



Appeal Decision

Site visit made on 3 December 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/K1128/W/24/3349444

Hill Mount, Hillfield, Stoke Gabriel, Devon TQ9 6SH

- 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 and Mrs Mercer against the decision of South Hams District Council.
 - The application Ref is 2796/23/FUL.
 - The development proposed is new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for new dwelling at Hill Mount, Hillfield, Stoke Gabriel TQ9 6SH in accordance with the terms of the application, Ref 2796/23/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. Following the Council's notice of decision, the National Planning Policy Framework (the Framework) was revised on 12 December 2024. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that paragraphs number have changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) highway safety.

Reasons

Character and appearance

4. The appeal site comprises a private access track and a lower, extended garden area associated with a detached property of generous plot size, known as Hill Mount. While there are some similar sized properties nearby, the immediate surrounding area is characterised by its urban form and rich variety of properties, including higher density development on compact plots. As such, there is no prevailing locally distinctive pattern or layout. In that context, even with its vegetation, the appeal site does not feel detached from the built-up part of the village.
5. Located within the South Devon National Landscape (NL), Policy DEV25 of the Plymouth & South West Devon Joint Local Plan (JLP) is applicable. This policy provides the highest degree of landscape protection. Amongst other things, it

seeks to encourage small-scale proposals that are located and designed to conserve and enhance such protected landscapes, preventing the addition of incongruous features. JLP policies SPT1, DEV20, and DEV23 are supportive of proposals that have proper regard to the pattern of local development, achieving a good quality sense of place through good utilisation of existing assets such as through landscape features. These policies are consistent with chapter 15 of the Framework, which attaches great weight to conserving and enhancing landscape and scenic beauty.

6. The Council agrees that the appeal site is sustainably located with its public transport links and small number of facilities. Furthermore, although not on an identical building line to others nearby, the modest sized property would be sensitively set into the slope, surrounded by a proportionate garden area. Despite its 2-storey appearance and balcony, it would not stand proud. Although on a relatively small plot, it would not appear to be shoehorned in as the Council put it, or out of place. Moreover, given the wider layout, the host property would be left with a generous and well related garden. Amenity levels protected by JLP Policy DEV1 and the Council's JLP Supplementary Planning Document would consequently be maintained.
7. The removal of some natural habitats weighs against the proposal. However, much of the corner of the plot would not alter significantly, with the scheme retaining a good number of trees. Therefore, subject to an appropriately worded condition, longer term natural vegetation would still form a strong overall design element to the scheme. In that context, the Council does not contest that the property would be of typical character, massing, and scale, when compared with other nearby buildings. Furthermore, the opening up and widening of the access would make the approach to this and other properties along the lane marginally more inviting. This, together with its positioning amongst a relatively high-density village environment, means that its visual effects on the immediate and wider landscape would be negligible.
8. I therefore conclude on this main issue that the proposed development would not have a harmful effect on the character and appearance of the area. As such, there would be no conflict with JLP policies SPT1, DEV20, DEV23, or DEV25. There would also be no conflict with paragraph 135 of the Framework, which says, amongst other things, that decisions should function well and add to the overall quality of the area.

Highway safety

9. The Council is concerned that the existing private access lane that is said to serve up to 19 properties is of inadequate width. This, it says, would be likely to cause danger by vehicles reversing out of the Broad Path/Stoke Hill junction. While the development would increase the number of vehicle movements, it is common ground that this would be limited. The reversing of vehicles from the appeal site onto Hillfield would be unlikely to cause conflict due to low vehicle speeds and low-level Devon banked visibility splays. The heights of these splays could be conditioned as part of a landscaping scheme.
10. I have paid regard to the importance and weight that can be attributed to the Council's highways officer objection. Within it, it notes that larger vehicles would not be able to practically use the access. However, save for a 7.7 tonne lorry, the examples provided would still be able to gain access to the appeal site. At my visit, I observed that the concrete turn into Hillfield drive was

narrow, but satisfactorily passable without feeling uncomfortably restricted by the drop at its far edge. Although sub-optimal, the evidence shows that the drive is used by a wide range of delivery vehicles and the Council's waste collection lorry. Additionally, large, family sized cars were parked outside properties. Moreover, it is of note that there have been no recorded incidents in this vicinity within the last 5 years.

11. Vehicles attempting to turn up towards the appeal site could either pull in just before the junction or drive a car's length along Broad Path to allow a vehicle past. Even if either of these options was not suitable or available, drivers of vehicles approaching Broad Path from Hillfield could conceivably reverse back up the lane to informal passing places. In that context, the scheme would result in an additional hard surfaced area that could be informally used for such purposes. Furthermore, the proposal would include a slightly widened road within the appellant's ownership on one side of the appeal site. This would be likely to improve visibility for drivers of vehicles and other road users. As such, it has not been convincingly shown that reversing onto Stoke Hill junction would be unavoidable or likely. In this respect, cumulative impacts on the road network would not be severe.
12. The Council's highway officer says the plot is over 60m from Broadway, though it did appear to be much less than this. In any case, I have been provided with little information to demonstrate that access to the appeal property would not be possible in the event that the fire service was needed.
13. For the reasons given, and in the absence of any compelling evidence to the contrary, I therefore conclude on this main issue that the development would not be likely to pose a risk to highway safety. As such, there would be no conflict with JLP Policy DEV29 which, amongst other things, says proposals should provide safe and satisfactory vehicular access to and within the site. Furthermore, the proposal would satisfy paragraphs 115 to 117 of the Framework, which seeks development to provide a safe and suitable access to the site, minimising the scope for conflict between pedestrians, cyclists, and vehicles, allowing for the efficient delivery of goods, and access by service and emergency vehicles. Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

14. The appellant has provided a signed Unilateral Undertaking aimed at meeting Self Build and Custom Housebuilding statutory requirements. Even if there is a deficit in this regard, and broad policy support for such developments in the JLP, the obligation would not be necessary to make the development acceptable in planning terms. It therefore fails the tests set out in the Framework. Consequently, I do not consider that it would be lawful to take it into account as a reason for granting planning permission.

Conditions

15. The conditions suggested by the parties have been considered in light of the advice contained within the National Planning Practice Guidance and the Framework. I have made some amendments to the suggested conditions in the interests of clarity and to ensure compliance with the Framework. The

appellant has agreed to the use of pre-commencement conditions in accordance with the regulations¹ where necessary.

16. In addition to the standard implementation condition, it is necessary for certainty, to define the plans with which the scheme should accord. In recognition of highway safety acknowledging the constrained access arrangements, and the living conditions of nearby residents, it is necessary to impose a pre-commencement condition for a construction management plan. A parking compliance condition is also required in the interests of highway safety.
17. An additional pre-commencement landscaping condition is reasonably necessary to ensure the site is laid out appropriately in the interests of the character and appearance of the area. For the same reason, conditions are needed to ensure trees are protected and material finishes are appropriate.
18. Conditions relating to foul drainage connection prior to first occupation and compliance with the drainage scheme are reasonably necessary.

Conclusion

19. For the reasons given, the appeal is allowed.

J Hills

INSPECTOR

¹ The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 2201/PL01A Site Block Plan; 2201/PL02A Lower Ground Floor Plan; 2201/PL03A Upper Ground Floor Plan; 2201/PL04A Roof Level Plan; 2201/PL05A Elevations; 2201/PL06A Elevations; all received by the Council on 15th August 2023; and 2201/PL07A Elevation Along Lane, dated January 2023.
3. No development shall commence until the local planning authority shall have received and approved a Construction Management Plan (CMP) containing the timetable of the works; daily hours of construction; hours during which delivery and construction traffic will travel to and from the site; hours during which no construction traffic will be present at the site; and other such particulars as may be required by the local planning authority or highways authority. The CMP must then be implemented and adhered to throughout the construction phase of the development as per the agreed details.
4. No development shall commence until a precise hard and soft Landscaping Scheme has been submitted to, and approved in writing by, the Local Planning Authority. The landscape designs and specifications shall include the following:
 - a) Full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of the mix, size, distribution, density, and levels of all trees/hedges/shrubs to be planted and the proposed time of planting. The planting plan shall use botanic names to avoid misinterpretation. The plans should include a full schedule of plants;
 - b) A specification for the establishment of trees within hard landscaped areas including details of space standards;
 - c) Details of any changes of level across the site to be carried out.
 - d) Details of ground preparation prior to importation of topsoil, including decompaction of material and removal of any debris including plastic, wood, rock and stone greater in size than 50mm in any dimension;
 - e) Details, including design and materials, of ancillary structures such as bin stores and signage, gates, sculptural features;
 - f) Details of all boundary treatments
 - g) Details of hard landscape materials including samples if requested by the local planning authority;
 - h) A timetable for the implementation of all hard and soft landscape treatment.

All hard surfacing, planting, seeding, or turfing comprised in the approved details of landscaping, shall be carried out in accordance with the approved

timetable for implementation. Any trees or plants which, within a period of 5 years from the completion of any phase of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the local planning authority gives written consent to any variation. The approved Landscaping Scheme shall be carried out in its entirety and shall accord with the approved details and timetable.

5. The dwelling hereby permitted shall not be occupied until the areas for parking and turning of vehicles has been provided and made available for use, in accordance with the approved drawings. Those areas shall thereafter be kept free from obstructions to allow for the parking and turning of vehicles.
6. The dwelling hereby permitted shall not be first occupied until and unless foul drainage from the development shall have been connected to the public foul sewer.
7. All tree protection works shall be carried out in strict accordance with the details contained within the Tree Impact Assessment Plan, the Tree Survey Constraints Plan and the Tree Protection Plan submitted in support of the application.
8. Prior to installation, a schedule of materials and finishes, to be used in the construction of all external surfaces, including roofs, shall be submitted to, and approved in writing by the local planning authority. The development thereafter shall be carried out only in accordance with the approved details.
9. The drainage scheme shall be installed in strict accordance with the approved plans and shall be maintained and retained in accordance with the agreed details for the life of the development.