



Appeal Decision

Site visit made on 28 October 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal Ref: APP/U1105/W/24/3345960

15 Halsdon Avenue, Exmouth, Devon EX8 3DL

- 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 Steve Richards against the decision of East Devon District Council.
 - The application Ref is 23/1050/FUL.
 - The development proposed is to erect a 2-storey 2-bed detached dwelling with associated amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - Whether the proposed dwelling would provide satisfactory living conditions for future occupants having regard to light and outside space.

Reasons

Character and Appearance

3. The appeal site is a narrow strip of land, set behind two garages and between two existing dwellings. Dwellings in this immediate vicinity are sizeable detached and semi-detached properties in generous plots with significant street frontage. The pattern of development in this area is generally linear. However, this pattern is somewhat irregular near the appeal site, given the corner location and the curve of the road.
4. The site is also close to crossroads which has an elevated position and is edged by large residential plots, and in this regard has a relatively prominent location. Many of the properties in this area have mature vegetation at their front boundaries, and this combined with spacious rear gardens, gives the area a verdant quality.
5. Some of these gardens, including the appeal site, host mature trees, that can be seen above roof tops from the public realm. The appellant's evidence describes the trees at the appeal site as having a suboptimal form. However, I saw that even with the poorly maintained garages in the foreground, the tree canopies at the appeal site can be clearly seen over the flat roof of those existing structures and appear a positive feature in this part of Halsdon Avenue.

6. Built forms in this area have a mixed appearance. However, they are unified by a traditional mid-20th Century architectural style, comprising render clad dwellings, hipped roof shapes, bay windows and protruding, timber detailed gables. This design coherency in the built form, generally spacious gardens and development pattern contribute positively to the pleasant suburban character of this part of the residential estate.
7. The proposed dwelling would be constructed behind the existing garages. As such, the resultant built form would have limited primary frontage at the street level, and this would be out of keeping with the surrounding pattern of development. The dwelling would fill much of the width of this plot, with limited space retained at the shared side boundaries, and this would appear cramped in an area of comparatively spacious residential plots.
8. As a two bedroom home, its scale would be somewhat smaller than most surrounding homes. Its design, described as chalet style, would be similar to dwellings in the wider area. However, those existing dwellings are 1970's additions located much further along Halsdon Avenue. As such those more contemporary forms are not reflective of the style of existing dwellings which characterise the area immediate to the appeal site.
9. Not only would the proposed plot layout be incongruous in this setting, but even with a subservient height and with materials matching neighbouring properties, the proposed pitched form would be out of keeping with existing built form in this area. The discordant form, while set back from the road, would be visible above the low profile garages. With these unsympathetic design features, the dwelling would visually jar with existing development surrounding it and this would harmfully disrupt the prevailing cohesive character of the area.
10. With an incongruent design and layout, the proposal would not be sensitive to either the pattern or style of existing development in this area. As such the addition would appear a distinct oddity in this prominent location. Although the ground floor would be largely screened by the garages, the upper floor of the dwelling would be clearly apparent above those existing structures and in the public realm. Consequently, this poorly designed development would harmfully disrupt the positive character in this residential area. A landscaping scheme could not adequately address the adverse visual impact that the upper floor and roof form of this addition would have in this part of the street scene.
11. It is stated that there are infill developments similar to the proposal in this area. Attention is drawn to Red Rocks, but this is on a neighbouring road such that it has limited influence on the character which provides the setting for this particular development. Moreover, unlike the proposal before me, I saw little evidence that infill development has resulted in significant visual harm in the vicinity of the appeal site. My findings are not altered on this issue accordingly.
12. Therefore, I conclude on this matter, that the proposal would have a significant harmful effect on the character and appearance of the area. In this respect, the proposal would be contrary to Strategy 6 and Policies D1 of the East Devon Local Plan 2013 – 2031 (Local Plan). These Policies collectively, amongst other matters, seek high quality design and development compatible with the character of the site and its surroundings.
13. The proposal would not accord with Policies EN1 and EB2 of the Exmouth Neighbourhood Plan which, amongst other matters, state that new development

should be mindful of surrounding building styles and ensure a high level of design. The proposal would also be inconsistent with provisions of the National Planning Policy Framework (the Framework) which state development that is not well designed should be refused.

Living Conditions

14. The Arboricultural Report submitted in support of this appeal identifies three notable trees in the vicinity of the appeal site: two Lime trees at the western boundary of the site and a Norway Maple at No 15. As already outlined, the canopy of these trees contribute to the verdant character of the area. The Framework highlights that trees make an important contribution to the character and quality of urban environments and requires existing trees should be retained wherever possible.
15. The appellant's Report concludes that the Maple shows evidence of disease, and this is likely to reduce its lifespan. While this may be so, the evidence indicates a lifespan of around 10 years, which is a significant period of time that the area would benefit from the positive visual and environmental attributes of this natural feature.
16. The new dwelling would fill much of the plot with only a small space retained at the rear as a garden. The submitted plans show that the canopies of the Lime trees would cover at least three quarters of this small outside space. Shaded by trees for a good portion of the year, this garden would be a gloomy place to sit or play. Moreover, bounded by high fences and dominated by mature trees, this garden would be a hemmed in, shady place and in this regard would not provide a pleasant space for future occupants to use.
17. Measures to manage leaf litter could be incorporated into the roof design and the outside space and the crown of the Lime trees could be lifted to reduce shading. The Arboricultural Report also indicates that the Lime trees require pruning. However, these works are described as high pollarding. Moreover, the evidence indicates even after the works, the Lime trees would likely remain sizeable. The mitigation advanced in this case could be secured by condition, but these measures would not fully address the risk of branches falling from these sizeable trees into the proposed outdoor space over the life of the development.
18. The proposed dwelling would have two bedrooms, and therefore could accommodate a family with small children. Covering a considerable part of the only significant, useable garden, the Lime trees would pose a hazard with regard debris and falling branches.
19. I note that some existing gardens in the area are modest and also contain trees. However, the outdoor space proposed in this case would be significantly smaller than gardens in this immediate vicinity, and most of the proposed space would be dominated by trees. Even with the crowns lifted, branches of the Lime trees would still span a considerable part of this garden. As such, future occupants would likely not consider this a safe place to sit or for children to play in. In turn, the garden would not be suitable for future occupants to carry out activities that they should reasonably expect to be able to do in their private outdoor space. The new dwelling would not offer satisfactory living conditions for occupants over the lifetime of the development in this regard.
20. Also, given these factors, there would be pressure from future occupants to substantially prune or even remove the trees. This action would be difficult to resist even with an Order in place to protect the trees if the safety of occupants of the

dwelling was at issue. Substantial works to the trees would harmfully erode the existing verdant character of this part of the street. It is highlighted that the Council has pruned trees in public areas elsewhere which the appellant feels is more harmful than what is proposed at the appeal site. This may be so but work elsewhere should not justify harmful development at this location.

21. The canopy of the Maple tree would overhang a significant section of the proposed dwelling. Indeed, the crown of this tree would need to be lifted to accommodate the new dwelling. However, the built form would have large windows on the rear elevation and even with the extensive canopy coverage over the garden and part of the dwelling, those large openings would ensure that adequate natural light would reach the habitable rooms of this dwelling.
22. Mitigation measures are advanced to ensure that the trees would not be harmed during the construction phase, and again this is a matter which could be secured by condition. I have also found that the proposal would be acceptable with regards light. However, even if I accept these matters, the proposal fails to provide a suitable garden for future occupants.
23. Therefore, while I find no significant issue with regards light, the proposed dwelling would not provide satisfactory living conditions for future occupants having regard to outside space. In this respect, the proposal would conflict with Policies D1, D2 and D3 of the Local Plan. These Policies, amongst other matters, permit proposals that do not adversely affect the amenity of occupants of proposed future residential properties, with respect to access to open space.
24. The proposal would also be inconsistent with provisions of the Framework which require a high standard of amenity for existing and future users.

Other Matters

25. The Council has not raised concerns about the impact on neighbours living conditions, drainage or parking. However, even if I accept this, development should be acceptable in these respects such that this matter does not weigh in favour of the proposal. Disturbance during the construction phase could be controlled by condition. However, this would not address the harms in respect of future occupants living conditions or to the character of the area.
26. It is asserted that the site is brownfield. However, while there may now be a separate title, the evidence indicates that the appeal site was previously part of the garden at No 15. The Glossary of the Framework excludes land in built-up areas, such as residential gardens, from the definition of previously developed land.
27. It is stated that the development would be a self-build plot. However, I find no mechanism giving certainty of this outcome. This is also the case in respect of the affordability of the dwelling.
28. These matters aside, the principle of residential development is accepted in this area, and future occupants would have reasonable access to services, including public transport options. This is a small windfall site, and the development could be built out quickly. The dwelling could be adapted for those who are less able bodied. This proposal would make a small contribution to the Government's objective to significantly boost the supply of homes and would add to the mix of much needed housing in the area. Also, some local support has been expressed for this development.

29. The evidence suggest that all three trees in question require some work. I understand that the Council has refused permission to carry out those works and that that decision is subject of a separate appeal. However, limited information has been provided on this and it appears that the separate appeal is yet to be validated. Moreover, no compelling evidence has been advanced in this appeal that this harmful development would be the only means of securing necessary works to the trees. This matter attracts limited weight for this reason.
30. Habitat mitigation is also proposed, and this could be secured by condition. However, any benefits in respect of this matter would be considerably countered by the harm to the character of the area and the unsatisfactory living conditions that would result from this development.
31. The adverse impacts in respect of character and living conditions, would significantly and demonstrably outweigh the small benefits identified in this case when assessed against the policies in this Framework taken as a whole.
32. Attention has been drawn to officer's advice at the pre-application stage. However, the Council is not bounded by comments made at that stage. Concerns have also been raised about the Council's approach to the subsequent application process and a trespass issue. However, these are matters outside the scope of this appeal. My findings are not altered accordingly.
33. Attention has also been drawn to policies not in dispute. However, I find harm in respect of character and living conditions, and conflict with the development plan when read as a whole.
34. The appeal site is in the zone of influence of the Exe Estuary and East Devon Pebble Bed Heaths Special Protection Area. However, as this appeal is being dismissed on other grounds there is no need to address this matter.

Conclusion

35. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR