



Appeal Decision

Site visit made on 30 July 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Appeal Ref: APP/K1128/W/23/3334457

16 and 17 Newcomen Road, Dartmouth, Devon TQ6 9BN

- 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 David Thorogood of Cedar Construction against the decision of South Hams District Council.
 - The application Ref is 3039/23/FUL.
 - The development proposed is change of use to residential dwelling house with associated alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is clear from the planning application form and other submitted documents that the appeal relates to proposals at both 16 and 17 Newcomen Road. Number 17 is a three storey property on the site frontage with an office at ground floor and number 16 is a former commercial bakery at the rear. I have therefore referred to both properties in the site address above.

Main Issues

3. The main issues in this appeal are:
 - Whether or not the loss of commercial floorspace to residential use can be justified;
 - Whether or not the mix of housing proposed reflects local needs;
 - The effect of the appeal proposal on highway safety including pedestrians, with particular regard to off street parking provision and access arrangements;
 - The effect of the proposed development on protected species and habitats;
 - Whether the appeal proposal minimises the use of natural resources and contributes towards carbon reduction; and
 - The effect of the proposed development on the character and appearance of the area and whether the proposed development would preserve or enhance the character or appearance of the Dartmouth Conservation Area.

Reasons

Loss of Commercial Floorspace

4. Policy DEV14 of the Plymouth and South West Devon Joint Local Plan 2014-2034 adopted March 2019 (JLP) seeks to maintain a flexible supply of employment land and premises, by allowing the change of use of existing employment sites only where, amongst other things, there is no reasonable prospect of a site being used for employment use in the future. Policy EC3 of the Dartmouth Neighbourhood Plan made September 2022 (NP) states that the change of use of existing employment sites will only be supported in exceptional circumstances and in accordance with the provisions of DEV14 of the JLP.
5. The loss of the rear part of the premises, formerly used as a commercial bakery, to a residential use does not appear to be in dispute, with the Council having accepted its loss as part of an earlier proposal¹ ('the earlier proposal'). This included the conversion of 16 and 17 Newcomen Road into four apartments with an office premises being retained in number 17.
6. To demonstrate there is no reasonable prospect of the site being used for employment in the future, the SPD² states that clear and robust evidence will be required to demonstrate that there is no demand for employment floor space in the form of a marketing report. This report should be proportionate, relative to the nature of the proposal and contain, amongst other things, proof of marketing for a 12-month period.
7. The information submitted with the appeal indicates that the appeal premises were with one agent between October 2022 and April 2023 without any viewings arising. The property was then marketed³ for sale, as a whole, on a 'low key' basis with a new agent in April 2023 and fully launched on to the open market in May 2023. Contrary to what the Council say, the submitted information indicates that the property was also advertised on Rightmove. This resulted in seven viewings, but no offers were made. The feedback from those viewings is provided within the submission⁴. A 'for sale' board was still displayed at the premises at the time of my visit. I note that the commercial premises at the front of the property were also advertised for rent without any success with the agent referring to there being in excess of 20 vacant units in Dartmouth.
8. It is clear from the evidence before me that reasonable attempts have been made to market the property for a period in excess of 12 months and that this has not resulted in any offers being made. On that basis, I am satisfied that the appellant has demonstrated that there is no reasonable prospect of a site being used for employment use in the future. Accordingly, no conflict with Policy DEV14 of the JLP and Policy EC3 of the NP arises.

¹ LPA Ref: 2337/22/FUL - Renovation and subdivision of existing 4 bedroom maisonette at 17 Newcomen Road into 1no. 2 bedroom apartment and 1no. 1 bedroom apartment, complete renovation works and conversion of dilapidated building at 16 Newcomen Road to 2no. 2 bedroom apartments.

² Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document 2020

³ Marchard Petit letter dated 8 March 2023 [*sic*]

⁴ Summary of Applicant interest in 16/17 Newcomen Road, Dartmouth TQ6 9BN

Housing Mix

9. Policy H1 of the NP requires that new market housing responds to local housing needs in terms of type, size and tenure and Policy DEV8 of the JLP seeks homes that redress an imbalance within the existing housing stock. The appeal scheme proposes one five-bedroom dwelling which the Council says does not respond to the increasing requirement for smaller houses as set out in the NP arising from demographics, the requirement to downsize or issues of affordability. The Council refer to the earlier proposal at the appeal site to convert the property into four apartments with one and two bedrooms which they say resulted in smaller, and by definition more affordable units which they considered met the policy requirement to redress an imbalance within the housing stock.
10. However, there is evidence before me which suggests that the subdivision of the property into smaller units is unlikely to materialise in practice. The property has been marketed for sale with planning permission for four apartments without success and there is evidence that the appellant has made reasonable enquiries with Housing Associations in respect of garnering support for the conversion of the premises into smaller units. However, neither have resulted in the implementation of the previous consent to date.
11. I am also mindful that the current property consists of a four bedroom maisonette. As such, the appeal proposal would be the replacement of one large family home with another resulting in no overall net change to the housing mix in Dartmouth. Accordingly, I find the appeal proposal would have a neutral effect on the type, size and tenure of the existing housing stock and as such, no conflict with Policy DEV8 of the JLP and Policy H1 of the NP would arise.

Highway safety and parking

12. There is no dispute that the proposed use would be unlikely to generate an increase in traffic generation beyond that expected for the lawful use of the premises as a four bedroom residential unit and commercial premises. The current premises has no on-site parking. As such, the Council acknowledge that provision of three parking spaces in accordance with SPD would not be justified and I agree.
13. The appeal proposal includes the provision of parking at ground floor level. The submitted plans indicate parking for two vehicles although there would not be sufficient width to meet the minimum dimensions⁵ required for two parking spaces and therefore in all likelihood, only one vehicle could be accommodated on site. There is no dispute between the parties that in order to access those spaces, at least one on-street parking space to the front of the property would be lost in order to provide access. The Council say that this would reduce the provision of parking for people working in the area, deliveries, visitors and residents. However, given the expected traffic generation for the lawful use of the premises, I find it highly likely that at least one on-street parking space would be occupied at most times by vehicles attracted to the existing premises.
14. Even if this were not the case, I am not persuaded that the loss of on-street parking in this instance would be significant and accordingly, I find no conflict

⁵ Paragraph 4.242 of the SPD

with Policy ST2 of the NP which seeks to, amongst other things, prevent a significant loss of public parking.

15. However, visibility from vehicles exiting the on-site parking would be severely limited. Even if a turntable was installed allowing vehicles to exit in forward gear, the driver of a vehicle exiting the parking would not be able to see pedestrians approaching along the footway in either direction. Other properties along Newcomen Road with garages have been drawn to my attention but I do not have information before me regarding the circumstances in which these have been permitted. I note that the Highway Authority acknowledge a lack of injury accidents associated with their use but that is not in my view sufficient reason to permit a proposal which through a lack of visibility could put pedestrians in danger due to conflict with emerging vehicles. For this reason, I find that the proposal would conflict with Policy DEV29 of the JLP which seeks safe and satisfactory vehicular access to the site. My conclusion aligns with Paragraph 115 of the National Planning Policy Framework as there would be an unacceptable impact on highway safety.

Protected Species and Habitats

16. The appeal is accompanied by a Preliminary Roost and Nest Assessment⁶ detailing the results of a survey carried out on 8 June 2022. It states that the results of the survey contained therein are valid for 12 months from the date of survey. The survey was therefore out of date at the time the Council determined the planning application.
17. The appellants statement of case refers to the preparation and submission of a preliminary ecological survey during the appeal period⁷ in order to overcome the Council's concerns. However, I have not been provided with an update and therefore cannot be certain that the proposed development would not harm protected species or habitats.
18. The Council refer to conflict with Policy DEV21 of the JLP and Policy GE2 of the NP. However, Policy DEV21 relates to development affecting the historic environment and is not relevant to my consideration of the proposal in terms of its effect on protected species. Whilst Policy GE2 of the NP is titled, 'Safeguarding the biodiversity and Green Infrastructure throughout the parish', the Council have not provided evidence as to how the appeal proposal would be contrary to its requirements.
19. Notwithstanding this, a conflict with Policy DEV26 of the JLP which seeks to avoid harmful impacts on protected species would arise as from the information provided, I cannot be certain that the proposed development would not harm protected species or habitats.

Carbon Reduction

20. Policy DEV32 of the JLP seeks to deliver low carbon development by minimising the use of natural resources through the reuse or recycling of materials in construction and by making the best use of existing buildings and infrastructure. As the proposal relates to the use of an existing building, no conflict with Policy DEV32 arises in this respect.

⁶ carried out by Ecological Surveys Ltd dated 17 June 2022

⁷ Paragraphs 1.10 and 1.11 of the Statement of Case by Next Phase

21. Policy DEV32 also requires proposals to be assessed against an 'energy hierarchy' with a focus on reducing the energy load of the development. The appeal is accompanied by a document⁸ which sets out how this would be achieved. It states that the siting of the building in an east to west orientation allows cross ventilation and avoids the building overheating, low energy lighting would be provided, windows would be double glazed and high levels of insulation used.
22. The appeal is also accompanied by a Climate Emergency Compliance Form in response to the Plymouth and South West Devon Climate Emergency Planning Statement adopted November 2022 (CEPS). The CEPS requires developments to include mitigation measures to reduce the amount of carbon emitted and measures to adapt to a changing climate.
23. There is limited and conflicting information in the appeal submissions regarding the use or otherwise of on-site low carbon or renewable energy systems and it is unclear whether an electric charging point would be provided on-site. However, the submitted drawings indicate provision of a plant room which could accommodate low carbon technologies and therefore, in the event that the appeal was allowed, I am satisfied that further details could be secured by a condition, ensuring that no conflict with Policy DEV32 of the JLP or the CEPS would arise.

Character and Appearance

24. The appeal site lies within the Dartmouth Conservation Area (CA). The Council have also drawn my attention to nearby listed buildings including the Baptist Chapel, Nos. 49 and 50 The Old Manse, the Church of St John and 20 Newcomen Road. However, none of them abut the appeal site and there is no dispute that the appeal proposal would have a neutral impact on the setting of adjacent listed buildings. From all that I have seen and read, I agree.
25. I have not been provided with a Conservation Area Appraisal detailing the significance of the CA. However, I nonetheless observed that the CA extends from the River Dart to the East and slopes upwards to the west. It contains a tight-knit mix of commercial and residential buildings of differing styles and ages. Buildings tend to line the back edge of the pavement in narrow streets. There is a limited palette of materials with a predominance of stone or rendered elevations under a slate roof. Many of the properties retain their original features and detailing including some windows and doors.
26. The CA therefore gains some historic value and significance from its relationship with the river and a concentration of period buildings, which due to their positioning in the street and uniform materials palette, creates an intimate and pleasant street scene.
27. The appeal site itself comprises a three-storey property with projecting windows at first and second floor level on the front elevation. It forms a terrace with other three and four storey properties which all have a shop front at ground floor level. This gives the terrace uniformity which contributes positively to the character and appearance of the street scene and the wider CA.
28. The shop front, whilst lacking some of the original detailing of others in the terrace, is nonetheless constructed of timber and relatively simple in style with

⁸ Policy DEV32 Compliance Proposal by Callingham Architects

a central doorway. It contributes to the architectural harmony of the terrace as a whole. The removal of the shop front in its entirety would result in the loss of detailing which positively contributes to the character and appearance of the CA. Its replacement with high level windows above a blank timber facade would detract from the legibility of the building and the commercial character of the building and terrace as a whole. The introduction of vertical timber boarding to large areas of the front elevation would be an uncharacteristic treatment of the front elevation and in stark contrast to the simple traditional and uniform appearance of the other properties in the terrace. This would diminish the positive contribution that the building and terrace make to the wider CA.

29. Taken together, I conclude that there would be moderate harm to the character and appearance of the building, the terrace and the CA. The proposal would fail to preserve the character or appearance of the CA. I consider this further in the Heritage Planning Balance below.
30. The appeal site is also located within the South Devon National Landscape (NL). The Council refer to conflict with Policy DEV25 of the JLP which relates to the need to prevent damaging or inappropriate development within protected landscapes. Notwithstanding my findings above in respect of the effect of the appeal proposal on the CA, I have no evidence before me in respect of the effect of the appeal proposal on the natural beauty of the NL. The appeal site is within the built up extent of Dartmouth and the tight-knit character of surrounding development means that the appeal site is not seen in the context of the surrounding protected landscape. For this reason, I am satisfied that the appeal proposal would conserve the natural beauty of the NL and no conflict with Policy DEV25 of the JLP would arise.
31. I do not find that Policy ST2 of the NP is relevant as this relates to proposals for parking affecting the setting of a development but there is no evidence before me that this would be the case in this instance.

Heritage Planning Balance

32. The moderate level of harm that would occur would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework). Policy DEV21 of the JLP and Paragraph 208 of the Framework requires such harm to be weighed against the public benefits of the proposal.
33. In terms of benefits, the appellant points to the reuse of vacant and derelict buildings which are currently a health and safety risk due to asbestos and the removal of unsightly extraction units. They also point to proposals to improve the thermal efficiency of the building although how that would be achieved in practice is unclear.
34. Section 72 (1) of the Listed Buildings and Conservation Areas Act 1990 ('the Act') requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and Paragraph 205 of the Framework requires great weight to be given to the conservation of designated heritage assets.
35. In this context, I find that the cumulative public benefits of the scheme carry limited weight and do not outweigh the less than substantial harm that would arise from the proposal. Accordingly, the appeal proposal would conflict with Policies DEV20, DEV21 and DEV23 of the JLP which amongst other things seek

good standards of design which contribute towards maintaining local identity and distinctiveness and conserving the significance of designated heritage assets. The proposal would also conflict with Policies TE2, TE3 and TE5 of the NP which amongst other things seek high quality design which respects and enhances the historic environment. There would also be conflict with Paragraph 206 of the Framework as the harm to the designated heritage asset would not have clear and convincing justification.

Other Matters

36. I have been provided with a unilateral undertaking signed by the appellant to secure a financial contribution towards a Traffic Regulation Order to adjust the on-street parking bay to provide access to the appeal site. Given that I have concluded that the proposed scheme is contrary to the development plan, it is not necessary for me to go on and consider the submitted unilateral undertaking in any detail.
37. I have considered other matters raised by interested parties including, but not limited to, loss of privacy but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns. I also note that the proposal has the support of interested parties including the town or parish council but this does not alter my findings in respect of the main issues.

Planning Balance and Conclusion

38. Whilst I have found no harm in respect of the loss of commercial floorspace, the housing mix, parking provision and the ability of the appeal proposal to contribute towards carbon reduction, the proposal would not provide safe and satisfactory access and it has not been demonstrated that harm to protected species and habitats would not arise. In addition, the proposal would have a harmful impact on the CA which is not outweighed by public benefits. I have given great weight to the conservation of the CA.
39. Accordingly, the proposed development is contrary to the development plan as whole, the Framework and the Act and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR