
Appeal Decision

Site visit made on 16 August 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 04 September 2017

Appeal Ref: APP/U1105/W/17/3175273
Land at Boucher Road, Budleigh Salterton

- 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 outline planning permission.
 - The appeal is made by Mr Leigh Rix of Clinton Devon Estates against East Devon District Council.
 - The application Ref 17/0495/OUT, is dated 24 February 2017.
 - The development proposed is construction of 2 open market dwellings and associated access.
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Decision

1. The appeal is dismissed and planning permission for 2 open market dwellings and associated access is refused.

Preliminary Matters and Main Issues

2. The planning application is made in outline form. The only detailed matter being considered at this stage is the access to the site. The submitted plans show one particular way in which the site could be developed for the proposed 2 open market dwellings. The design and access statement provides further illustrative indications of a floor layout showing a dwelling design with 3 bedrooms. I have approached this decision on the basis that the proposal is for 2 dwellings of un-specified numbers of bedrooms and floor area.
3. The Council has confirmed that as the site is within the built up area as referred to within Strategy 6 of the Local Plan¹ (LP), residential development is acceptable subject to the consideration of detailed criteria. The Council has also confirmed that the proposed access would be satisfactory and I agree.
4. The 2 main issues are the suitability of the site for the proposal with respect to:
 - the effect upon recreational open space within Budleigh Salterton; and
 - the effect upon the character and appearance of the area with particular reference to privacy for prospective residents and the effects on trees.

Reasons

Open Space

5. The appeal site is a substantial part of a landscaped non-domestic garden area

¹ East Devon Local Plan 2013 to 2031, Adopted 28 January 2016

situated between Budleigh Salterton Hospital and existing housing, on the outskirts of the town centre. The garden including the site has in the past been used as a recreational area by patients of the currently closed hospital. The hospital is due to re-open as a health and well-being hub.

6. It is agreed by the Council that Budleigh Salterton generally has adequate provision for outdoor recreational space. LP Policy RC1 seeks the retention of land used for sport and recreation. LP Strategy 6 states that development should not involve the loss of land of recreational value. Paragraph 25.1 of the LP explains that this can include private open space areas which are an important community resource. These policies are in my view consistent with paragraph 74 of the National Planning Policy Framework (the Framework) and therefore attract full weight as development plan policies.
7. The retention of the remaining garden would continue to meet some needs for local people. It would continue to be a pleasant landscaped area. However, it is not demonstrated how the space would be enhanced by the proposal. Although some of the illustrative drawings included with the design and access statement show railings along the Boucher Road frontage, that is not an obvious improvement of the remaining garden in my opinion.
8. The appellant states that the hub would be used only by out-patients. The reduction in area would limit its use for outdoor events such as those mentioned by some objectors although there may not be a need for such events with the change in type of services offered at the hospital. The proposal could reduce the enjoyment of the area even if patients and visitors are only attending day appointments. However, I have very little evidence about how the new hub will operate or what the needs of visitors are likely to be. The needs for of people visiting the hub could not be met by the surplus availability of space elsewhere in Budleigh Salterton. It is necessary to take a cautious approach because allowing the appeal would result in the permanent loss of the currently available recreational space.
9. The whole of the garden was suggested for inclusion within the draft Budleigh Salterton Neighbourhood Plan 2017-2031 as a local green space (LGS). The Neighbourhood plan examiner's report makes it clear that the case for designating the entire garden as LGS is insufficiently robust. The report goes on to recommend a reduced area of LGS between the current appeal site and Boucher Road. The Council endorsed the examiners' recommendation which will now proceed to a referendum. Considering the advice within paragraph 216 of the Framework, the emerging Neighbourhood Plan has reached a very advanced stage. The revised LGS designation has greater weight than the previous draft designation. The draft designation therefore does not significantly weigh against this proposal. However, the LGS is not a positive allocation of the site and does not weigh in favour of granting planning permission for the proposal either.
10. In the absence of evidence to indicate that the remaining garden would adequately meet the needs of visitors to the health and well-being hub, in relation to this main issue, the proposal would have a negative effect upon availability of recreational space within this part of Budleigh Salterton, contrary to LP Strategy 6. The proposal would not result in an enhancement of the retained garden and so would not comply with LP Policy RC1.

Character and appearance

11. The site is enclosed by a low wall on 2 sides and a dense hedge on the other 2 sides. Within these features, the site includes a lawn, planting and some large trees. Elsewhere along East Budleigh Road the boundary treatments around the various types of building and surrounding garden areas vary considerably. On the opposite side of East Budleigh Road the buildings are set back behind raised gardens with open fronts whereas on this side, there is more enclosure of the spaces in front of buildings, along with landscaping features such as trees, shrubs and other planting.
12. The establishment of a hedgerow on the roadside boundary to provide privacy within a garden area would reduce the openness of the site in a position where there is not much boundary planting. However, new planting if allowed to grow up above the existing height of the wall would be in-keeping with some of the nearby boundaries including the property immediately to the south.
13. The attractive trees on the site including the large red oak which is between the illustrated positions of the dwellings could be retained with further details being considered at the reserved matters stage and through planning conditions. Care would be required during construction but again, planning conditions could achieve that. The retained trees would not significantly overshadow the private gardens of the proposed dwellings as shown and the outdoor amenity space would not rely upon land close to the trees.
14. In relation to this main issue, the proposal would not have a harmful effect upon the character and appearance of the area whilst securing adequate privacy within the garden area proposed for the dwelling closest to the East Budleigh Road. In this respect, the proposal would comply with LP Policy D1.

Other Matters

15. The proposal would provide 2 dwellings within a modest walk of the broad range of facilities in Budleigh Salterton. This accessible development would be beneficial for the supply of housing in the town although I have little information before me about how critical the site is in relation to housing supply. I can give modest weight to this benefit but along with the lack of harm in relation to the second main issue, these factors do not outweigh the harm I have identified in relation to the first main issue.

Conclusion

16. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Andy Harwood

INSPECTOR