



Appeal Decision

Site visit made on 9 April 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2024

Appeal Ref: APP/Y1110/W/23/3331705

26 Elm Grove Road, Topsham, Devon EX3 0EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Brindley against the decision of Exeter City Council.
 - The application Ref is 23/0461/OUT.
 - The development proposed is 1no. new dwelling (outline permission with all matters reserved except access).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note the appeal is made in outline with all matters other than access reserved for later consideration. Therefore, I have assessed the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) living conditions of nearby neighbours with regard to privacy and vehicular disturbance.

Reasons

Character and appearance

4. The appeal site comprises the lower part of a large private garden and a narrow strip of associated land. This attractive tree lined strip of garden is set between 2 properties and would provide access to the proposed dwelling, directly from a main road. Low stone walling provides frontage boundaries to properties along this road. This characterful walling tends to be punctuated by modest sized openings that allow for vehicular access.
5. Set in an urban area on undesignated land and with good public transport links, the appeal site is located where infill development can be supported. Amongst other things and in this respect, Policy H2 of the Exeter Local Plan First Review, March 2015 (LP) explains that this is on the provision that residential development can be achieved without detriment to the character and quality of the local environment.
6. The host property's garden has been divided into two parts. The more formal landscaped area is closest to the main property, and the lower part is mostly laid to grass. Despite this chosen layout, the gardens complement each other and are not disproportionately large. This follows a locally distinctive and

similar pattern of large gardens that are set behind a block of street fronted properties.

7. The property would be set away from the street and public views. Furthermore, the existing boundary features near it would go some way towards reducing its visual prominence. Additionally, details of access boundary treatment could be secured using an appropriately worded condition. However, notwithstanding the matters reserved, even a modest storey-and-a-half bungalow of 2 to 3 bedrooms would irrevocably erode a locally distinctive garden layout. It would introduce an incongruous feature surrounded by private rear gardens.
8. Although modest, the loss of a section of stone walling fronting the main road would diminish its overall contribution to the character of the area. Additionally, the scheme would create an untypically wide entrance serving more than 1 property. In that respect, the attractive, tree line gap between properties would be eroded as a result of the hard landscaping required by the development's access arrangement.
9. For the above reasons, the proposal would harm the character and appearance of the area. As such, it would be in conflict with Objectives 8 and 9 and Policy CP7 of the Exeter City Council Core Strategy, February 2012. It would also be contrary to policies DG1 and DG4 of the LP and the Council's Residential Design Supplementary Planning Document, September 2020. Amongst other things, these policies and guidance seek to reinforce locally distinctive patterns of compatible development. There would also be conflict with paragraph 135 of the National Planning Policy Framework (the Framework) which, in this respect, says that decisions should ensure that developments function well and add to the overall quality of the area. They should establish a strong sense of place, using the arrangement of streets, spaces, building types to create attractive, welcoming and distinctive places to live.

Living conditions

10. There would be sufficient land available to deliver a scheme to meet nationally described space standards. It is conceivable that a property could be designed to avoid harmful overlooking towards and from nearby neighbours. Notwithstanding this, Policy DG4 of the LP says, amongst other things, that development should ensure a quality of amenity which allows residents to feel at ease within their homes and gardens.
11. In that context, there is no dispute between the main parties that boundary treatment for the driveway would be required as part of the scheme. A new boundary feature adjoining No 26a, which I noted had no side windows, could avoid harmful overlooking effects of the proposal and thus, retain or improve current levels of privacy between properties. It is possible this could be secured for the whole appeal site using an appropriately worded condition.
12. However, as the access would be constrained in its width, requiring the removal of a small side extension, the screening would need to be very close to the host property. At my visit, I observed that its 2 side elevation windows would look directly out over the proposed access. Overall, this would create an uncomfortable relationship of separately owned space that the host property has clearly not been functionally designed to accommodate.

13. In that context, whilst limited to a single property, the private side and rear garden spaces in this location would be particularly sensitive to change. Having paid regard to the submitted access statement, the unrestricted use of these spaces for residents, guests and delivery vehicles for example, would be likely to generate a notable increase in vehicular movements. As such, even if views were obscured, residents would not be expecting to have to share the relative tranquillity of their private living and garden space with the comings and goings of vehicular noise and light disturbances. For the above reasons, residents would be unlikely to feel at ease within their own homes and gardens.
14. Therefore, I conclude that the proposal would harmfully affect the living conditions of nearby neighbours with regard to privacy and vehicular disturbance. Consequently, the development would be contrary to Policy DG4 of the LP. There would be conflict with paragraph 135 of the Framework where it says decisions should ensure developments create places with a high standard of amenity for existing users.

Other Matters

15. I have taken into account representations about highway safety and waste collection. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.
16. My attention has been drawn to a fallback that could potentially come forward under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. In these circumstances it is not appropriate for me to decide whether the appellant might be able to rely on permitted development rights as a fallback. This can only be formally determined by a lawful certificate application.
17. Nevertheless, the appeal proposal would introduce a new dwelling with a separate access arrangement, which would be likely to be more intensive than incidental building uses. Moreover, given the limitations of Class E, it is unlikely any such development would be more harmful than the appeal scheme.

Planning Balance and Conclusion

18. The Council says that it is unable to demonstrate a 5 year supply of deliverable housing sites. The scale of the shortfall is not before me. However, for the purposes of my assessment on this appeal, I shall assume it is significant.
19. The site is within a zone of influence around the Exe Estuary Special Protection Area and East Devon Pebbled Heaths Special Protection Area. However, based on the evidence before me, adverse impacts can be satisfactorily mitigated through CIL or the submitted s111 payment. Therefore, any such impacts from the development do not form a clear reason for refusal.
20. Paragraph 11 (d) ii. of the Framework indicates that in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. The proposal would provide an additional property in a sustainable location. The scheme would include accommodation to meet recognised standards and would be able to provide some biodiversity gains. Additionally, there would be

some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy.

22. The social benefits of housing delivery carry significant weight, although these are tempered by the fact that a single additional property would make a very modest contribution to addressing the housing shortfall. Overall, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The proposal would not constitute a sustainable form of development within the terms of the Framework.
23. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR

