

Appeal Decision

Hearing held on 10 January 2017

Site visit made on 10 January 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/U1105/W/16/3156141

Land South of King Alfred Way, Newton Poppleford, Devon EX10 0DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Cavanna Homes (Devon) Ltd and Pencleave 2 against the decision of East Devon District Council.
 - The application Ref 15/2172/MRES, dated 17 September 2015, sought approval of details pursuant to condition No 1 of planning permission Ref 13/0316/MOUT, granted on 16 May 2014.
 - The application was refused by notice dated 13 May 2016.
 - The development proposed is 40 houses, doctors' surgery and associated infrastructure, open space and landscaping. Outline application was not EIA development.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 1 attached to planning permission Ref 13/0316/MOUT dated 16 May 2014 subject to the conditions in the attached Annex.

Application for costs

2. At the Hearing an application for costs was made by East Devon District Council against Cavanna Homes (Devon) Ltd and Pencleave 2. This application will be the subject of a separate Decision.

Main Issue

3. Outline planning permission for the construction of up to 40 houses, doctors' surgery and associated infrastructure, open space and landscaping has already been granted. Therefore, the principle of such development is not for consideration, nor access details which were approved at the outline stage. Instead it is whether or not the details now submitted are acceptable. On that basis, I consider the main issue to be whether or not the proposed layout of the affordable housing would be acceptable, having regard to development plan and national policies.
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Reasons

Background

4. The outline planning permission relates to up to 40 dwellings. This has now been confirmed, through the reserved matters application and associated details, to be for the full 40 dwellings, 16 of which would be affordable.
5. The Council states in its officer report that the general disposition of the scheme accords largely with that considered at outline stage in the form of the illustrative masterplan, as amended by a deed of variation to the Section 106 Agreement, showing the relocation of the proposed public open space and doctors surgery and car park. I have no reason to consider otherwise and also note that the proposed houses would meet the requirement established at the outline stage for the roof heights not to exceed 55.5 metres above ordnance datum.

Affordable housing layout

6. The policy Strategy 34 of the East Devon Local Plan (the Local Plan) relates to the provision of affordable housing. In respect of the main issue under consideration, that policy states that on any development site affordable housing should be 'pepper-potted' or dispersed throughout the scheme. The National Planning Policy Framework (the Framework), in section 6, amongst other things refers to the need to create sustainable, inclusive and mixed communities.
7. In this case the affordable housing is proposed to be located in four clusters. This differs from a previous reserved matters proposal for this site that was dismissed on appeal Ref APP/U1105/W/15/3134519 which had them all grouped together in the north-west part of the site. Therefore, whilst I have had regard to that previous decision, the scheme now proposed is materially different in respect of the distribution of affordable housing.
8. The largest of the proposed clusters would comprise 10 units on the northern side of the site, on its western side, at the end of the main access road. The other three clusters would each comprise a pair of semi-detached dwellings.
9. The three smaller clusters would be located close to the larger one and would not be evenly dispersed throughout the site, with none located amongst those dwellings to the south of the main access road. However, units 13 and 14 would be noticeably separated from that larger cluster by the access road and two open market dwellings. Units 32 and 33 would back onto two of the units in the larger cluster but in terms of the frontages, would be distinctly positioned with open market houses to the side and opposite.
10. Units 39 and 40 would be the next units to the east of the large cluster but served by a separate short access road which would also serve two open market houses. As well as relating to a different access road, they would also be clearly separated by the proposed footpath and retained mature hedgerow. They would therefore relate more closely to those open market dwellings sharing that short access road.

11. Although one of the clusters would be noticeably larger, as with the smaller clusters, it would share an access road with the open market dwellings. That in itself would be likely to enable a high degree of integration and assimilation. Furthermore, I have not received any substantive evidence to indicate any specific requirements in terms of the size of clusters.
12. The affordable dwellings would either comprise short three house terraces, semi-detached houses or two flats, as opposed to the detached or linked detached open market units. Furthermore, they would not have garage parking, only front parking spaces in respect of the large cluster or side parking spaces for the others. However, the use of complementary materials on the external surfaces of the dwellings across the development as a whole would avoid the affordable houses standing out as such in this respect. Furthermore, the softening and breaking up of frontage parking with landscaping and tree planting would ensure that that element would be visually acceptable as would the otherwise fairly discrete parking to the side of the smaller affordable housing clusters.
13. I have also had regard to written comments submitted from Teign Housing and previously DCH Group who are or have had an interest in providing the proposed affordable housing. I acknowledge that the comments relate just to those particular providers and that others may consider differently. Nevertheless they highlight in particular a resistance to pepper-potting and support of the proposed clustering approach in terms of cost efficiency relating to service charges and maintenance costs.
14. For the above reasons, I am satisfied that the proposed affordable housing would be sufficiently dispersed within the scheme and as such, together with those materials and landscaping aspects referred to, would be likely to enable an acceptable level of integration within the development as a whole, both from a social and visual point of view.
15. As such, the proposed layout of the affordable housing would be acceptable, having regard to development plan and national policies and would therefore accord with policy Strategy 34 of the Local Plan and to section 6 of the Framework.

Other matters

16. I have had regard to the issue concerning whether or not any further dispersal of the proposed affordable housing would be financially viable in terms of the deliverability of the development. However, even if the Council is correct in its conclusions that there are shortfalls in the viability information submitted, and that it has not been adequately demonstrated that increased dispersal of affordable units would have a direct and quantifiable impact on the viability of the scheme, I have found that the level of dispersal of the affordable housing would in any case be acceptable.
17. Various concerns have been raised in respect of parking provision and traffic issues, in particular relating to impacts on and exacerbation of traffic problems on King Alfred Way. The principle of development has already been established at the outline stage, including therefore in relation to the consideration of additional traffic generation. Furthermore, the proposal would provide off-street parking for the proposed houses, and I have received insufficient substantive evidence to justify concerns that such provision would be

inadequate. No concerns are raised by the Council's Highways officer in this respect either, or in respect of the layout generally, I have no substantive basis to consider otherwise.

18. I also note that the proposal would allow for connectivity for pedestrians to the existing footpath network, including measures in respect of an uncontrolled crossing across King Alfred Way. I also note that the Council's Highways officer finds the proposal to be acceptable in this respect also. Again, I have no substantive basis to consider otherwise.
19. Further details relating to highways matters, including, amongst other things, roads, pedestrian access, lighting and drainage, as well as the submission of a Construction and Environmental Management Plan would also be required through conditions of the outline permission. Concern has also been raised about there being long straight sections of road proposed that would encourage faster driving. I have not received any substantive evidence to substantiate those claims and note that the Council has raised no objections in that respect.
20. Issues relating to flooding and surface water drainage have also been considered at the outline stage. Details submitted in respect of the reserved matters address this in the form of attenuation tanks. One of those tanks would be privately maintained. It was clarified that this would be a function of the management company required to be set up through the Section 106 Agreement.
21. In respect of the visual impact of the proposed gabions required to ensure flat rear gardens to some of the properties, further details of the proposed materials could be secured by condition. That would ensure their visual compatibility with the development as a whole and the character and appearance of the area generally.
22. Whilst there would be few trees alongside the road through the site, the streetscene would be softened by frontage hedges. There would also be tree planting around the edges of the site to the north, east and south, in the vicinity of the doctors surgery either side of the road, as well as areas of woodland copse planting to the south-east, south and south-west. I am therefore satisfied that the proposed level of soft landscaping would appropriately complement and soften the development so as to enable it to assimilate into its setting on the edge of the settlement within the Area of Outstanding Natural Beauty (AONB).

Conditions

23. The Council has suggested four conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended some of the wording. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would also be required in addition to those suggested by the Council.
24. In respect of the suggested condition 1, I consider this to be reasonable in the interests avoiding doubt concerning compliance with those conditions of the original outline planning permission. However, firstly, the Council refers to condition 2 of the outline planning permission having been discharged. Whilst

the first part has been, by way of the reserved matters application the subject of this appeal, the second part relating to the commencement timescale remains outstanding. I have therefore omitted the reference to that condition.

25. I note that other conditions of the outline planning permission not referred to in the suggested condition 1 also include compliance requirements. For clarity, I have therefore amended the wording to reflect that those conditions referred to, Nos 5, 6, 10, 11, 12 and 13, are those requiring the submission and then implementation of the details specified. In terms of the reference to condition 13, I acknowledge that the appellant has submitted a landscape/wildlife management report as part of this reserved matters application. Furthermore, the Council has not raised any objections to that report. However, the implementation of those details remains part of that condition and so I have retained the reference to it.
26. In the interests of the character and appearance of the area, especially as it is a designated AONB, a condition to secure details of materials and finishes for the external walls and roofs would be necessary, and this would also include the proposed retaining gabion structures. These could reasonably be secured prior to any development beyond slab level or the construction of any proposed retaining structures. In the same interests, it would also be necessary to remove permitted development rights relating to the construction of any gates, fences, walls or other means of enclosure forward of any of the dwellings hereby permitted; and for the submitted recommendations and details relating to the protection of trees and hedges during construction to be fully accorded with. In respect of the latter, I have amended the reference to the tree protection plan to reflect that it is revision B, that being the version included on the schedule of plans considered by the Council in making its decision.

Conclusion

27. For the reasons given above, and taking all other matters into account, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ed Brown	Cavanna Homes
Iestyn John	Bell Cornwell
Nick Jones	Savills
Cary Leighton	Savills

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Barrett	East Devon District Council
Rachel Danemann	East Devon District Council

INTERESTED PERSONS:

David Zirker	On Behalf of Parish
Barry Easter	Local Resident
Val Ranger	Ward Councillor
Stuart Nancekievill	Local Resident
Jill Nancekievill	Local Resident
Shan Merritt	Local Resident
Lorna Woodward	Local Resident
Judith Cullip	Local Resident
Lorna Dalton	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

1. Copy of decision notice for Outline Planning Permission Ref 13/0316/MOUT.
2. Copy of Abnormal Costs document by Cavanna Homes (Devon) Limited.
3. Copy of letter from dch group dated 15 January 2016.
4. Copy of site layout plans for developments at Plumb Park and The Nurseries, Ottery St Mary.

ANNEX – Conditions

1. The following reserved matters of the development proposed relating to:-
 - a) Appearance
 - b) Landscaping
 - c) Layout
 - d) Scale

are hereby approved. For the avoidance of doubt this Reserved Matters application is made pursuant to the Outline Planning Permission Ref 13/0316/MOUT granted on 16 May 2014.

The following reserved matters have yet to be approved:
None.

The following conditions attached to the Outline Planning Permission Ref 13/0316/MOUT referred to above are discharged:

1. Submission of Reserved Matters details.

The following conditions, attached to the Outline Planning Permission Ref 13/0316/MOUT referred to above, requiring the submission for approval and then implementation of the details specified remain to be complied with:

5. Phasing programme.
6. Highway details.
10. Archaeological recording.
11. Construction and Environment Management Plan.
12. Lighting details.
13. Landscape/Wildlife Management Report.

2. No development beyond slab level or construction of any proposed retaining structures shall take place until a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no gates, fences, walls or other means of enclosure shall be constructed forward of any of the dwellings hereby permitted.
4. The development hereby permitted shall be carried out in full accordance with the recommendations for the protection of trees and hedges during the course of construction set out in the Arboricultural Impact Assessment report Ref 04267 AIA 4.2.15 dated 4th February 2015 and as shown on the tree protection plan Ref 04267TPP Rev B prepared by Aspect Tree Consultancy Ltd.
5. The development hereby permitted shall be carried out in accordance with the following approved plans:
13133 L 04.01 P1
12706 H04 B 02.00 P6
12706 H04 B 04.00 P8

13133 L 02.01
12706-L01-14
12706 93 04A
12706 93 03A
14149-010B
14149-011B
14149-012B
14149-013B
14149-014B
14149-015B
14149-016F
14149-017F
14149-018F
14149-007B
14149-008B
14149-009B
14149-019A
04267 TPP REVB
04267 TCP
12706 L06.10 P2
12706 L01 103 A
12706 H01 A 02.00 P5
12706 H01 A 02.01 P5
12706 H01 A 04.00 P8
12706 H01 A 04.01 P8
12706 H01 A 04.02 P8
12706 H01 A 04.03
12706 H02 A 02.01 P4
12706 H02 A 04.01 P7
12706 H02 A 04.00 P7
12706 H03 A 02.00 P5
12706 H03 A 02.01 P5
12706 H03 A 02.02 P3
12706 H03 A 02.03 P3
12706-L01-101C
12706 H07 A 04.00 P6
12706 H08 A 02.00 P8
12706 H08 A 02.01 P5
12706 H08 A 04.00 P10
12706 H09 A 02.00 P1
12706 H09 A 04.00 P1
14149-001 P
14149-002 O
14149-003 O
14149-020 B
12706 L93 01 D
12706 L93 02 D
12706 H07 A 02.01 P3
12706 H03 A 04.01 P6
12706 H04 A 02.00 P5
12706 H04 A 04.00 P8

12706 H05 A 02.00 P8
12706 H05 A 02.01 P7
12706 H05 A 04.00 P10
12706 H07 A 02.00 P3
12706 H03 A 04.00 P7
12706 L94 01 D
12706 L94 02 D
14149-004 J
14149-005 G
12706 H02 A 02.00 P4
12706 H06 A 02.01 P5
12706 H06 A 02.03 P2
12706 H06 A 04.01 P7