
Appeal Decision

Site visit made on 15 November 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 06 December 2017

Appeal Ref: APP/P1133/W/17/3181050

La Falaise, 9 Old Teignmouth Road, Dawlish, Devon EX7 0NJ

- 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 and Mrs Heinz Korzenietz against the decision of Teignbridge District Council.
 - The application Ref 14/03689/FUL, dated 16 December 2014, was refused by notice dated 20 June 2017.
 - The development proposed is described as "erection of 3 dwellings within curtilage of existing bungalow".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 dwellings within curtilage of existing bungalow at 9 La Falaise, Old Teignmouth Road, Dawlish, Devon EX7 0NJ in accordance with the terms of the application, Ref 14/03689/FUL, dated 16 December 2014, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Heinz Korzenietz against Teignbridge District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

4. The appeal site is currently part of a very large garden surrounding a substantial bungalow which is in a central position within the plot. To the south is a large multi-storey residential apartment building (The Cliffs) which is also set within spacious, landscaped grounds. Further to the south of The Cliffs, there are groups of dwellings laid out in a suburban form. To the north of the site, there is a further line of dwellings within generous plots along the top of the high cliffs. In land, Old Teignmouth Road is at a higher level than the site and has a rural feel, lined on both sides by trees. Between Old Teignmouth Road and the A379 is buffer of mature landscaping also including substantial trees. Further inland to the west and north west are some open spaces separating the road from the tight knit residential estates.

5. The site itself is developed at a very low density within a spacious plot but it is between existing, suburban developed parts of the coastline. The surrounding area is pleasantly landscaped which softens the nearby buildings. The site includes manicured lawns, existing buildings, paved and walled areas as well as a large swimming pool. The expanse of brick and Californian block walls towards the seaward part of the site help to emphasise that the site is not part of the natural landscape but is part of the leafy residential area.
6. Apart from substantial boundary trees including 2 large oaks (the subject of a Tree Preservation Order) alongside Old Teignmouth Road to the front, the site has a minor contribution to the natural landscape value of coastline. I am not made aware of any particular cultural significance of the site. These are the main qualities that Teignbridge Local Plan¹ (LP) Policy EN2A in particular seeks to conserve or enhance. The site is outside of the Area of Great Landscape Value (AGLV) the boundary for which is nearby on the seaward side.
7. The proposal would involve the construction of 3 dwellings accessed off of the existing driveway. These would be arranged in a line down the gradual slope of the garden. The buildings would be substantial, contemporary dwellings with large flat roofed elements with 'green' roofs which would be in a procession up the slope of the site. Boundary trees could be largely retained and the surrounding leafy feel of the area respected with supplementary planting. The 2 oak trees along the front boundary could be protected during demolition of existing structures and construction work. Although the roofs of the dwellings may be noticeable from the South West Coast Path, space would be retained between the dwellings rather than them appearing in one bold block. The dwellings would not be out of keeping with the general view along the road and the retention of the boundary trees would enable the development to successfully assimilate with the existing visual qualities of the area.
8. One of the dwellings would be positioned in an elevated position relative to the pathway that leads down towards the railway line and the beach. This would be close to the boundary with the AGLV. The low profile of the building and horizontal emphasis with slim solid floors separating lightweight glazing would be an elegant design not imposing upon the landscape. This would be partially seen from the beach, at a much lower level and potentially from passing trains. However, the dwelling would be separated from the existing dwelling which is set well inside the plot and space would be retained between it, the other proposed dwellings and existing neighbouring buildings. Views of the retained and proposed trees would still be visible. The amount of building would be greater than the present situation but to a degree this would look more refined than the existing walls on this part of the site. To that end, I have included a planning condition requiring the submission of further details of materials to ensure the quality of the indicated stonework shown on the drawings.
9. The other dwellings would be stepped up the hill when seen from the coast although would not be easy to see from lower land. These dwellings would be noticeable from La Falaise, from The Cliffs and also the higher dwellings further along the coast. However, again a substantial amount of space would be retained around and between each of the dwellings, allowing for new landscaping which could be secured through planning conditions. This would also allow for parking and turning areas and garden space without having a

¹ Teignbridge Local Plan 2013-2033, adopted 6 May 2014

substantial visual impact. The development would be compatible with the surrounding developed areas and the nearby sensitive landscape.

10. The proposal would integrate satisfactorily with the existing character of the surrounding environment and landscape quality would be maintained. In relation to the main issue, the proposal would have an acceptable impact upon the character and appearance of the site and surrounding area. This would comply with LP Policies S1, S2 and EN2A. The proposal would constitute a good design, as required by paragraph 56 of the National Planning Policy Framework (Framework).

Other Matters and Planning Conditions

11. The south elevations of the dwellings would be a substantial distance from the boundary and building at The Cliffs. Additional overlooking would be very limited. The affected areas are already subject to some overlooking from the garden at the appeal site. Concern has been raised about the impact upon the residential amenity of neighbouring properties due to the presence of the proposed built development. However given my conclusion on the main issue, I do not think that the visual impact will cause amenity concerns in terms of the outlook from neighbouring residential properties.
12. I have no evidence that the development would cause safety concerns or physical damage to the Old Teignmouth Road or the South West Coast Path.
13. Concerns have been raised regarding the stability of the appeal site due to the position close to the cliffs which are constituted of red sandstone, particularly due to the proximity of operational railway land. The Council's engineers and Network Rail agree that these matters can be adequately controlled. I agree with the Council that these issues can be dealt with by planning conditions. However, as the appellant points out, Network Rail cannot discharge planning conditions and neither can they enforce them. I have included conditions which would not allow for any development until all drainage and foundation details have been submitted and agreed by the Council. The Council can undertake consultations if necessary through the consideration of the submitted details. The appellant is at liberty to consult with Network Rail before submitting the details but I cannot require them to do so through the planning conditions. I have simplified these (and other) conditions to accord more closely to the advice in the Framework and Planning Practice Guidance. I have also merged some conditions where appropriate.
14. I have included a landscaping condition but the suggestion that this should include controls over Japanese Knotweed is not clearly justified given other controls over that particular invasive species. I have included a requirement for a construction method statement but some of the Council's suggested requirements are onerous and unreasonable. As well as being necessary to protect living conditions nearby this is also required for environmental reasons as well as to secure the timing of works where it may potentially affect operational railway land.
15. I have imposed a condition specifying the relevant drawings as this provides certainty that the development will be implemented as proposed. I have not however listed all of the reports that accompanied the planning application because they are lengthy and complex. That would affect the precision and enforceability of the condition.

Conclusion

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

A Harwood

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: '180:1:03 rev A'; '180:1:01 rev E'; '180:3:01'; '180:3:02'; '180:3:03'; '180:1:04'; '180:1:05'; '180:4:01'; '180:4:02'.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; all tree protection measures shall be implemented prior to construction and retained until the development is complete; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 6) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority a drainage strategy including specifications and positions of all soakaways and other means of dealing with surface water from the development (including all land within the site). No dwelling shall be occupied until the drainage strategy as approved has been fully implemented.
- 7) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority details for the disposal of sewage for each dwelling hereby permitted. No dwelling shall be occupied until the details as approved have been fully implemented.

- 8) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority detailed specifications of all foundations, excavations, earth works and ground stabilisation works (including all land around the dwellings and other proposed structures). No dwelling shall be occupied until the details as approved have been fully implemented.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives, visitors and heavy goods vehicles;
 - ii) areas for loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of temporary enclosures and/or hoardings including decorative displays and facilities for public viewing;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours including procedures for restricting operations at times due to the proximity of the development to operational railway land;
 - ix) the routes of all construction traffic exceeding 7.5 tonnes.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 10) No development shall commence until further details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted and of all retaining walls and means of enclosure 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.