



Appeal Decision

Site visit made on 10 January 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/W1145/W/24/3345128

Briars End, land adjacent to Briar Hayes, Hatchmoor Road,

Great Torrington EX38 7BU

- 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 Clive Armstrong against the decision of Torridge District Council.
 - The application Ref is 1/0152/2024/FUL.
 - The development proposed is single dwelling and garage.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by Mr Clive Armstrong against Torridge District Council. The application is the subject of a separate decision.

Preliminary Matters

3. At the time of my site visit, I saw that the development of the garage and wall had been partially completed. While the Council's decision notice refers to the application as a part retrospective, it is described in the application form as a single dwelling and garage. In any case, I have dealt with the appeal on the basis of the plans before me.
4. 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 paragraph numbers have changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.

Main Issues

5. The main issues are:

- whether the proposed development would provide acceptable living conditions for future occupants, with regard to noise, light and disturbance; and
- the effect of the proposed development on the living conditions of the occupants of Briar Hays, with particular regard to noise.

Reasons

Future occupants

6. The Artificial Grass Pitch (AGP) is located about 10m from the appeal site boundary and would be around 20m from the nearest point of the proposed dwelling. It is suitable for a variety of sports in all weather and is referred to as a MUGA by the appellant's acoustician. Despite the other nearby MUGA facility, its effects on the proposed development have been taken into account by the main parties. Moreover, it could reasonably be described as a MUGA or an AGP. The appellant says that the Sport England guidance states a minimum distance of 12m should be applied between a dwelling and a MUGA. The Council, on the other hand, asserts that the recommended minimum distance should be 30m. In the absence of any compelling evidence to the contrary, while the recommended distance of 30m would not be achieved, the scheme would nevertheless meet the minimum distance requirements purported to be set out by Sport England.
7. It is likely that average noise level measurements may underestimate high impact sounds such as ball impacts and shouting. That being said, guidance set out in the 2015 AGP Acoustics – Planning Implications shows that noise levels should not exceed 50 dB LAeq 1m from façades of living spaces. It adds that an appropriate time period assessment is 1 hour, which is typically the time period for a community sports session on an AGP. Whilst this guidance relates to proposed AGPs, there is little evidence to demonstrate that an average recording over this period would be inappropriate.
8. The first noise survey relates to a single storey dwelling where 2 measurements were made. The first being an assessment during an adult 7 a side football match, and the second where there was no activity. In respect of the former, even though the measured ambient noise levels were 42 dB LAeq. T at the proposed dwelling, the assessment was carried out for a duration well in excess of the recommended time period. The survey does not explicitly state whether the football match was being played for the duration of the measurement. Therefore, it is not known whether there were quiet periods of non-play that could have significantly lowered average noise levels. The second noise survey for a different scheme recorded 2 children's football tournaments, though these were not carried out for the full recommended hour.
9. Consequently, while the second survey takes account of the proposed garage shielding, the collective results are inconsistent with one another, potentially misleading, and cannot be relied upon for an accurate reflection of noise emanating from the facility. This would be the case even if I were to ignore recommended and minimum distances set out in the referenced Sport England guidance on MUGAs and dwellings.
10. Despite not being fully booked, the unrestricted use of the facility by the school during the day and by others into the late evening means these effects could lead to unacceptable levels of noise and disturbance for future occupants. The appellant has provided detailed information relating to the timetabled use of the facility and could therefore have carried out hour long assessments for a range of age groups.
11. Given the intervening siting of the garage and orientation of the proposed dwelling facing away from the facility, it is unlikely that existing external lighting would

harmfully affect the living conditions of future occupants. However, for the reasons given, it has not been convincingly demonstrated that existing noise levels would not harmfully disturb the intended occupants. This would also mean that the existing community facility could be unreasonably restricted by the development, in conflict with the aims of paragraph 200 of the Framework.

12. I therefore conclude on this main issue that the proposed development would not provide acceptable living conditions for future occupants with regard to noise and disturbance. As such, there would be conflict with policies DM01, DM02, and DM04 of the North Devon and Torridge Local Plan 2011-2031 (LP) which, amongst other things, support developments where intended occupants would not be harmed as a result of existing uses.

Living conditions of occupants of Briar Hayes

13. The Council is concerned that the hydraulic lift and associated works within the proposed garage has the potential for noise impediment to Briar Hayes. While no noise assessment has been carried out in respect of this matter, it is claimed that the electric lift is virtually silent and would be used once or twice a week. Given the small-scale domestic nature of the apparatus, the appellant's assertions in this regard are reasonable. Furthermore, the lift would be located within a solid garage building. Therefore, even if the doors remained opened during its likely occasional operation, the external walling and existing boundary treatment would further reduce any modest associated noises created by the lift. Consequently, it is very unlikely that the living conditions of the nearest neighbour would be significantly harmed by the development.
14. I therefore conclude on this main issue that the proposed development would be unlikely to have an unacceptable effect on the living conditions of the occupants of Briar Hayes. As such, there would be no conflict with policies DM01, DM02, and DM04 of the LP, which, together in this respect, seek to avoid developments that significantly harm the living conditions of neighbouring occupiers. There would also be no conflict with paragraph 135 of the Framework, which says, amongst other things, that decisions should ensure developments create places with a high standard of amenity for existing users. There is little to show there would be any conflict with paragraph 191 of the Framework.

Other Matter

15. While there is some support for the proposal that would develop an unused plot amongst other dwellings, this is not a reason in itself to allow unacceptable development.

Conclusion

16. Bringing together my conclusions on the main issues, I have found that the proposal would not have a harmful effect on the living conditions of future occupants in respect of light, and that existing nearby occupants would not be harmfully affected by the introduction of a hydraulic lift. However, this does not outweigh the harm identified to the living conditions of future occupants with regard to noise. As such, there would be conflict with the development plan as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

J Hills

INSPECTOR