
Appeal Decision

Site visit made on 17 January 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th February 2017

Appeal Ref: APP/K1128/W/16/3160136

1 Filham Cottages, Filham, Ivybridge, Devon PL21 0DH

- 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 outline planning permission.
 - The appeal is made by Mr Alec & Mrs Jane Murdock against South Hams District Council.
 - The application Ref 0786/16/OPA, is dated 14 September 2015.
 - The development proposed is two dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for two dwellings at 1 Filham Cottages, Filham, Ivybridge, Devon PL21 0DH in accordance with the terms of the application, Ref 0786/16/OPA, dated 14 September 2015, subject to the conditions in the Schedule below.

Procedural Matters

2. The application form is dated 14 September 2015 but the application, according to the appeal form, was not actually submitted until 9 March 2016.
3. The application form lists only landscaping as being a reserved matter. However, not all the elevations of the proposed buildings were provided at application stage and it was confirmed to me at the site visit that appearance is also a reserved matter. I therefore consider the appeal on this basis.

Main Issue

4. It appears from the Council's brief Planning Application Report that its only concern was based on the lack of parking and on-site turning space as set out in the original plans. The Report makes clear that a revised site layout plan was submitted (Ref 1009/04 Rev E) and it is this plan that I consider in this appeal.

Reasons

5. That revised plan shows adequate parking and turning space to allow vehicles to exit the site in forward gear and so I conclude that there are no concerns relating to highway safety or parking.
 6. The Council has not raised any other objections to the proposal or argued that it conflicts with any development plan policies. For these reasons I conclude that the proposed development is acceptable.
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7. The Council suggests a list of nine conditions although it does not provide the wording for them. The standard outline conditions are required by statute, and, as indicated above, I am reserving appearance and design. A condition listing the approved drawings is necessary to provide certainty. I agree a condition necessitating connection to the mains sewer is necessary and details of surface water drainage to ensure there is no risk of flooding.
8. No evidence has been provided to me of any likely noise nuisance and since there are houses adjoining I do not see the necessity for such a condition. Equally no evidence has been provided that this domestic garden is contaminated and so there is no need for a contaminated land condition.
9. I agree that a condition preventing the insertion of windows into the northern wall of the dwelling at Plot 1b is necessary in order to avoid direct overlooking of neighbouring gardens and windows and the provision of the indicated parking and turning areas is necessary in order to prevent congestion on the main road and in the interests of highway safety.
10. I consider that an additional condition is needed to ensure that the mature hedging around the site is retained and protected by barriers during construction as detailed in the Aspect Tree Consultancy Tree Protection Plan in order to ensure the site remains adequately landscaped and screened from the surrounding countryside.
11. Subject to these conditions (eight in total) I conclude that the appeal should be allowed.

Nick Fagan

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1009/03 Rev.E; 1009/04 Rev.E; 1009/05 Rev.C; 1009/06 Rev.D; 1009/07 A; & Tree Protection Plan 04519 TPP 07.09.15
- 5) Development shall not commence until foul and surface drainage works for the new dwellings shall have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority. Foul drains shall be connected to the foul sewer.

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the north elevation of the dwelling at Plot 1b.
- 7) Neither dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 1009/04 Rev.E for 4 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 8) The hedging around the site shall be retained and protected during construction as shown on the Construction Exclusion Zone on the Tree Protection Plan 04519 TPP 07.09.15.

End of Conditions