



Appeal Decision

Site visit made on 24 February 2021

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal Ref: APP/X1118/D/20/3264922

2 Broadgate Close, Barnstaple EX31 4AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Chris and Heather Peyton and Lane against the decision of North Devon District Council.
 - The application Ref 72073, dated 15 August 2020, was refused by notice dated 9 October 2020.
 - The development proposed is extension to existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for extension to existing dwelling at 2 Broadgate Close, Barnstaple EX31 4AL in accordance with the terms of the application Ref 72073, dated 15 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PO1, PO2 Rev B.

Application for Costs

2. An application for costs made by Mr and Mrs Chris and Heather Peyton and Lane against North Devon District Council is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. Broadgate Close contains terraced dwellings and No 2 is an end of terrace at its south west extremity at its corner with Bellaire Drive. Bellaire Drive has a somewhat mixed character but does contain some rows of similar terraced properties, a set of which are directly to the south of the site. However, despite No 2's proximity to them and alignment with their building line, it presents its frontage to Broadgate Close and turns its bare gable end to Bellaire Drive. It does not, therefore, read as an important or coherent part of Bellaire Drive.
5. For this reason, whilst the proposed extension would not adhere to the building line or appearance of the adjacent terraced housing along Bellaire Drive, this would not prejudice the composition of the street scene. Instead, the scheme would read in conjunction with the comparably designed, sited and indeed

prominent extension at 1 Cross Park Close, which occupies a corner plot almost directly across Bellaire Drive. The design of the proposal and this neighbouring extension compare to others that have been carried out in the wider area. The open lawn which would be lost to the extension is very small, hidden behind an established hedge and fence boundary, and is not of significant visual value.

6. As such, the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policies ST04, DM04 and DM25 of the North Devon and Torridge Local Plan (adopted 2018) and the National Planning Policy Framework.

Other Matters

7. The evidence before me, including photographs, indicates that protected species are not present within the existing roof. The scheme would not therefore have a material effect on biodiversity, including protected species.

Conditions and Conclusion

8. Aside from the standard time condition, it is necessary to identify the approved plans in the interest of certainty. As the plans specify finish materials, there is no need for a condition to ensure that they would match the existing dwelling.
9. For the reasons outlined above and taking all matters raised into account, I conclude that the appeal should be allowed, subject to conditions.

Matthew Jones

INSPECTOR



Costs Decision

Site visit made on 24 February 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Costs application in relation to Appeal Ref: APP/X1118/D/20/3264922 2 Broadgate Close, Barnstaple EX31 4AL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Chris and Heather Peyton and Lane for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for extension to existing dwelling.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants assert that the planning application was not judged fairly, as the benefits of the scheme were not balanced against the perceived harms. Also, the presumption in favour of sustainable development, pursuant to Paragraph 11d) of the National Planning Policy Framework (the Framework), should have been applied. The reasons for refusal are subjective, vague and unsupported by any objective analysis. The Council did not attempt to engage in a positive or proactive manner to achieve a scheme which could have been acceptable, and delayed development which should have been permitted.
4. Issues of character and appearance have an inherent degree of subjectivity. In this case, the Council's officer report provides a substantive analysis of the scheme, drawing on the situation on the ground, using the facts of the case to offer up objectively based reasoning. Given such, whilst I have ultimately disagreed with the Council in my decision, a reasonable justification for its position has been made, and it is not the case that the proposed development is one that should have been clearly permitted by the Council.
5. Whilst the applicants' appeal evidence ascribes benefits to the proposal, it is unclear if these were articulated prior to the appeal. The appeal procedure did not allow the Council an opportunity to respond to them. In any event, the officer report directly refers to, and was therefore cognisant of, Section 38 of the Planning and Compulsory Purchase Act 2004, which provides a duty for decision makers to determine applications in accordance with the development plan unless material considerations indicate otherwise.

6. The absence of a five-year supply of deliverable housing sites can provide the circumstances where the presumption in favour of sustainable development is engaged. However, pursuant to footnote 7 of Paragraph 11d), this relates to schemes for the provision of housing, and not therefore residential extensions. As such, regardless of whether or not the Council can demonstrate a five-year supply of deliverable housing sites, the Council was correct not to apply the presumption in favour of sustainable development in this case.
7. Similarly, the officer report identifies the need for proactive engagement, but concludes that the Council could not identify a way of securing a development that improves the economic, social and environmental conditions of the area. Given the Council's fundamental concerns about the Bellaire Avenue building line, this is a logical conclusion. The Council should not necessarily be expected to proactively engage where it perceives there to be an insurmountable conflict with the development plan.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR