
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: 07 September 2017

Appeal Ref: APP/U1105/W/17/3175220

Land adjacent to 24 Meadow Close, Budleigh Salterton EX9 6JN

- 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 Andrew Mann of Drywall Finishings Ltd against the decision of East Devon District Council.
 - The application Ref 16/2416/FUL, dated 9 October 2016, was refused by notice dated 28 February 2017.
 - The development proposed is the provision of a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal would also require the diversion of a public right of way. Such a diversion would require a separate procedure. I am not dealing with that separate procedure through this appeal.
3. The Council revised the description of the proposal to reflect the proposed re-routing of the footpath. I have used the description used on the planning application form as it is not clear whether or not the change was agreed by the appellant.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the site and surrounding area including consideration of trees.

Reasons

5. The appeal site is located on the outside of a sharp bend in Meadow Close on the north eastern side of the road. The site is a prominent gap without any structures on it that includes a substantial group of trees, between developed parts of this residential area and also a large public park known as The Green. A footpath runs through the site connecting Meadow Close with The Green. Apart from the hard-surface of the footpath, I could not see much evidence of the former garage and use for car parking as referred to by the appellant.
6. There is a varied mix of dwellings styles within Meadow Close albeit in 2 distinct parts. To the south of the site, there is an area of mainly 2 storey dwellings with short front gardens and grass verges helping to soften the

street-scene. Turning past the site to the west, the dwellings appear single storey at the front and are set within more spacious, landscaped plots.

7. The trees positioned around the north and eastern sides of the appeal site are on or close to the hedgebank that forms the boundary with the park. There are individual Tree Preservation Orders (TPO) covering the oaks along the northern boundary identified as 'T10' and 'T11' within the appellant's Arboricultural Site Appraisal (ASA) which also included a plan categorising the trees. Trees 'T10' and 'T11' and many within the area TPO are of moderate overall quality with a life expectancy of at least 20 years (category B when assessed according to BS 5837:2012).
8. These trees provide a substantial buffer between the open park and the suburban Meadow Close. From the park which is at a higher level than Meadow Close, the trees shield views through and form a strong boundary. From the estate road as one approaches from the south in particular, the trees and the partly overgrown and raised area in front of them provide a green frontage to the road. This is a focal point when seen from the south. This provides relief from the adjoining built up areas and has a positive effect, greening the street-scene. Although the trees are of moderate quality according to the ASA, they have a significant amenity value collectively when viewed from Meadow Close and The Green.
9. The proposal would involve the construction of a 2 storey detached dwelling. This would be positioned very close to the footpath that runs alongside the front boundary of the site. There would be no opportunity to provide for any planting between the front of the house and the footpath which is a general characteristic of other dwellings in the area. The building would block views of the trees which currently soften the street-scene. Although the nearby dwelling downhill at No 24 includes higher walls next to the footpath than is generally the case nearby, in that instance there is still an area of raised planting next to the road. In this respect the proposal would have a harsh visual effect contrary to the existing qualities of the street-scene.
10. The proposed dwelling, the surrounding paved and decked areas would be positioned well within the root protection areas (RPA) of the important trees. The ASA acknowledges that any digging down beneath existing ground levels within the RPAs is likely to cause root damage with adverse effects to tree health and/or stability. Consequently, several options for construction are suggested in the ASA and the one adopted for the proposal is the use of mini pile foundations as well as raising the development up above the rooting level. Whilst this form of construction may potentially help to limit damage to root systems, it would require very close scrutiny during construction. Whilst additional information can be submitted to assist in this process, such as a method statement, I am concerned that the scope for unintentional damage would still be significant and potentially critical to the health of the trees. The constrained nature of the site would also mean that construction machinery and materials could not be stored and used on site without potentially causing further effects due to compaction of the soil. There appears to be very little space to adequately protect trees with fencing to prevent such adverse impacts.
11. Furthermore, if the proposed dwelling could be constructed without impacting adversely upon the trees, it would be partially within the existing canopy

spread of the important trees. As the trees grow, the branches would get close to the structure. The appellant states that pressure to allow the pruning of the trees could be easily resisted because consent would be required. However, the presence of a substantial building and a household close to trees would increase the likelihood of people and property being damaged by branches. This could put the Council under pressure to allow work to the trees that would otherwise not be permitted thereby influencing the form and future amenity value of the trees due to the development rather than good arboricultural practice. The proposed re-routing of the footpath would also require careful construction but is less likely to lead to harm to the important trees.

12. Due to the position and height of the dwelling as well as the obscuring of the significant trees, the proposal would adversely affect these special qualities of the area. Furthermore, I am concerned about the impact of the development as well as its long term occupation on the important trees. In relation to the main issue, the proposal would have a harmful impact upon the character and appearance of the site and surrounding area. This would not comply with Policies D1 and D3 of the Local Plan¹ (LP). In these respects, the proposal would not constitute a good design, as required by paragraph 56 of the National Planning Policy Framework (Framework).

Other Matters

13. It is not in dispute that the 1985 planning permission previously approved on this site has lapsed and therefore has very little weight in this decision.
14. The site is not far from the central part of Budleigh Salterton. This is an established residential area accessible to various services and facilities. Whilst an additional dwelling in this general area would be a useful contribution to the housing supply of the area, given my conclusion on the main issue the proposal would not be a sustainable form of development taking account of the Framework as a whole.

Conclusion

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

Andy Harwood

INSPECTOR

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