



Appeal Decision

Site visit made on 2 July 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/X1118/W/23/3329789

Shoreview, Mill Lane, Woolacombe, Devon EX34 7BR

- 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 Hill against the decision of North Devon District Council.
 - The application Ref is 76192.
 - The development proposed is Internal and external alterations to form new flat roof balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023, after the Council made its decision. The Officer Report and appellant's appeal statement refer to the wording of paragraphs 202 and 207 but the text quoted is found in paragraphs 208 and 213 of the revised Framework. I have had regard to this in my decision and I am satisfied that this has not prejudiced any party.
3. The appellant has provided a number of revisions of the appeal proposals. The Council made its decision on plans 22042 P1e and P2e and I have determined the appeal on the same basis.
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". The appeal site therefore now falls within the North Devon Coast National Landscape (NDCNL). However, the legal designation and policy status of AONBs is unchanged, so I have used both terms where relevant.
5. On 26 December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended). In so far as it relates to this appeal, the amendment now requires relevant authorities "in exercising or performing any functions in relation to or so as to affect land in an AONB...to seek to further the purpose of conserving and enhancing the natural beauty of the AONB."
6. There are currently no regulations or guidance to assist, but the explanatory note to the LURA states "The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to

how they should do this.” As such, whilst not referred to in the reasons for refusal, it is incumbent upon me to evidence consideration of possible ways to further the purpose of conserving and enhancing the natural beauty of the AONB/NDCNL. This therefore forms another of the main issues for the appeal and I am satisfied there is sufficient information before me to make my determination in respect of these matters. Furthermore, I have sought further comments from the parties on this and taken those into account in my consideration of the appeal.

7. The Planning Practice Guidance refers to the relevance of management plans for AONBs for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas. The North Devon Coast AONB Management Plan is therefore a material consideration, as its objectives align with those in the Framework

Main Issues

8. The main issues in this case are:

- whether the proposed development would preserve or enhance the character or appearance of the Woolacombe Conservation Area;
- whether the proposal would conserve and enhance the natural beauty of the North Devon Coast National Landscape; and
- the effect of the proposals on the living conditions of the occupiers of 5 and 7 West Road with reference to outlook and light.

Reasons

Conservation Area (CA)

9. As stated in the Woolacombe Conservation Area Character Appraisal, the significance of the CA derives from its mixed architectural styles, executed to a high quality, combined with its setting and planned layout designed to make the most of impressive views and walks along the shoreline to the north of the historic core of the town. The appeal site falls within a higher density of development than the rest of the CA with 3 storey shops fronting West Road and terraced rows behind. The shops have balconies or verandas above street level.
10. Within this, the appeal site lies to the rear of properties fronting West Road but with access from Mill Lane, a narrow lane which runs parallel to West Road. I noted from my site visit that the lane appeared to be a regularly used pedestrian route through the older part of the town which afforded views of the site. Whilst there have been alterations and additions to some of the buildings backing on to Mill Lane, including to their roofs, the predominantly traditional tiled, pitched roofs and distinctive chimneys of the buildings on the west side of the lane contribute to the character of the CA.
11. The proposal would result in a substantial, rectangular addition to the roof of the building which would be clearly visible from Mill Lane and Hunter Lane and, to a lesser extent, South Street. It would run the full length of the rear wing of the building. Together with the reduction in the profile of the chimney, its angular, box-like appearance would appear as an incongruous alteration to the

profile of the existing pitched roof. This harm would be accentuated by the use of obscure glazed panels and painted render walls in place of the upper part of the existing slate roof.

12. To address the harm which I have found, I have given consideration as to whether an appropriately worded condition to secure alternative materials could be imposed if I were minded to allow the appeal. However, the form and design of the proposal is such that even with different materials it would still cause harm to the CA.
13. I am referred to existing alterations, structures and additions to other buildings in the vicinity. Whilst not all elements of a CA contribute to its significance, each scheme must be considered and determined on its own merits and I am not aware of the planning status of those other works. Compared to the proposals, the flat roof addition to the rear of 4 West Road is less prominent and set at a lower level when compared to the main roof ridge. Captain Jack's enclosed balcony is also at a lower level and appears subservient to the building to which it is attached. The roof terrace at the Former Dairy is constructed of different materials and has a different physical relationship to its host building than the appeal proposals. The same applies to the timber flue enclosure to the rear of No 7. Notwithstanding this, the other developments referred to, including Marisco's night club, do not justify the further erosion of the character and appearance of the CA.
14. The proposal would not preserve the character or appearance of the CA as a whole and would harm the significance of the heritage asset. This harm would be less than substantial and, in accordance with Paragraph 208 of the Framework, should be weighed against the public benefits of the proposal. That balancing exercise must take place in the context of s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which sets a strong presumption against a grant of planning permission for development that would fail to preserve or enhance the character or appearance of a CA.
15. By providing an outdoor balcony space, the proposals would have some health benefit to the occupiers of Shoreview and their visitors by giving convenient access to the open air, sunshine and the opportunity to grow plants. However, the public health benefits arising from this are small and do not provide the clear and convincing justification for the harm to the CA, the conservation of which I am obliged to assign great weight.
16. The proposal would therefore conflict with North Devon and Torridge Local Plan 2018 (NDTLP) policies ST15, DM04 and DM07 which seek to conserve and enhance the historic environment; the policies of the Framework which have the same objectives; and the statutory duty to pay special attention to preserving or enhancing the character or appearance of the CA.

North Devon Coast National Landscape (NDCNL)

17. NDTLP policy DM08A requires that proposals within the AONB should be informed by, and assist in, the delivery of the North Devon Coast AONB Management Plan (the Plan). Policy ST14 seeks to protect and enhance the quality of the natural environment, including by conserving the setting and special character of the AONB. The Plan indicates that the primary reason for the designation of the AONB was the wide diversity of scenery including some of the finest cliff scenery in the country. The long social and cultural history of

North Devon is reflected in the landscape and the Plan identifies the force for change arising from development increasingly impacting on the traditional character of settlements, including development in CAs. Policy E1 of the Plan supports actions to conserve and enhance the historic and cultural features of the AONB and their setting.

18. For the reasons given above, the appeal proposal would not conserve or enhance the CA, which is a historic and cultural feature of the AONB/NDCNL. It would also adversely impact on the traditional character of the settlement. As a consequence, it would conflict with NDTLP policies ST14 and DM08A which seek to conserve the special character and qualities of the AONB/NDCNL; and the duty to conserve and enhance the natural beauty of the AONB/NDCNL.

Living conditions.

19. The balcony wall would run along the length of the existing roof of Shoreview in close proximity to two upper floor, east facing windows in No 7 at least one of which from the evidence serves a habitable room. It would be situated on the northern side of No 7 and therefore would not have a significant effect on direct sunlight reaching those windows. In conjunction with the obscure glazed panels which would allow some light to pass through, this would prevent a harmful loss of sunlight. The panels, together with the receding roof slope between the windows and the balcony would also prevent a harmful overbearing effect.
20. The Council has accepted that the nearest window in No 5 is a landing window and given less amenity protection as it is not serving a habitable room. I agree with this and given the gap separating it from the proposed balcony wall, I am satisfied that there would not be an unacceptable impact on the living conditions of the occupiers of No 5 either through overbearing effect or loss of direct sunlight.
21. Consequently, I conclude that the proposal would not harm the living conditions of the occupiers of 5 and 7 West Road and would comply with policy DM1 of the NDTLP which seeks to protect residential amenities.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR