



Appeal Decision

Site Visit made on 31 August 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/K1128/W/21/3276041

Appleford , Bowcombe Road, Kingsbridge TQ7 2DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs J Perry against South Hams District Council.
 - The application Ref 3943/20/FUL, is dated 2 December 2020.
 - The development proposed is the erection of a replacement dwelling and garage, relocation of access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling and garage, relocation of access and associated works at Appleford , Bowcombe Road, Kingsbridge TQ7 2DJ in accordance with the terms of the application, Ref 3943/20/FUL, dated 2 December 2020, subject to the conditions set out in the attached schedule.

Background

2. The appeal is made against the failure of the Council to issue a decision within the statutory period. The Council has confirmed that had it made a decision the application would have been refused. This is explained because, in summary, the proposed development would introduce large glazed reflective surfaces, particularly in the southern and eastern elevations, and a significant increase in artificial light pollution and would result in increased visual prominence of the site in this sensitive countryside location in the Area of Outstanding Natural Beauty and Landscape Character Area. A draft planning report has been included which sets out the reasoning for this objection.
3. The planning report, however, does not raise a concern with the size or floorspace of the replacement dwelling or in the main with the approach to the design of the building set within this designated rural area. The existing dwelling on the site is not especially locally distinctive and the replacement dwelling, while contemporary in appearance, has simple and defined lines, would be constructed from appropriate external materials and would sit acceptably within this fairly sizeable plot. In view of this situation, and having regard to the indicative reason for refusal, I consider that the main issue for consideration concerns the extent of glazing and the impact that this would have on the area, especially any light spill that may affect the night sky.

Main Issue

4. Accordingly, the main issue is the effect of the proposal on the character and appearance of the area with particular regard to the glazed areas and any

increase in artificial light pollution for this location within the South Devon Area of Outstanding Natural Beauty (the AONB) and Landscape Character Area.

Reasons

5. The site is located in open countryside within the AONB and is identified to be within the National Character Area 151, Devon Landscape Character Type 51 (Salcombe to Kingsbridge Estuary) and Landscape Character Type 3G River Valley Slopes and Combes within the South Hams and West Devon LCA Update. The surrounding area exhibits many of the positive features of these areas. The appeal dwelling lies adjoining the Bowcombe Creek with the spectacular views of this estuary and the surrounding valley sides. The area has a tranquil character and where the dark night skies are a valued attribute.
6. Appleford is located adjoining the Creek and is the most northerly of a small group of dwellings alongside the road. The existing dwelling is sited within quite a sizeable plot and has a series of windows and a conservatory that face east, towards the Creek. There are also rooflights to all sides of the roof. At the rear there is a first floor balcony that is accessed from patio doors. The evidence shows that there is light spillage from these openings and from the external lighting around the double garage area. There is little protection to prevent artificial light shining up and forming a glow around the buildings. Additionally, my attention has not been drawn to any planning condition or other restriction that would control these lights or prevent the addition of further lights within the grounds of the property.
7. The replacement dwelling would have extensive areas of glazing to some of the elevations, in particular the south and east elevations. However, the ground floor eastern elevation would mainly have recessed windows to the bedrooms and the proposed timber louvers would further assist with reducing the effect of artificial light spill from these rooms at night. Some of these windows would also be overhung by the first floor projection which would also reduce the upward glow of light. The first floor, full height glazing to this eastern elevation would be recessed back from the fairly sizeable overhang of the roof and again this would help reduce the upward glow of light. Artificial light from these windows would be seen, including from the road in front of the site, New Bridge and from the hillside on the other side of the Creek with the public right of way. However, the information indicates that there would likely to be no substantive increase in the light spill when viewed from the general area to the east of this elevation than with the present arrangements, indeed, for the reasons explained I consider that the upward glow and light spill from this east elevation is likely to be less than at present.
8. With the southern elevation, the two end bedroom windows would be on the ground floor and look very broadly towards and would be seen in the context of the other dwellings in this group. The first floor windows are extensive, but again they are set back behind the overhang of the roof and this would help restrict the spread of light glow.
9. The windows to the north are fairly limited in size and number, and the windows to the west face the rear garden and the rising land. In this way it is not considered that the windows in these elevations would cause a material effect on the artificial light experienced within this area.

10. In terms of rooflights, the proposed dwelling would have one reasonably large rooflight that would provide natural light to the stairwell and a double height internal area. The present building has a series of rooflights, albeit each one individually smaller, but collectively, I do not consider that the proposal would be any worse, and may well be preferable, to the present situation in respect of artificial light spillage from rooflights.
11. Finally, in any permission it would be possible to require the submission of details of any external lighting around the building, including the balcony areas, so as to ensure that the lighting would be subtle and respected the rural setting.
12. The present outbuilding has rooflights which could potentially emit light in the evening or at night if the space above the garage was in use. The replacement outbuilding would also have rooflights which would be likely to result in a similar impact as the present situation. However, the evidence indicates that there is external lighting around the present outbuilding and this could be reduced with a more sympathetic scheme, details of which could be submitted pursuant to a suitably worded planning condition in any approval. Consequently, in this area to the north of the dwelling, in the vicinity of the present garage, the light spillage could be reduced compared with the present arrangements.
13. In terms of other times of the day, outside of darkness, the large areas of glazing to the south and east elevations would be visible from outside the site. However, the design, including the substantial roof overhang and the position of the windows on the ground floor, would help to minimise the potential for a reflection or a polarising light issue that would adversely affect the character and appearance of the surrounding area.
14. I have noted the concerns that have been raised that trees and other vegetation on the site have been cut back and in places removed. I do not know the background to these matters but at the present time the dwelling, like the adjoining dwellings, is fairly exposed in views from the road and adjoining countryside. The proposal incorporates quite an extensive landscaping scheme which would, once matured, soften the appearance of the building and potentially reduce the effect of any lighting from the site in the wider landscape.
15. Drawing all these matters together, I am satisfied that the scheme has been designed with the need to minimise light spillage as an important component of the overall design. While the glazing is extensive (and would help to provide natural light to the dwelling) the components of the design, such as the recessing of some windows, the timber louvres and the roof overhang, would reduce the likely light glow and spillage from the site after dusk and thereby, would, assist with maintaining a dark night sky within this part of the AONB.
16. Additionally, the replacement dwelling and outbuilding, and the comprehensive landscaping scheme, would provide the opportunity to reduce the effects of external lighting around parts of the site which presently does not appear to be controlled. Where it is necessary for safety purposes such lighting could be designed to minimise any light spillage outside the required areas.
17. I am conscious of the Framework policy requirement that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs,

which have the highest status of protection in relation to these issues.

However, for the reasons I have explained above, I am satisfied that the effect of the development would be acceptable and would not materially affect the dark night sky of this part of the AONB.

18. In terms of the concerns of the Council in the indicative reason for refusal, I am satisfied that the development taken as a whole, including the design and appearance of this contemporary structure, would not result in the increased prominence of the site in this sensitive location. I have come to this conclusion having regard to the detailed policy criteria for development within the AONB and the Undeveloped Coast.
19. Accordingly, I conclude that the proposal would have an acceptable impact on the character and appearance of the area, having particular regard to the nature and extent of glazed areas and the effect on artificial light pollution within this part of the AONB and Landscape Character Area. It follows that the scheme would comply with Policies DEV20, DEV24 and DEV25 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Joint Local Plan) and the Framework which require, amongst other things, that development be designed to prevent impacts of light pollution from artificial light on intrinsically dark landscapes.
20. The reason for refusal which the Council has advanced at the appeal stage refers to Policy DEV27 of the Joint Local Plan. However, as this refers to Green and Play Spaces the requirements of the policy are not directly related to the main issues in this appeal.

Other Matters

21. I have carefully considered the detailed representations that have been submitted, including the objections from local residents, Kingsbridge Town Council and The South Hams Society. I have commented on the visual impact of the replacement dwelling above, and while it would be clearly apparent in the landscape, including from the other side of the valley, it would replace the existing dwelling within an existing residential garden area. I am satisfied the impacts on the character and appearance of the area would be acceptable.
22. The New Bridge to the broadly south is a Grade II Listed structure as well as High House, a farmhouse broadly to the north west. However, the replacement dwelling would be separated from these listed structures. In conjunction with the form of the proposed building and the presence of the other adjoining dwellings, the development would not affect the setting or significance of these heritage assets.
23. The site lies adjoining the Kingsbridge-Salcombe Site of Special Scientific Interest and within 250 metres of a Cirl Bunting breeding ground and the South Hams SAC Greater Horseshoe Bat Landscape. Accordingly, the application was accompanied by a Preliminary Ecological Appraisal and Bat Emergence Survey which looked at any potential ecological issues with the development. The report identified that it would be necessary to address bats on the site and sets out the approach to mitigation and enhancement. The report concludes that through the implementation of the ecology mitigation and enhancement measures the proposal could represent a positive biodiversity impact/net gain overall. There is no indicative reason for refusal with respect to ecological issues and I note that Natural England did not raise objection to the proposal.

Based on all the information before me and the recommendations of the Ecological Appraisal I am satisfied that the proposal would not harm nature conservation interests.

24. A wide range of other objections have been raised. These include concerns with loss of on street car parking, however, the scheme provides sufficient off road car parking and garaging, and the changes to the access would improve highway safety. I have noted the concerns with the accuracy of the plans, however, this was not a matter which was raised by the Council. The plans are to scale and I consider adequately show the proposed siting of the dwelling. In terms of any potential precedent, the Joint Local Plan sets out the approach to the consideration of replacement dwellings and the proposal is judged to meet with the policy criteria. Each proposal needs to be considered on its merits against the relevant development plan policies and therefore the findings in this appeal would not set a precedent for other sites and their individual circumstances.

Conditions

25. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the six tests in the Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
26. A condition is necessary for the submission and agreement of the external surface materials in the interests of protecting the character and appearance of the area. A condition is necessary to ensure the development takes place in accordance with the submitted drainage details to prevent flooding and maintain the amenities of the area.
27. The approved plans do not show the precise levels of the buildings, including the replacement garage, in relation to a fixed datum and with detailed cross sectional drawings. Accordingly, it is necessary that a condition requires the submission and approval of the finished levels in the interests of the visual amenities of the area.
28. The submitted plans include detailed landscaping proposals. A condition is necessary to ensure that the landscaping takes place and is thereafter appropriately maintained in the interests of the visual amenities of the AONB. A condition is necessary to ensure that the garage building is used for the parking of cars and other ancillary purposes to accord with the application and in the interests of highway safety.
29. It is necessary in the interests of protecting the dark night sky of the AONB and the protection of habitats for bats that a condition requires approval of the details of any external lighting.
30. It is necessary that a condition requires that the works take place in accordance with the Preliminary Ecological Appraisal and Bat Emergence Survey in the interests of protecting and enhancing the ecological value of the site.

Conclusion

31. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR

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 GA-001 Rev PL1, Proposed site plan GA-003 Rev PL2, Proposed dwelling plans GA-015 Rev PL2, Proposed elevations GA-016 Rev PL2, Proposed garage GA-017 Rev PL1, Landscape Plan A-LP-01 and the Soakaway Report dated 15th May 2020.
- 3) Prior to their installation details of all materials to be used for the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those materials as approved.
- 4) The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development. If any other drainage scheme than that approved as part of this permission is proposed then a mitigating drainage alternative shall be agreed with the Local Planning Authority.
- 5) No development shall take place in relation to the construction of any replacement building until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 6) All landscaping, including planting, seeding or turfing, comprised in the details set out in Landscape Plan A-LP-01 and Landscape Plan Notes A-LPN-01 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion 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.
- 7) The proposed garage hereby approved shall be used only for the storage of a private motor vehicle(s) and other uses ancillary to the private dwelling and for no business or commercial purposes.
- 8) Details of any external lighting, including light levels, timing and predicted lighting contours, shall be submitted to and approved in writing by the Local Planning Authority before the first occupation of the replacement dwelling hereby permitted. Development shall be carried out and subsequently operated in accordance with the approved details.
- 9) The works shall take place in accordance with the recommendations in the Preliminary Ecological Appraisal and Bat Emergence Survey dated November 2019. In terms of the compensation measures set out in paragraph 1.4 of this document, the inbuilt bird and bee provisions and the creation of at

least one habitat pile shall be completed prior to the first occupation of the replacement dwelling and the provision of the hedgerow planting shall be completed within the first planting and seeding seasons following the occupation of the replacement dwelling or the completion of the development, whichever is the sooner. Once undertaken these compensation measures shall thereafter be retained.

End of Schedule