

Appeal Decision

Site visit made on 27 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2018

Appeal Ref: APP/X1118/W/17/3181706

Former Gospel Hall, New Road, Bishops Tawton EX32 0DE

- 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 George Thomas against the decision of North Devon District Council.
 - The application Ref 62878, dated 21 March 2017, was refused by notice dated 1 June 2017.
 - The development proposed is erection of 5 new residential dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr George Thomas against North Devon District Council. This application is the subject of a separate decision.

Procedural Matters

3. The above site address is taken from the application form. However, a more accurate description would be land adjacent Gospel Hall as the latter lies outside of the site.
4. The appellant has supplied revised plans with the appeal. These show the use of traditional materials and the substitution of the garages on Plots 3 to 5 with open sided car ports in slightly different positions. The revised plans have not been subject to public consultation and therefore, to avoid prejudicing third parties, my determination is based upon the plans considered by the Council.

Main Issues

5. The main issues in this case are:
 - a) whether the proposal would preserve or enhance the character or appearance of the Bishops Tawton Conservation Area;
 - b) the effect of the proposal on highway safety in Village Street;
 - c) whether or not the application includes adequate detail in relation to the disposal of surface water from the site;
 - d) whether financial contributions are necessary towards education and open space provision.

Reasons

Conservation Area

6. The appeal site lies within the Bishops Tawton Conservation Area and comprises an area of open ground sandwiched in between Village Street and the A377 (New Road). The proposal is for development in depth with a pair of semi-detached cottages (Plots 1 and 2) facing The Square and a further three detached dwellings towards the rear of the site, backing onto the main road.
7. The Council is content with the proposed cottages on the site frontage and I have no reason to take a different view. These properties would improve enclosure on The Square and their design would be generally reflective of the traditional housing in the centre of the village.
8. The main dispute is in relation to Plots 4 and 5. These detached units would appear two-and-a-half storey from within the site but the rear elevations would be dominated by a second floor balcony running the width of the dwelling. The roof slope would be truncated, giving each building an asymmetric profile, and there would be a predominance of glazing at first floor arising from the use of Juliet balconies. The dwellings would have uncharacteristically vertical proportions.
9. The properties on New Road to the south of the site are set above road level. Although there are no finished floor levels annotated on the plans, it is clear that Plots 3, 4 and 5 of the appeal scheme would be similarly elevated. This would make them prominent when travelling through the Conservation Area. Plot 3 would be relatively innocuous, but the poor design of Plots 4 and 5 would make these units incongruous features in the street scene.
10. It is proposed to retain the Devon banking along the western boundary. Whilst I note the intention, I am not persuaded that the existing vegetation would survive the site clearance and construction process, or that any new planting would have the space to establish. In my opinion, the scheme pays inadequate attention to the need for a meaningful landscaped boundary onto New Road to soften the impact of the boundary fencing and new development behind.
11. The appellant has offered to use traditional materials throughout the scheme. This could be conditioned. Notwithstanding this, I conclude that the proposal would fail to preserve or enhance the character or appearance of the Bishops Tawton Conservation Area. It would conflict with Policies DVS1, DVS2 and ENV16 of the North Devon Local Plan (2006) (LP). These policies are consistent with the National Planning Policy Framework (the Framework) in requiring high quality design that conserves and enhances the historic environment.

Highway safety

12. The proposed development would be served by a new dropped kerb access onto The Square. The Council is concerned that the access would provide inadequate visibility from and of emerging vehicles, which would be further exacerbated by on-street parking within the visibility splays available.
13. Surveys show that vehicle speeds along this section of Village Street are low, with maximum speeds of no more than 20 mph and many drivers travelling slower. The volume of traffic passing the site frontage is also limited, even at peak times. The development itself would not generate a significant number of additional vehicle movements.

14. Standards of visibility from the new access, and of vehicles exiting the access, would be comparable to the Chichester Arms car park a short distance to the north. This entrance is affected by the curve in the road and the presence of parked cars on this side of the street. I also saw a number of other private accesses on Village Street where sightlines are substandard. Despite this, there have been no recorded accidents. Manual for Streets acknowledges that parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice.
15. Having regard to the circumstances of the case, I do not consider that the proposed access would be likely to give rise to a significant highway safety hazard. In practice, drivers exiting the development would edge out into Village Street slowly and cautiously to the point where better views of oncoming vehicles are available. There would be obvious merit in using road markings to restrict parking across the site entrance and immediately either side, but the Highway Authority has the relevant powers to achieve this. The three additional parking spaces within the scheme would be available when the Gospel Hall is not in use. This would adequately compensate for the loss of on-street capacity.
16. I note that the site is identified in Proposal BIT2 of the LP for use as a village car park. There is also a longstanding resolution to grant planning permission for a development comprising 4 dwellings and a car park providing 11 spaces. Although it is unlikely that either proposal will go ahead, it does signal an acceptance on the part of the Council that safe access to the site is both desirable and achievable, despite the prevalence of on-street parking in the vicinity. This lends some weight in support of the scheme.
17. Accordingly, I conclude that the proposal would not have an unacceptable impact on highway safety in Village Street. It would comply with LP Policy TRA6 insofar as it seeks to ensure that safe access onto and egress from the highway is provided and the functioning of the highway network or the safety of highway users is not harmed.

Surface water drainage

18. The application form states that surface water would be dealt with by way of a sustainable drainage system (SuDS). LP Policy DVS7 requires the use of such systems where site conditions allow and there is a need to control and manage surface water run-off. The Council argues that without details of the system it is unable to assess whether or not SuDS is appropriate at the site.
19. The wording of Policy DVS7 indicates that SuDS should always be the preferred choice, but it does not preclude other drainage systems where ground conditions are unfavourable. The appeal site slopes downwards towards New Road, yet there is no evidence to show that it causes flooding on this highway or elsewhere. This suggests to me that the majority of the surface water soaks into the ground before reaching the site boundary.
20. The Planning Practice Guidance (PPG) advises that the decision on whether SuDS would be inappropriate in relation to a particular development proposal is a matter of judgement for the local planning authority, having regard to advice from the relevant flood risk management bodies. The Council does not appear to have consulted the Lead Local Flood Authority in this particular case.

21. On the evidence presented, there is no reason why the principle of development should not be accepted prior to a surface water drainage scheme being in place. Although details of SuDS have not been provided, there is a realistic prospect of such a system operating effectively. This matter could be dealt with using a condition to require the submission of further details for the local planning authority's approval prior to development commencing.

Financial contributions

22. The request for financial contributions towards education and open space provision is justified with reference to LP Policy REC5 and Codes of Practice for the Provision of Public Open Space, Sport and Recreation (2004) and Education (2007)¹. The development plan and Codes of Practice predate the PPG² which explains that tariff-style planning obligations should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 sqm (gross internal area). This was published following the Written Ministerial Statement (WMS) of 28th November 2014 which explicitly sought to reduce the disproportionate burden of developer contributions on small-scale developers.
23. I am advised that the recreation contribution would be spent on upgrading the Stanley Verney Playing Field which is within 500 m of the site. The education monies would be put towards furniture and equipment relating to an additional teaching block at the local secondary school.
24. The Council argues that it is not seeking tariff style planning obligations on the basis that the monies would be allocated to specific infrastructure projects that are CIL³ compliant. However, the contributions sought are calculated using crude formulae within the Codes of Practice and they would cover only a proportion of the costs of the relevant projects. Delivery would be dependent upon monies being pooled with other developments (such contributions being limited to five in number by the CIL Regulations). In my view, this would make them tariff-style contributions of the sort that the WMS and PPG explicitly seek to preclude.
25. Whilst I have not been directed to any development plan policy relating to education infrastructure, the absence of a planning obligation to secure a financial contribution towards open space would bring the proposal into conflict with LP Policy REC5. However, this conflict would be outweighed by other material considerations in the form of more up-to-date Government policy. Thus, the requested financial contributions are not necessary in this case.

Other Matters

26. There is high demand for on-street parking within the centre of the village due to the historic street layout and the consequent lack of in-curtilage parking for many properties. Residents are understandably concerned regarding the loss of kerbside parking. There is nothing in the Council's evidence to indicate that it has an issue with the allocation of two parking spaces per dwelling. Moreover, as I have explained above, the additional parking spaces within the development would adequately compensate for the loss of parking on the site frontage. As such, parking would not be grounds to dismiss the appeal.

¹ Adopted as Supplementary Planning Guidance and a Supplementary Planning Document respectively

² Reference ID: 23b-031-20161116

³ Community Infrastructure Levy

27. The site is allocated as a village car park. Although the relevant LP policy (BIT2) is cited on the decision notice, it is not directly related to the reason for refusal. I note that the Council accepts the principle of developing the site for housing and is pursuing an alternative location for a car park elsewhere in the village. For this reason, the conflict with Policy BIT2 is not decisive.

Planning balance and conclusion

28. I have concluded that the proposal would not cause material harm to highway safety. Drainage is capable of being dealt with by condition and the requested contributions cannot be justified in light of Government policy. However, the proposal would fail to preserve or enhance the character or appearance of the Bishops Tawton Conservation Area. S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. This is a material consideration of significant importance and weight.
29. Paragraph 134 of the Framework advises that in circumstances such as this, where the harm to the heritage asset would be less than substantial, the harm should be balanced against the public benefits of the proposal. In this case, the main public benefits would arise from the contribution the scheme would make to the supply of homes. There would also be short term gains to the local economy during the construction phase. Even taking into account the absence of a five-year land supply and the Government's stated objective to boost significantly the delivery of housing, I consider that the public benefits are outweighed by the harm to the Conservation Area.
30. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 14 sets out that in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
31. Given that paragraph 134 of the Framework is a restrictive policy, and the balancing exercise under that policy is not favourable to the proposal, it follows that the appeal scheme does not constitute sustainable development and does not benefit from the presumption set out within paragraph 14. Accordingly, I find that the proposal conflicts with the development plan as a whole. There are no material considerations which would warrant a decision other than in accordance with adopted planning policy.
32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should fail.

Robert Parker

INSPECTOR