



Appeal Decision

Site visit made on 25 February 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: March 06 2025

Appeal Ref: APP/K1128/W/24/3353190

1 Round Berry Drive, Salcombe, Devon TQ8 8LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions imposed on a previous planning permission.
 - The appeal is made by Mr and Mrs Taylor of Taylor Woolhouse Holdings Ltd against the decision of South Hams District Council.
 - The application Ref is 1545/24/VAR.
 - The application sought planning permission for alterations & extension to dwelling & erection of additional dwelling, with associated landscaping without complying with conditions attached to planning permission Ref 0059/24/FUL, dated 8 January 2024.
 - The conditions in dispute are Nos 2 and 3 which state that: 2. *The development hereby approved shall in all respects accord strictly with drawing numbers 4426.01.B, 4426.21.C, 4426.25.A, 4426.26.C, 4426.30.B, 4426.36, and 4426.37.A, received on 8th January 2024;* and 3. *The new dwelling hereby approved, referred to as 1A Roundberry Drive on the approved plans, shall not be occupied otherwise than by i. person(s) as his or her only or principal home ; ii. persons living as part of a single household with such a person or persons; iii. persons who were living as part of a single household with such a person or persons who have since died; iv. Non-paying guests of any of the persons listed in (i) – (iii). For the avoidance of doubt the dwelling shall not be occupied as a second home or holiday letting accommodation. The Occupant(s) will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request to do so) such information as the Authority may reasonably require in order to determine whether this condition is being complied with.*
 - The reasons given for the conditions are: 2. *To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates;* and 3. *To safeguard the sustainability of the settlements in the Salcombe Neighbourhood Planning area, and to ensure that the resulting accommodation is occupied by persons in compliance with policy SALC H3 of the Salcombe Neighbourhood Development Plan (2018- 2034).*
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Decision

1. The appeal is dismissed.

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 paragraph numbers have changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.

Background and Main Issues

3. Planning permission was previously granted to alter and extend an existing property and erect an additional dwelling at the appeal site. There is a restrictive principal residence occupancy condition attached to the new dwelling and the

appellant wishes to swap this over to the existing property, claiming that there would be no net increase in open market properties as a result. There is no dispute between the parties that the occupancy condition would be necessary. The Council is concerned however that Policy SALC H3 of the Salcombe Neighbourhood Development Plan (NP) would not apply to an existing property.

4. Additionally, the appellant seeks to alter the fenestration detailing of the approved scheme. This would include first floor gable end glazing and a reduction in the number of rooflights. The Council contests that this would have a harmful effect on the character and appearance of the area.
5. I therefore consider the main issues to be (i) the effect that varying condition 2 would have on the character and appearance of the area; and (ii) whether, having regard to local policy, and other considerations, varying condition 3 would ensure principal residence occupation.

Reasons

Character and appearance

6. The appeal site is within an urban housing estate where the scale and design of properties is varied. Be that as it may, similarly designed house types are grouped together in well-defined clusters, each with their own distinctive character. In that respect, while there are properties nearby with fenestration in their upper floor gable ends, these tend to be very small features on side elevations. This, together with their fairly large scale, steep pitched roofs, and boxed dormers means that they are not read within the context of the nestled cluster of small bungalows found at and adjoining the appeal site. The appellant has provided examples of properties with fuller apex glazing in the wider settlement, though I did not see any near to the appeal site to suggest this feature is a common or locally distinctive characteristic.
7. Although architecturally set apart and read as a slightly larger pair of dwellings on the periphery of Round Berry Drive, the scheme would still maintain a continuity of gable fronted design found in the long stretch of bungalows it would adjoin. However, the absence of first floor fenestration along this stretch helps maintain the overall sense of low-level bungalow design. Even though the appeal proposal would not alter the amount of glazing overall, scale or height of the buildings, the eye would nevertheless be drawn to the vertical emphasis of fenestration detailing over the 2 floors. This, along with their forward projection when compared with adjacent properties would have the effect of lifting and exaggerating their overall prominence. The nature of the appearance of this cluster of low-level bungalows would consequently be harmfully altered by the development.
8. The reduction in the number of rooflights would result in a less complicated roof design that could conceivably reduce light spill. However, the proposed glazing would have the potential to allow a good deal of light to escape from the buildings. That being said, the appeal site is in a built-up area and therefore the effects of the development on the night sky would be likely to be negligible. Despite the moderately beneficial roof design, the proposed gable fenestration detailing would result in harmfully prominent and uncharacteristic features not found along this part of the estate.

9. I therefore conclude on this main issue that the proposed variation of condition 2 would have a harmful effect on the character and appearance of the area. As such, there would be conflict with policies DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan (JLP), and NP Policy SALC B1, which, together in this respect, support proposals that conserve and enhance townscape, having proper regard to the pattern of local development in terms of local distinctiveness, visual impact, detailing, and character.

Principal residence

10. NP Policy SALC H3 seeks to limit the impact of dwellings used for second or holiday accommodation on the local housing market. It says, amongst other things, that new open market housing, excluding replacement dwellings, will only be supported where there is a planning condition to ensure its occupancy as a principal residence. It adds that new unrestricted market homes will not be supported at any time.
11. The proposal would shift the occupancy condition attached to the proposed new property onto an existing dwelling. Regardless of the extent of proposed alterations to this existing property, taking the ordinary meaning of the words set out in the policy, it is not a new open market house. Notwithstanding submissions in respect of net increases in market properties, the proposal would result in a new unrestricted market home. Even if I were to agree with the appellant that the proposed alterations to the existing property amounted to a new build, that is not what permission has been granted for. Moreover, if the scheme were for a replacement dwelling, the occupancy condition would not be a policy requirement.
12. The appellant makes the case that the transfer of an occupancy condition to an existing dwelling would be compliant with the policy partly because NP SALC H3 does not explicitly state that it cannot be done. However, neither does it state that it can be done. As written, the policy strictly controls occupancy to achieve its aims and is precise in doing so. If it was the intention of the policy to be more permissive along the lines suggested by the appellant, it is likely such wording would have been inserted. Accordingly, there would be no policy provision to impose an occupancy condition on the existing property. To attempt to do so would fail the tests of reasonableness set out in the Framework.
13. In any case, I agree with the Council that in the event I were to allow the appeal, 2 planning permissions would exist. The appellant would consequently have the choice over which permission they implemented. Given the similarities in design between the schemes, it could be physically possible to implement both, where an occupancy condition may not actually apply to either property. Furthermore, even if the appellant were to confirm in writing that they wished to proceed with a latter permission, there is little to show that compliance with the suggested planning condition would nullify the original planning permission. Thus, I cannot be certain that the proposal would not undermine the intentions of NP Policy H3.
14. *Other considerations* - The appellant's personal circumstances and preference for a particular phasing of the development are acknowledged. In that context, it is submitted that the proposal would provide a permanent home in the local area for a local family in a quicker timeframe. However, there is little reason why the new dwelling for such occupants could not be built and occupied within a similar timeframe to an altered and extended existing house. Moreover, it is conceivable

that the existing renovated property could be rented to a local family under the terms of the existing permission. Therefore, while it may be convenient for the appellant to develop the site in a certain way, there would be no need for the suggested phasing condition to make the development acceptable, as set out in the Framework.

15. It is also queried how NP Policy SALC H3 might apply in a scenario where the change of use of a building is involved. However, this matter is not comparable with the proposal and is consequently not determinative to the appeal outcome.
16. In summary, there is no policy support for the proposed variation of condition 3. Moreover, it has not been convincingly demonstrated that the development would meet the policy aims to redress the balance of a high proportion of second or holiday homes in Salcombe and the impact that has on achieving a sustainable and balanced community. This is a matter that attributes significant weight, which is not outweighed by any of the aforementioned other considerations.
17. I therefore conclude on this main issue that having regard to local policy, and other considerations, varying condition 3 would not ensure principal residence occupation. As such, there would be conflict with NP Policy SALC H3.

Conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.
19. I have concluded above that the proposal conflicts with the development plan, when taken as a whole. Furthermore, even when considered cumulatively, the weight given to the other considerations would not outweigh the identified harm. Accordingly, other considerations do not therefore indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

J Hills

INSPECTOR