
Appeal Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/Q1153/W/16/3165187

Former garden and orchard opposite Downes Tenements, North Road, Exbourne, Okehampton, Devon

- 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 Charles Brady against West Devon Borough Council.
 - The application Ref WD 3100/16/FUL, is dated 25 September 2016.
 - The development proposed is build replacement garage, open new vehicular access and driveway to garden and orchard with ancillary works to improve sight lines including moving retaining wall; also outline application reserved) [sic] to build up to 3 houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council did not determine the application and has not formally stated what decision it would have made, had it been in a position to do so. Nevertheless, I have been supplied with an officer report which recommends refusal on grounds relating to the effect on heritage assets and the living conditions of adjoining residents. I have treated this as a form of evidence but my consideration of the case is made *de novo*.
 3. The above description of development is taken from the application form. The Council registered the case using a different form of wording but there is nothing before me to indicate that this was agreed in writing with the appellant.
 4. This is essentially a hybrid proposal comprising an outline application for up to three dwellings together with a full application for a replacement garage, new vehicular access and driveway with ancillary works to improve sightlines including moving a retaining wall.
 5. The application form does not identify which of the five reserved matters are to be dealt with at outline stage for the housing component of the scheme. I have determined the appeal on the basis that details of access are submitted for consideration, with all other matters being reserved for future approval. I have treated the layout plan, which identifies possible positions for the new houses, as illustrative.
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Main Issues

6. I consider the main issues in this case to be:
 - a) whether the proposal would preserve or enhance the character or appearance of the Exbourne Conservation Area; and
 - b) the effect of the scheme on the living conditions of the occupiers of the bungalows in The Shrubbery immediately to the north of the site.

Reasons

Conservation Area

7. The appeal site is prominently located on the main road through the village, near the junction of North Road and Fore Street. The land is raised above carriageway level behind a roadside hedgebank. The hedge had been largely cut down at the time of my visit, providing views across the disused garden and former orchard. At the northern end of the site frontage lie the collapsed remnants of a building which I understand was once a garage.
8. I have not been provided with a designation statement or character appraisal for the Exbourne Conservation Area. However, the evidence includes a map showing the boundary. The heritage significance of the Conservation Area is derived from its varied mix of vernacular cottages and other historic buildings which are arranged organically, sometimes in clusters, around a network of lanes. One of the most striking characteristics of the village is the sense of enclosure which results from buildings, walls and mature vegetation directly abutting the street.
9. The proposed access would be positioned at the southern end of the site frontage. The remaining section of hedgebank along the roadside boundary would be pulled backwards to provide a visibility splay in the direction of Town Living Cross. This would leave an area of new grass verge no more than 300 mm high, with the highway edge marked by rocks or bollards. A new 'quick hedge' would be planted immediately to the rear of the new stone faced retaining wall.
10. The works to provide highway visibility would represent a significant intervention in visual terms and this would be at odds with the sense of enclosure which characterises the village as a whole. The tight street scene would be lost to a much looser arrangement with the straight alignment of the retaining wall appearing incongruous and contrived.
11. The appellant contends that the current position of the hedgebank has no historic integrity and provides old maps showing the alignment of the highway edge at various points in time dating back to 1840. Without photographs there can be no certainty regarding the appearance of this boundary. Overall, the evidence fails to persuade me that the alterations being proposed in connection with the new vehicular access would be in context with their current surroundings.
12. The application submission includes limited information regarding the housing element of the scheme, beyond an illustrative layout plan. The appellant argues that the purpose of the outline procedure is to obtain assurance that detailed permission will be forthcoming and to ascertain the conditions under which it would be granted, without incurring unnecessary expense – given that the land would be sold with planning permission.

13. Whilst I acknowledge this, I have a statutory duty under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I must attach this duty significant importance and weight.
14. There is insufficient information on which to make a proper assessment of the effects of the proposal on the Conservation Area. Nonetheless, based on the illustrative plan, it seems to me that the in-depth development of detached houses would be at odds with the grain and density of development in the locality of the site which tends to be tightly clustered and more organic in form. Although the appellant has indicated that he would accept fewer dwellings, the proposal is for up to three units and in all probability any developer would wish to maximise the capacity of the site.
15. The appellant points out that the Council had the power to require further details on receipt of the application¹. Whilst this power was not exercised, it does not remove my duty under S72. The information submitted with the application does not give me the necessary confidence that the character and appearance of the Conservation Area would be preserved or enhanced. Given that the granting of outline permission establishes the principle of development, it would not be appropriate to rely upon the reserved matters.
16. Drawing matters together on this issue, the alterations to the site frontage would fail to preserve or enhance the character or appearance of the Exbourne Conservation Area. Furthermore, it has not been satisfactorily demonstrated that the proposed housing would not cause harm to the Conservation Area.
17. Having regard to these findings, I conclude that the scheme would conflict with Policies SP18 and SP20 of the West Devon Borough Council Local Development Framework Core Strategy Development Plan Document (2006-2026) (adopted 2011) and saved Policies H28 and BE1 of the West Devon Borough Council Local Plan Review (2005) (LPR), as amended. These policies are consistent with the National Planning Policy Framework in seeking high quality design which has regard to the local context, including the historic environment.

Living conditions

18. The Council has raised concerns regarding the effect of the scheme on the living conditions of the occupiers of bungalows in The Shrubby. A number of these properties have very shallow rear gardens which back directly onto the appeal site. In the absence of the reserved matters, particularly layout and scale, it is not possible to establish whether the proposed development would comply with saved Policy H28 of the LPR, insofar as it seeks to ensure that the amenities of adjacent residents are not adversely affected.
19. Based on the illustrative layout plan there is every possibility that the proposed houses, due to their proximity to the boundary, would adversely affect the outlook and levels of daylight and sunlight for neighbouring residents. It may be that this issue can be addressed using an alternative layout. However, it has not been demonstrated how this would be compatible with the Conservation Area. This lends additional weight to my view that any proposal for the site should be submitted as a full planning application.

¹ Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

Other Matters

20. I have noted the poor condition of the existing hedgebank. However, this in itself does not justify the development being proposed.
21. Residents have raised concerns regarding the effect of the proposed garage on highway safety. The driver of a vehicle emerging from the garage would have inadequate visibility of oncoming traffic from both directions on the B3217. Manoeuvring of a car into the garage would also create a collision hazard. It is contended that the access is long established. In the absence of a Certificate of Lawfulness under S191 of the Town and Country Planning Act 1990 the evidence on this point is inconclusive. However, given that I am dismissing the appeal for other reasons my decision does not turn on this matter.

Conclusion

22. The appeal site lies within the defined settlement limits of Exbourne where small scale residential development is acceptable in principle. The village contains a core of basic services and facilities which the proposal would help to sustain by providing new residents and spending power. By delivering new homes the scheme would help to boost the supply of housing. Whilst this benefit carries significant weight, it is outweighed by my findings on the main issues, particularly in respect of the adverse impact on the Conservation Area.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR