



Appeal Decision

Site visit made on 5 August 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/X1118/W/19/3226560

Moor Park, Moor Lane, Croyde EX33 1NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Begley against the decision of North Devon District Council.
 - The application Ref 65415, dated 14 August 2018, was refused by notice dated 11 October 2018.
 - The development proposed is erection of three dwellings together with new access works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline with details of access provided for consideration. All other matters are reserved for future approval. I have treated the site plan as indicative.
3. Since determining the application, the Council has adopted the North Devon and Torridge Local Plan 2011-2031 (LP). This supersedes the North Devon Local Plan, policies from which were cited on the decision notice.
4. I have been provided with a signed s106 agreement which secures financial contributions towards improvements to a local sports pavilion and to mitigate the recreational impacts of the proposed development on the Braunton Burrows Special Area of Conservation (SAC). I shall return to this later.

Main Issues

5. The main issues in this case are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) whether the scheme would ensure acceptable living conditions for the residents of Moor Park and future occupiers of the development.

Reasons

Character and appearance

6. The appeal site comprises part of the large rear garden to Moor Park. The proposed development would connect to the public highway via a new access running along the side of the house and across the property's existing driveway.

7. Development has already taken place behind the street frontage of Moor Lane, but this is generally in the form of residential cul-de-sacs. The appeal scheme would not be part of a cul-de-sac, due to its lack of connection with Moor Park Close and the somewhat contrived access arrangement through the curtilage of Moor Park. The proposal would constitute backland development, which is not part of the prevailing local character.
8. The buildings along this stretch of Moor Lane are predominantly 2 and 3-storeys in height but the scale steps down behind the street frontage. Given the context of bungalows in Moor Park Close adjacent, against which the scheme would be read, I concur with the Council's view that development on the site of materially greater height than single-storey would be out of character.
9. The appellant contends that single-storey dwellings could be secured at the reserved matters stage. However, the application form clearly states that 3 and 4-bedroom dwellings are being sought. It is not clear how this would be achieved using the building footprints shown on the indicative site plan, which are only large enough for 1-bedroom bungalows¹. The Council would be on the back foot were the developer to seek reserved matters approval for larger dwellings to achieve the bedroom numbers specified in the application. But in any event, regardless of the building scale, the proposed development would be unable to deliver comparable plot sizes to other bungalows in this part of Croyde. The resulting higher density would be cramped and out of character.
10. The Council did not exercise its powers² to require submission of further details of layout and scale. The limited information before me does not give me the necessary confidence that 3 dwellings can be accommodated in a manner which is sympathetic to the wider context of the site and the surrounding area. Consequently, I cannot be satisfied that the proposal would not cause material harm to the character and appearance of the area. For this reason, I find conflict with LP Policies ST07, GEO and DM04 which, amongst other things, seek good design which maintains the character and appearance of the area.

Living conditions

11. The proposal would include the construction of an access way along the side of the existing house. This would be wide enough for two cars to pass and it would run directly alongside the retained area of garden for Moor Park, separated only by a fence.
12. The appellant concedes that the occupiers of Moor Park would hear occasional passing vehicles along the drive if they are in their garden but argues that the impact would be no different to what is currently experienced when cars travel along Moor Park Close. Although the level of vehicular activity associated with 3 dwellings is unlikely to be high, it would be more intrusive than the present situation, due to the proximity of the access to the garden and the absence of intervening vegetation. Whilst it would be possible to surface the access in a material which minimises tyre noise, there would be unacceptable disturbance arising from engine revving – notwithstanding that the vehicles would be at a lower level than the garden and hidden by a boundary fence.

¹ Applying the Technical housing standards - nationally described space standard (DCLG, 2015).

² Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

13. Similar impacts may also be experienced by the future occupiers of Plots 1 and 2, although this is more difficult to determine without knowing the final scheme layout and the relationship of private amenity space to the access way.
14. The Council raises concerns regarding the quantum of amenity space being provided for Moor Park. Whilst I have not been directed to any minimum policy standards, I consider that the retained area of garden would be too small in comparison with the size of the dwelling. This is not a determining factor in my assessment, but it nonetheless weighs against the proposal.
15. I note the concerns regarding the relationship of Moor Park to the proposed development, but there would be enough separation to prevent unacceptable levels of overbearance and overlooking. This could be adequately addressed at reserved matters stage.
16. Notwithstanding this, my concerns in respect of noise and disturbance from the access bring the scheme into conflict with LP Policies DM01 and DM04 insofar as they seek good design which safeguards the amenities of existing and future neighbouring occupiers.

Other Matters

17. The s106 secures the payment of a financial contribution to mitigate the adverse impacts arising from additional recreation activity within the SAC. The Council is a signatory to the agreement, which references the sum of money set out in the authority's statement of case. I shall take this to mean that the concerns in relation to ecology have been addressed. The contribution is mitigatory and therefore neutral in the planning balance.
18. The agreement further secures the payment of monies towards improvements to the pavilion at Georgeham Playing Field. Scant information is provided to explain how the monies are: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. As such, I am unable to determine that the obligation would meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Even if compliance had been demonstrated, the contribution would not overcome my fundamental concerns about the scheme.

Planning Balance and Conclusion

19. The appeal site lies within the development boundary of Croyde where there is policy support for development. The proposal would deliver 3 new homes and it would facilitate the provision of a short section of footpath along Moor Lane. The latter would improve safety for all highway users, including beachgoers. However, these benefits do not outweigh the conflict with the development plan, taken as a whole, in relation to the impacts on the character and appearance of the area and living conditions.
20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR