



Appeal Decision

Site visit made on 20 February 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29.05.2024

Appeal Ref: APP/U1105/D/23/3334607

Magnolia Cottage, Coburg Road, Sidmouth, Devon EX10 8NF

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr I Davies against the decision of East Devon District Council.
 - The application Ref is 23/0743/FUL.
 - The development is construction of boundary screen.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted on my site visit that the boundary screen, a timber fence, has been erected. However, I have judged the appeal on the submitted plans before me rather than what has been erected on site.
3. 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.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area, having particular regard to the effect on designated heritage assets.

Reasons

5. The appeal site, Magnolia Cottage, is a residential property located in the Sidmouth Conservation Area (CA). It is also proximate to Pebblestone Cottage, 1-4 Alma Terrace, Rose Cottage and Grasmere, which are Grade II listed buildings. In considering whether to grant planning permission, I have been mindful of my statutory duties under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. The CA encapsulates the seaside town of Sidmouth and includes the town centre and seafront, the area around Elysian Fields, an area of open space and surrounding buildings along the River Sid and the built-up area in the Bickwell Valley. The site is located within the town centre and seafront area of the CA, which retains much of its Regency and Victorian character. The significance of

this part of the CA is derived from its retained historic vernacular, scattered layout, and varied traditional materials.

7. The site is on the junction of four roads, including the B3176 (Station Road), which is one of the main thoroughfares to the seafront. Also around the junction are the aforementioned listed buildings. Pebblestone Cottage in particular has a prominent position forming the corner of Station Road and Seafield Road. Pebblestone Cottage and the other Grade II listed buildings near the site derive their significance and special interest from their 19th Century origins, architectural execution and surviving historic fabric. Together they make a positive contribution to the significance of this part of the CA and form a historically sensitive area of the town.
8. The timber fence has been erected behind a stone boundary wall at Magnolia Cottage. It rounds the corner of Station Road and Coburg Road and rises significantly above the stone wall. The area immediately around the site is notable for its distinct lack of timber fences. The prevailing boundary treatments forming the front boundaries of properties near the site are walls, railings and hedges. As such, the fence is overtly noticeable amongst its surroundings, particularly on Coburg Road.
9. Whilst the development is generally screened by plants when travelling along Station Road towards the seafront, it is highly prominent when travelling in the opposite direction along Station Road and from Coburg Road. It is visually dominant amongst the built form around the busy junction and forms an incongruent addition to the historic vernacular that is underpinned by the prevailing character in the local area of traditional boundary treatments. Furthermore, it reads as a clearly modern intervention within the settings of the surrounding listed buildings and weakens the cohesive traditional nature and pattern of built form of this part of the CA. The historic significance of the CA is harmed by the development, and to a lesser extent, the settings of the listed buildings are too.
10. The appellant has drawn my attention to specific fences. The comparison made by the appellant between the appeal development and other fences in the local area are noted. However, I have been provided with minimal details on the planning circumstances of those other fences. Additionally, some of those fences, including those on Manor Road and Seafield Road, are outside the CA. Others are not in the immediate vicinity of the site and do not contribute to the character and appearance of the same part of the CA. These other fences are therefore not directly comparable. In any event, I have determined the appeal development on its own merits based on all of the submitted evidence.
11. The development fails to preserve or enhance the character or appearance of the CA, and the settings of Pebblestone Cottage, 1-4 Alma Terrace, Rose Cottage and Grasmere have not been preserved.
12. The Framework states that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
13. Given the scale and nature of the development, I consider that the degree of harm to the significance of the relevant designated heritage assets in this case is less than substantial. Such harm attracts considerable importance and weight. The Framework indicates that the harm should be weighed against the

public benefits of the proposal including, where appropriate, securing its optimum viable use.

14. The appellant sets out that the fence provides a safe and healthy environment for the current and future occupiers of Magnolia Cottage through maintaining privacy and reducing pollution entering the garden from the adjacent roads. However, these are private benefits, and I cannot see that the appellant has proffered public benefits in support of the appeal. There would have been economic benefits resulting from the employment of contractors to erect the fence, but those benefits would have been limited and short-term. In terms of public benefits, I have limited information before me that would lead me to conclude that the less than substantial harm to the relevant designated heritage assets is outweighed.
15. For these reasons, I conclude that the development causes unacceptable harm to the character and appearance of the area, fails to preserve or enhance the character or appearance of the CA and fails to preserve the settings of listed buildings. Consequently, the development conflicts with Policies D1, EN9 and EN10 of the of the East Devon Local Plan 2013 – 2031 and Policy 7 of the Sid Valley Neighbourhood Plan 2018 – 2032, which collectively seek, in part, for development to be of high design, respect local distinctiveness, preserve or enhance the character and appearance of conservation areas and enhance or better reveal the significance of designated heritage assets. Additionally, the development conflicts with the historic environment protection policies of the Framework.

Conclusion

16. I have found that the fence fails to preserve or enhance the character or appearance of the CA and fails to preserve the settings of listed buildings, and as a consequence it conflicts with the development plan.
17. The appellant refers to the benefits of the fence in terms of their health and safety and cites Human Rights legislation.
18. Article 8 of the European Convention on Human Rights as set out in Schedule 1 of the Human Rights Act 1998 establishes a right for respect for private and family life. These rights are engaged in decisions which could adversely affect the health of a person in their home.
19. However, these are qualified rights and interference with them in this instance would accord with the law and be in pursuance of the protection of heritage assets. It is necessary and proportionate in the circumstances to dismiss the appeal.
20. For the reasons given above, the development conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal is dismissed.

K Reeves

INSPECTOR