



Appeal Decision

Site visit made on 27 June 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 22nd August 2017

Appeal Ref: APP/Q1153/W/17/3170746

Land South of North Road, Lifton, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs S J L Hamblin, Mrs M E Guthrie & Mrs A T Bucklow against the decision of West Devon Borough Council.
 - The application Ref 2323/16/OPA, dated 27 July 2016, was refused by notice dated 13 February 2017.
 - The development proposed is described as "outline planning application for a residential development (Class C3) of up to 20 dwellings with vehicular and pedestrian access to North Road, car parking, associated landscaping and infrastructure, public open space and Accessible Natural Greenspace – External access not reserved".
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 20 dwellings with vehicular and pedestrian access at Land South of North Road, Lifton, Devon in accordance with the terms of the application, Ref 2323/16/OPA, dated 27 July 2016 subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline, with matters relating to appearance, scale and layout reserved. Following discussion between the parties, matters relating to landscaping were withdrawn. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with matters of access.
3. The description of development set out in the application form includes references to landscaping. In view of its withdrawal, I have amended the description of development in paragraph 1 above so that it more precisely describes the development permitted.

Application for costs

4. An application for costs was made by Mrs S J L Hamblin, Mrs M E Guthrie & Mrs A T Bucklow against West Devon Borough Council. This application is the subject of a separate Decision

Main Issues

5. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the surrounding area; and
 - (ii) pedestrian safety.

Reasons

Character and appearance

6. The appeal site comprises an area of land located along the southern side of North Road and forms part of a large green wedge which separates the settlements of Lifton and Tinhay. The site itself is directly adjacent to the recognised development boundary and sits opposite a row of detached houses located on the northern side of North Road which form the north eastern limit of the village. Some distance to the south east, the site adjoins the curtilage of Blue Hayes, a dwelling located on the outskirts of the nearby settlement of Tinhay.
7. The Council accepts that Lifton is a sustainable location and has an established need for additional housing, including affordable homes. The proposal would involve the erection of up to 20 dwellings on the site, around 40% of which would be affordable. Indicative plans show the majority of the housing located to the north of the site within flood zone 1 with the remainder of the site being set aside as an area of Accessible Natural Greenspace available for community use.
8. The Council's concerns centre on the effect of the proposal on the green space which separates Lifton from Tinhay and, in particular, the visual coalescence of these settlements. These concerns are echoed by the Town Council, the local councillor and a number of local residents.
9. Although the site itself forms part of the green buffer between the settlements, the proposal would involve only a small increase in the amount of built form most of which would be concentrated to the north of the site. In view of the overall size of the green wedge, the addition of a modest amount of built form confined to the northern part of the site would have only a limited impact on the separation of these two settlements. Similarly, while it would extend the village boundary of Lifton slightly eastward along the south side of North Road, it would not extend it further than the existing properties along the northern end. Overall, the integrity of the buffer would be preserved and I am satisfied that the proposal would not result in any harm in this respect.
10. Accordingly, I find no conflict with CS Policy SP17 which restricts development which would, amongst other things, damage the character and special qualities of the landscape and seeks to preserve specific landscape features which contribute to local character. Likewise, I find no conflict with CS Policies SP20 or SP24 which require new development to achieve high quality design, reinforce local character and protect the distinctive character of the area including its landscape and natural environment.
11. I note that the Council has also referred to CS Policy SP18 in its decision notice. While I note the Council's comments in respect of the historical separation of the settlements of Lifton and Tinhay, no specific heritage assets or other important historic features have been identified which would lead me to conclude that the proposal would impact on historic features or other areas of historic importance. Accordingly, I have not considered this matter further.

Pedestrian Safety

12. Under CS Policy SP14 development should be located so as to reduce the need to travel and to optimise the potential for the most sustainable forms of travel

having regard to the preference for walking, cycling and public transport over the use of private vehicles. Furthermore, Policy T2 of the West Devon Local Plan Review (2005) (LP) restricts development which would prejudice pedestrian and/or cycle safety unless satisfactory alternative measures are provided.

13. The Council accepts that the site is located within a sustainable location and has access to a number of nearby services. However, it is concerned that the lack of a continuous pavement from the application site to the centre of the village will result in unsafe access to local services which would, in turn, discourage more sustainable modes of transport.
14. However, even though the proposed development would be located along the eastern edge of the village where footways are intermittent, traffic levels are low and I noted during my site visit that there appeared little risk to any road users resulting from the pedestrian arrangements. While I accept that the limited sections of footway do require pedestrians to be aware of the presence of vehicles, and vice versa, there are a number of indicators which alert drivers when passing through the village that pedestrians are likely to be present including its residential nature, the lack of footways, the presence of parked vehicles and various road signs.
15. Furthermore, there is no evidence before me which would indicate that pedestrian movements along this stretch of highway pose any particular risk. I have seen no evidence of any accidents or collisions either in the site's immediate vicinity or the wider area. Accordingly, I am not persuaded that a lack of footways in this particular location would pose any meaningful risk to pedestrian safety. On balance, in view of the small amount of traffic, low speed limits and good lighting, I conclude that any risk to pedestrian safety would be limited. Likewise, I do not consider the majority of occupiers of the proposed dwellings would be discouraged from accessing services by on foot or bicycle.
16. Accordingly, I conclude that the proposal would not be prejudicial to pedestrian safety and would not result in an overdependence on car use. As such, I find no conflict with CS Policy SP14 or with LP Policy T2.

Other Matters

17. In reaching my decision, I have had regard to the views of the local councillor, local residents and the objections to the proposal submitted both at the application stage and as part of this appeal. Those which relate to pedestrian safety, location, the effect on the character and appearance of the surrounding area and visual coalescence have been taken into account in my reasoning above.
18. Likewise, I have not seen anything that would lead me to conclude that the area of land being developed was at any particular risk of flooding or would result in the flooding of adjacent land. Similarly, while I note the suggestion that golden dormice might be present, I have seen no robust evidence which would indicate that this was the case and note that biodiversity did not form part of the Council's reasons for refusal.
19. Overall, I am satisfied that the issues raised do not provide sufficient reason to warrant a refusal of planning permission for the development proposed.

Planning Obligations

20. The Council has identified a need for affordable housing in its most recent Housing Assessment and has set a target of 40% for all new homes in West Devon to be affordable housing. Policy SP9 of the SDPD seeks varying proportions of affordable housing provision depending on the number of units proposed. For developments which comprise more than 10 units, 40% of the dwellings on site should be affordable.
21. Furthermore, the Council has identified a number of other planning obligations which it considers are necessary in order to mitigate the impact of the development on surrounding infrastructure including contributions towards education provision, highways infrastructure, on-site open space provision and green space. In addition, the appellant has offered further contributions towards the provision of sport and outdoor recreation facilities off site.
22. On the evidence before me, it appears that the need for the above contributions arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. The appellant has provided a duly executed Planning Obligation that adequately secures the above contributions. I am therefore satisfied that the development makes adequate provision in respect of these matters.
23. However, obligations requiring 50% of the affordable dwellings to be constructed in accordance with the requirements of Optional Housing technical Standard Requirement M4(2) does not accord with the tests as no detailed explanation has been provided. Those which relate to landscaping and the necessity of submitting an ecological management plan are more appropriately dealt with as part of the reserved matters and, if necessary, by imposing conditions to that effect. Accordingly, I do not consider these obligations pass the tests set out in Regulation 122(2).

Planning Conditions

24. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard conditions regarding the submission and approval of reserved matters and the commencement of development, I consider a condition requiring the development to be carried out in accordance with the approved plans as necessary in order to provide certainty.
25. I regard a condition requiring the provision and retention of parking as necessary in the interests of highway safety. A condition restricting the development to a specified area is appropriate in order to ensure that the visual separation between the settlements of Lifford and Tintinhull is maintained and to ensure that no development takes place within Flood Zones 2 and 3.
26. A condition in respect of the construction of the access is necessary in order to ensure that on site facilities are available for future occupiers as is a condition restricting occupation of any dwelling until suitable access arrangements have been made. Furthermore, a method of construction statement is necessary in the interests of highway safety while conditions in respect of drainage are appropriate to ensure the site is suitable drained.
27. A condition requiring a scheme to deal with contamination is appropriate to ensure that the additional works identified in the appellant's Preliminary Risk

Assessment (PRA) are carried out although I do not consider a further PRA is necessary as one has already been submitted.

28. A condition requiring further details on the relocation of the existing boundary hedge to provide the necessary visibility splays is appropriate in the interests of amenity, character and appearance and ecology, while a condition requiring a programme of archaeological work in accordance with a written scheme of investigation is necessary in order to ensure that any archaeological evidence on site is suitably recorded.
29. However, conditions requiring further details on the layout of estate road, parking, street lighting, those which relate to the submission of a landscape and ecological management plan, boundary treatments, layout and trees can be adequately dealt with under the reserved matters.
30. Furthermore, the National Planning Policy Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given.
31. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis

Conclusion

32. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

CONDITONS

- 1) Details of the appearance, landscaping, layout, and scale (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:

Drawing Nos: 140803/01; A095534-SK01B; and 140803/10
- 5) Development of land for housing shall only take place within the area shown hatched in yellow on drawing number 1400803-10 and the area hatched in green on that drawing shall be retained as green space.
- 6) No other part of the development hereby approved shall be commenced until.
 - a) The access road (including any temporary construction access road) has been laid out, kerbed, drained and constructed up to base course level for the first 30 metres back from its junction with the public highway;
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - c) The footway on the public highway frontage required by this permission has been constructed up to base course level;
 - d) A site compound and car park have been constructed.
- 7) The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
 - a) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out to their final level;

- d) The street lighting for and cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined.
- 8) When constructed and provided in accordance with condition 7 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians.
- 9) No development shall start until a Method of Construction Statement, to include details of:
- (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials;
 - (d) programme of works (including measures for traffic management);
 - (e) provision of boundary hoarding behind any visibility zones;
 - (f) full details of any temporary site access for construction purposes
 - (g) hours of construction and of deliveries to and from the site
 - (h) location of any construction compound/site offices;
 - (i) details and the location of any generators to be used on site;
- have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented during the construction period.
- 10) No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system, including details of the exceedance pathways and overland flow routes across the site for the proposed surface water drainage management system, have been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems.
- 11) No part of the development hereby permitted shall be commenced until a detailed assessment of the condition and capacity of the receiving watercourse at the southern boundary of the development site is undertaken, and approved in writing by the Local Planning Authority
- 12) No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.
- 13) No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its

construction has been submitted to, and approved in writing by, the Local Planning Authority.

- 14) Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.
- (i) A site investigation scheme, based on the appellants Phase 1 Preliminary Risk Assessment dated September 2016 to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
 - (ii) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved.

- 15) Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met.
- 16) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amended investigation and risk assessment and, where necessary, an amended remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.
- 17) Prior to the commencement of development a detailed method statement for the relocation of the existing hedge fronting North Road, as shown on drawing number A095534-SK01B shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

- 18) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the LPA. The development shall be carried out at all times in strict accordance with the approved scheme or such other details as may be subsequently agreed in writing by the LPA

END OF SCHEDULE