issue is not in dispute between the parties, however, as the circumstances that could have led to the grant of planning permission are not present, it is not necessary for me to ascertain the appropriateness and delivery of the mitigation within an Appropriate Assessment. Consequently, I have not taken this matter further.
16. I note the evidence on both sides in relation to the value of the site as a garden for the existing occupiers of flats within Little Knowle Court. Whilst it is suggested that it is too topographically challenging to be useable or easily maintainable, this is not a determinative factor.
17. Though it has been suggested that the scheme would be a self-build, this factor attracts limited weight given the absence of any suggested condition or legal agreement requiring such. Similarly, I note that conditions are offered to ensure that construction phase disruption is minimised as far as possible, this is a typical expectation, and such effects are temporary in nature in any event.

² Dated 2 February 2023

Planning Balance and Conclusion

18. Insofar as the scheme would result in harmful effects on trees and the character and appearance of the area, it is in conflict with the development plan when taken as a whole.
19. I note that the site is within a sustainable location within the Built Up Area Boundary for Budleigh Salterton as identified in the Local Plan. The construction of a single dwelling built to high efficiency standards as a net addition to the local housing stock in such a location would be a public benefit of the scheme. Given the small scale of the scheme, such benefits attract modest weight in favour of the scheme.
20. In addition, there would be economic benefits of a longer-term nature through occupation of the dwelling by future residents and more time-limited economic benefits from the temporary construction phase. These benefits attract modest weight.
21. However, even taken together, the public benefits do not form a consideration of such materiality that they indicate that a decision should be taken other than in accordance with the development plan. There are no other considerations, including the provisions of the Framework, which do so either.
22. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR