
Appeal Decision

Site visit made on 27 March 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 2nd May 2017

Appeal Ref: APP/P0119/W/16/3163962

Land to the north of Cambrian Drive, Yate BS37 5TR

- 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 Woodstock Homes against the decision of South Gloucestershire Council.
 - The application Ref PK16/1740/F, dated 15 April 2016, was refused by notice dated 20 July 2016.
 - The development proposed is demolition of No. 61 Cambrian Drive and erection of 18 no. one, two, three and four bedroom dwellings with associated vehicular access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal relates to the lack of planning obligations to secure highway improvement works, affordable housing and public open space. The appellant has subsequently provided a completed legal agreement covering such obligations and I have taken it into account in the determination of the appeal. This is a matter which I return to below.

Main Issues

3. The main issues are:
 - Whether the design of the proposed access road is acceptable, with particular regard to the character and appearance of the area and the convenience and safety of pedestrians and cyclists using the public right of way.
 - Whether planning obligations are required for open space, highway works associated with the access and affordable housing.

Reasons

Background

4. The proposal before me follows the refusal of a similar application and the subsequent dismissal of a related appeal in March 2016¹. Whilst each case

¹ APP/P0119/W/15/3140365

must be determined on its own merits I have had regard to this previous decision in the determination of this appeal.

Design of access

5. The proposed access road into the appeal site would cross an adopted right of way ('RoW') that is used by pedestrians and cyclists. The route runs between the rear of properties in Cambrian Drive and the currently open appeal site and forms part of an established local network of segregated pedestrian and cycle routes. I was able to see from my visit that the route connects community development, including a shop, the Farmhouse Public House and Cambrian Green Court to the east, with surrounding residential areas. It is evidently an important travel route for residents, including children, the elderly and the disabled and it is clearly an integral part of the estates original design. There were no similar access arrangements within the locality.
6. There is no dispute that a safety audit has been passed and whilst the access may well be technically safe in strict traffic safety terms, in order to achieve this, the proposal results in a significant and extensive highway engineering feature that would intrude across the RoW and for some distance into the site. Despite changes to the design and layout, the combination of the extent of tactile and block paving and sets of bollards in such proximity to ramps and raised tables would be a significant intervention into this otherwise undeveloped area that would directly impinge across the existing RoW.
7. I do not share the appellant's view that the likely number of vehicle movements associated with 18 dwellings would be low. Day to day movements and deliveries would be sufficient to increase the potential for conflict between vehicles on the proposed access drive and pedestrians and cyclists using the adopted right of way where the two routes cross. This would be somewhat exacerbated by the presence of the corners of the rear garden boundary walls on either side of the access which would restrict visibility. The overall extent of works would result in the perception of a significant barrier for all users of the RoW and its presence would cause inconvenience to the free movement of pedestrians, cyclists and other users in an area where such barriers are not commonplace and cyclists and pedestrians are segregated from vehicles.
8. Overall, this part of the proposal would be a highly unsympathetic and alien intervention that would not be well integrated with existing development in the form of the wider network of safe and convenient foot and cycle links that form such a strong and integral part of the estates layout. In this context I do not consider that it would be a high quality of design.
9. For these reasons, the design of the access would not be acceptable and would conflict with Policies CS1, CS8 and CS30 of the South Gloucestershire Local Plan Core Strategy 2013 ('CS') and Policies T12 and LC12 of the South Gloucestershire Local Plan 2006 ('LP'). Amongst other things these seek the highest possible quality of design in new development including that, overall, its layout is well integrated with existing adjacent development, is connected to the wider network of foot and cycle links, enables people to gain safe and convenient access and prevent development that would unacceptably affect the utility and amenity of existing routes.

10. These policies are consistent with the National Planning Policy Framework ('the Framework') and therefore the proposal would also conflict with the design and safety objectives of the Framework.

Planning obligations

11. I have been provided with a legal agreement to secure contributions towards open space, highway works and provide affordable housing which the Council has confirmed is acceptable. However, I am mindful that although the appellant is appealing all four reasons for refusal² it is also suggested that reason for refusal 2 is addressed and is no longer of relevance³.
12. Nonetheless, affordable housing would be a potential benefit and I have considered it necessary to consider whether the requests meet the statutory tests set out in Community and Infrastructure Regulations 122 and 123 and paragraph 204 of the Framework. Affordable housing is required by Policy CS18 of the CS given the size of the site and number of units proposed. Furthermore, the highway improvement works are necessary and would need to be secured by a planning obligation.
13. I am satisfied that the Council have demonstrated in this particular case that there is a shortfall in natural and semi-natural public open space and that because there is no space on site, an off-site contribution is required and would contribute towards the improvement of the Oak Close/Goose Green Fields area of open space. Furthermore, those contributions for children and young people for the management and maintenance of existing play areas⁴ and improvement of existing outdoor sports facilities at Yate Outdoor Sports Complex have been evidenced. I also note that the appellant now considers that the evidence provided is now satisfactory and meets the tests.
14. Such obligations would, on the evidence before me, accord with the statutory tests of necessity, be directly related to the development and fairly and reasonably related in scale and kind to the development. I also have no evidence to suggest that the limit of five pooled contributions set by the regulations has been exceeded.
15. For these reasons, insofar as planning obligations are concerned the agreement would secure the necessary highway improvements, provide for the relevant contributions and secure 6 affordable housing units. It would not conflict with Policies CS6, CS18 and CS24 of the CS, Policy T12 of the LP or paragraph 204 of the Framework. Amongst other things, these require mitigation of impacts on existing communities including financial contributions, compliance with local standards of open space provision and require affordable housing provision.

Other Matters

16. At the request of the appellant I viewed an example of what the appellant contends is a similar arrangement where the RoW meets the carriageway at Greenways Road. However, I found that the example given was a much less significant intervention and although a barrier was in place, it was onto a much busier estate loop road. I did not find the appearance or the circumstances to

² Paragraph 2.2 of Appellant's final comments

³ Paragraph 8.22 of Appellant's final comments

⁴ Tyndale Avenue Play Area.

be directly comparable to the proposal before me and it therefore does little to justify or outweigh the harm I have identified.

17. At the site visit I was also referred by the appellant to the presence of bollards further along the RoW. However, there appeared to be a solitary bollard serving a much smaller access into Cambrian Green Court and in my view, this intervention is of a significantly lesser scale and effect than the appeal proposal would be and is also not directly comparable.

Planning balance and overall conclusions

18. I note that the Council have confirmed that they do not have a 5 year supply of housing land. However, the principle of housing is not at issue in this appeal and the policies which form the basis for the Council's objections are criteria based policies regarding qualitative and aesthetic design and functionality considerations rather than policies that constrain the supply of housing land. In this particular case, the development plan is not absent, nor is it silent, the relevant policies are not out of date and the proposal would not accord with it. Accordingly, it would not be the sustainable development for which the Framework indicates a presumption in favour.
19. There would be some socio-economic benefits associated with the proposal including increased spending within the local economy and from new residents. There would also be some short term benefits during the construction process and these benefits weigh moderately in favour of the scheme. Furthermore, although on the evidence before me, I cannot be conclusive regarding the extent of the shortfall the provision of 12 market and 6 affordable housing units also weighs moderately in favour of the proposal. However, the proposal would fail to provide an acceptable design of access and to my mind, this harm would be so great that it outweighs these benefits.
20. For the reasons set out above, although the proposal would comply with the development plan insofar as it would secure relevant planning obligations I have found that the design of the access would be unacceptable. In my view, that is the prevailing consideration and taking everything together the proposal would conflict with the development plan, when taken as a whole and the Framework.
21. Material considerations do not indicate that decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal is dismissed.

Richard Aston

INSPECTOR