

Appeal Decision

Site visit made on 15 August 2017

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/Q1153/W/17/3171503

Land adjacent to Castleford, Castle Road, Okehampton, Devon EX20 1DD

- 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 Mr John Feaver against the decision of West Devon Borough Council.
 - The application Ref 00938/2015, dated 28 July 2015, was refused by notice dated 18 January 2017.
 - The development proposed is two residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for two residential dwellings at land adjacent to Castleford, Castle Road, Okehampton, Devon EX20 1DD in accordance with the terms of the application, Ref 00938/2015, dated 28 July 2015, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr John Feaver against West Devon Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area including in respect of the setting of the adjacent conservation area (the CA).

Reasons

Character and appearance

4. The area around the appeal site is primarily of residential character interspersed by open areas and land containing trees and shrubs. The residential properties vary in design and the use of external materials, however many have a simple character with a rendered finish being common. The land to the east of Castle Road rises up from road level. Several of the properties located to the north of the appeal site, and located within the CA, are set within this sloping land. Consequently many incorporate retaining walls and several have garages set within these.
5. The appeal site sits to the east of Castle Road with the land rising up from the road. A footpath runs roughly diagonally across the site; it is fairly steep but does not contain any steps. Either side of the footpath the site is occupied by a number of trees, shrubs, and undergrowth. Beyond the site, to the south, the footpath continues adjacent to the rear of properties in Leeze Park Estate and it

- is bounded by a variety of boundary treatments to the east, with trees and shrubs to the west. A second footpath is located to the immediate north of the site, providing access to Station Road; this path contains steps.
6. The development would introduce a dwelling to either side of the footpath on the site. Unit 1 would be located adjacent to Castle Road; it would be 3 storeys high and incorporate garaging at ground floor level. Natural stone retaining walls would extend to the side of this dwelling to provide a parking area for Unit 2. This arrangement is in keeping with the character of the residential development in the area, particularly the dwellings located close by and to the north of the site.
 7. Unit 2 and the upper floors of Unit 1 would be finished in render and both would have a natural slate roof. The design of each dwelling would be of a simple form, with a similar pattern of fenestration on each and an absence of any significant detailing or decoration. Although the dwellings would have a fairly functional appearance they would reinforce the character, design, and use of materials found in the locality. Each dwelling would have a patio area; although modest in size, this would provide an adequate area of outside space and with the other landscaped areas the dwellings would not appear cramped.
 8. The appeal site forms part of a band of vegetation that runs in a southerly direction covering the lower portion of the rising land. The development would result in a loss of some of this vegetation, extending the built form within this sloping land a little to the south. However it would sit opposite a small development of housing and it would appear as a natural continuation of the built form in Castle Road. Some landscaping would be retained as part of the scheme and modest, but important, pockets of new landscaping are proposed and these would soften the appearance of the development. Much of the band of landscaping would remain and this would still be appreciated from parts of Castle Road and the footpath.
 9. The character of the northerly end of the footpath would alter, but it would not be inconsistent with the wider area where it provides access from a residential estate into another area that is primarily residential in character. Boundary treatments including some areas of walling and some fencing are proposed. However a reasonable degree of privacy could still be retained for the occupiers of the development without the need for all these boundaries to be particularly tall. This, along with the landscaping proposed, would retain a sufficiently open aspect to the path.
 10. I therefore conclude that the development would not result in harm to the character or appearance of the area or the setting of the adjacent CA. The development would accord with Policy SP18 of the West Devon Borough Council Core Strategy and Policy H28 of the West Devon Borough Council Local Plan Review. These policies seek to ensure that the design, materials, character, and plot size of new development is compatible with the surrounding sites and that the setting of a conservation area is protected. It would also comply with the requirements of the National Planning Policy Framework to reinforce local distinctiveness and sustain the significance of heritage assets.

Other matters

11. The construction works would impact on the existing footpath running through the site. The appellant proposes a diversion, by creating a temporary path at

the top of the site. This would link to the existing path running to the north which incorporates steps. There are concerns that this will result in a less convenient route due to the steps. The grant of planning permission does not, itself, authorise any obstruction to a right of way. The diversion of a right of way is subject to a separate legislative process and I can therefore only give these concerns limited weight in the consideration of this appeal.

12. The additional traffic created by the proposed dwellings would be very modest, even when considered alongside other recent development. Castle Road is narrow and, to the south of the site, there is a bend and access to a care home. My observations on site were that traffic speeds were low with drivers responding to the narrow lane, the accesses, and the use of the road by those less able including on mobility scooters. The garaging and parking spaces would be set back from the road and, provided structures and planting at the site frontage are kept low, there would be a good level of visibility. Therefore the site could be accessed in an appropriate manner.
13. Two parking spaces would be provided for each of the dwellings, and given their size, this would be adequate. The parking for Unit 2 would be at the front of the site. This would require only a short walk along the footpath to access the house which would be acceptable and not an unusual situation as parking is often only available some way distant from a house. I also have no evidence that the parking of contractors vehicles during the construction period would result in unacceptable harm.
14. I have no substantive evidence to suggest that the ecological survey work was inadequate and I note the Council's ecologist did not object to the scheme. Conditions can be put in place to provide biodiversity mitigation and enhancements. Appropriate means of providing surface water drainage can be secured which would prevent the risk of increasing flooding off site. Unit 1 would be located close to an existing substation but there is no evidence to suggest that this would result in any substantive issues. The plans also indicate that existing access gates into neighbouring rear gardens would not be hampered by the development. The proposed houses would be seen from a number of neighbouring properties and alter some of the views. However the distances from these properties to the development would be such that no harm would arise to the living conditions of the occupants of those dwellings and as such this matter does not significantly weigh against the development.

Conditions

15. I have imposed a condition specifying the relevant plans as this provides certainty. Although any diversion of the public right of way is a separate matter, a condition is necessary to ensure that the development associated with this and subsequent decommissioning works are approved and carried out to a suitable standard and in accordance with an appropriate timetable. The construction works are likely to result in disruption to the surface of the footpath and it is necessary that a condition ensures this would be made good to an appropriate standard.
16. To ensure there is adequate surface water drainage, and having regard to the changing levels across the site, I have imposed a drainage condition. In the interests of the character and appearance of the area I have imposed conditions to require that the external materials and landscaping is approved by the Council and protection measures are put in place for the tree and shrubs

which are to be retained. Similarly it is necessary that suitable boundary treatments are provided, especially as some of these will be located adjacent to the footpath. There is an existing post and rail fence to one side of the footpath that also serves as a hand rail; it's re-provision as part of the boundaries is necessary to ensure that the footpath would still be useable by those with limited mobility.

17. Ecological mitigation and enhancements are necessary to comply with local and national policies which seek to protect and enhance biodiversity. A condition to ensure there is adequate parking and visibility is necessary to secure safe access and suitable parking. In the event that unexpected contamination is found, a condition to ensure this is dealt with appropriately is also necessary.
18. The areas of level outside space for each dwelling would be relatively small. To ensure an adequate area is retained it is necessary to prevent some extensions to the houses or the construction of outbuildings. However permitted development rights should only be removed in exceptional circumstances and I do not consider that these exist to prevent all additions or alterations including those to the roofs of the dwellings. Nor would the addition of new openings, in line with permitted development rights, compromise the living conditions of the occupiers of either dwelling.

Conclusion

19. The development would not result in harm to the character or appearance of the area or the adjacent CA. The provision of two dwellings would result in some social and economic benefits. These benefits are not outweighed by the concerns that have been raised either individually or when taken together. For the above reasons, and having regard to all other matters raised, I consider that the development accords with the development plan when considered as a whole. I conclude that the appeal should be allowed.

K Taylor

INSPECTOR

Schedule of Conditions:

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1410-3B, 1410-4B (Revisions Nov 2016), and 1410-5A (amended – Nov 2016).
3. No development shall take place until details for the provision of a temporary footpath, as shown on plan 1410-4B (Revisions Nov 2016), has been submitted to and approved in writing by the local planning authority. Such details shall include the means of construction, surfacing, boundary treatments, works for the removal/stopping up after it is no longer required, and a programme of implementation. The development shall be carried out in accordance with the approved details including the programme of implementation.
4. Footpath No 41, running through the site, shall not be closed until details of resurfacing works which would follow the construction of the dwellings hereby approved has been submitted to and approved in writing by the local planning authority. The approved resurfacing works shall be carried out prior to the reopening of Footpath 41.
5. No development shall take place in respect of the construction of the dwellings until a full surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include percolation test results and supporting calculations, a management plan setting out the maintenance requirements for the drainage assets, and a programme of implementation. The development shall be carried out in accordance with the approved details including the programme of implementation and shall thereafter be maintained in accordance with the management plan.
6. No development shall commence which involves the use of external materials until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
7. No works shall commence which involves the provision of new landscaping until details of the landscaping scheme has been submitted to and approved in writing by the local planning authority. All planting, seeding, turfing and hardsurfacing forming part of the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of either dwelling or the completion of the development, whichever is sooner. Any trees or plants which, within a period of five years from the implementation of the landscaping scheme, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written consent to any variation.
8. The development hereby approved shall be carried out in accordance with the Tree Protection Plan submitted within the Arboricultural Report by Dart Tree Consultancy.
9. No development shall commence which involves the provision of boundary treatments until details of those treatments have been submitted to and

approved in writing by the local planning authority. Such details shall include the provision of a handrail along the footpath. The boundary treatments and handrail shall be provided in accordance with the approved details prior to the occupation of either dwelling hereby approved. The boundary treatments shall thereafter be retained as such for the lifetime of the development.

10. The development hereby approved shall be carried out in full accordance with the mitigation measures set out in section 4 of the Preliminary Ecological Appraisal (Richard Green, December 2014) this shall include installation of one 1FQ or 1FR bat box within the external walls of each dwelling in accordance with the positioning specification in Appendix B of the Appraisal. The bat boxes shall be permanently retained thereafter.
11. The dwellings shall not be occupied until the garaging, parking, and access areas have been provided in accordance with plan nos. 1410-3B and 1410-4B (Revisions Nov 2016) and hardsurfaced in accordance with details approved as part of the landscaping scheme. The parking, garaging and access areas shall thereafter be retained for the life of the development and kept available at all times for the parking and manoeuvring of vehicles.
12. The retaining wall surrounding the parking area for Unit 2, any fencing, or any planting shall be no greater than 800mm in height where it is to be located within 2m of the carriageway edge of Castle Road.
13. 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 investigation and risk assessment and, where necessary, a 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 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.
14. 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 extensions to the dwellings (other than to a roof) or development of the types described in Schedule 2, Part 1, Class E of that Order shall be constructed.