The Planning Inspectorate

Appeal Decision

Site visit made on 14 August 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/K1128/W/19/3228098
Blindwells, Hynetown Road, Strete, Devon TQ6 0RS

- 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 Kingswood Homes Ltd against the decision of South Hams District Council.
- The application Ref 3400/18/FUL, dated 9 October 2018, was refused by notice dated 15 April 2019.
- The development proposed is demolition of buildings and redevelopment of site with 3no. detached dwellings.

Decision

1. The appeal is allowed and planning permission is granted for demolition of buildings and redevelopment of site with 3no. detached dwellings at Blindwells, Hynetown Road, Strete, Devon TQ6 0RS in accordance with the terms of the application, Ref 3400/18/FUL, dated 9 October 2018, subject to the conditions set out in the Schedule attached to this decision.

Preliminary Matters

2. The description of the development varies slightly between the application form and the Council's refusal notice. As the latter more accurately describes the development being proposed, I have used that in the banner above and in my formal decision.

3. The Council did not submit an appeal statement of case. However, there is a degree of local interest in the scheme and I exceptionally accepted late comments from the Council in response to the appellant's final comments. The appellant has had opportunity to comment on the Council's submission and I have had regard to the response received.

4. Whilst the decision notice did not cite a lack of developer contributions towards open space as a reason for refusal, it was clear from the officer's report that the Council considers that this would be necessary to make the development acceptable. I therefore address this matter as a main issue below.

Main Issues

5. Whether the appeal proposal would:

- provide an appropriate mix of housing sizes, types and tenure and be in a suitable location having regard to local planning policies on sustainable development.
- make adequate provision for open space and recreation.

Reasons

6. The appeal site is currently occupied by a large dwelling, subdivided into two apartments, set within substantial grounds on the south side of Hynetown Road. It lies within the built framework of the settlement and outside the Strete Conservation Area.

7. The relevant Development Plan for the area is the adopted Plymouth & South West Devon Joint Local Plan 2014-2034 (March 2019) (the JLP). The JLP operates within an overall strategy for achieving sustainable development set out in Policy SPT1 and SPT2.

8. As part of this approach, JLP Policy DEV8 specifically aims to meet local housing need in the Thriving Towns and Villages Policy Area within which Stete is located. That Policy seeks to deliver a wide choice of high quality homes which widen opportunities for home ownership and meet needs for social and rented housing. Amongst other considerations, the Policy sets out that a mix of housing sizes, types and tenures should be provided in order to redress an imbalance within the existing housing stock, and to provide dwellings more suited to younger people, working families and older people who wish to retain a sense of self-sufficiency.

9. The proposal seeks the demolition of the existing building and its replacement with three detached four-bedroom dwellings. The Council maintains that the proposal would therefore fail to provide a mix of housing sizes, types and tenures in conflict with JLP Policy SPT2 and Policy DEV8.

10. In the context of the planning application and this appeal, the Council has, drawing on data sourced from Office for National Statistics (ONS) dating from 2011, sought to demonstrate an existing overprovision of detached dwellings in the area. This shows 62% of dwellings in the Parish of Strete being detached compared to 38% across the South Hams area as a whole. Consequently, it is suggested that there is a need for terraced or semi-detached housing in order to create a more balanced profile.

11. However, whilst Policy DEV8 identifies priorities as summarised above, it is also a Policy which covers a wide area across South West Devon. It is also clear that new development should provide a mix of housing in a way appropriate to the area and "as supported by local housing evidence". The Council's submissions do not, to my mind, amount to clear evidence of a locally imbalanced housing market or an unmet local need for a different form of development to that being proposed such that it would be necessary to refuse planning permission. I note in this regard that the JLP indicates an intention to prepare a Supplementary Planning Document (SPD) to assist with the implementation of this Policy. However, no such SPD yet exists.

12. Similarly, the Strete Housing Needs Survey (May 2015) (the HNS) was prepared by the Council on behalf of Strete Parish Council. However, whilst that document provides helpful evidence of the requirements for those in affordable housing need in particular, the HNS provides no substantive guidance as to the

need for particular sizes, types and tenures of dwellings for general housing needs. I also note in this regard that it is not in dispute that, given the scale of the proposal, no affordable housing contribution is necessary. I see no good reason to disagree.

13. In the absence of clear and specific local housing evidence on the type, size and tenure of accommodation needed in Strete, I find that the proposal does not conflict with JLP Policy DEV8.

14. Whilst concerns have also been raised by interested persons that the dwellings would be occupied as second homes, I have been provided with no substantive evidence to indicate the extent of such housing in the area, nor any Policies which would restrict such occupation. Similarly, I have no good reason to conclude that the loss of the existing accommodation would be harmful to the balance of the local housing stock.

15. Turning to the suitability of the location, JLP Policy SPT2 generally supports additional housing across all tiers of a development hierarchy, including in small villages such as Strete, where it would amount to sustainable development.

16. To this end, a number of characteristics of sustainable development across the Plymouth and South West Devon Area are identified including, amongst others: accessibility to services and public transport; providing high density development; a balance of house types and demographic profile; access to open spaces and wildlife; cultural provision and renewable energy.

17. Furthermore, a number of 'measures' of sustainable neighbourhoods and communities are offered as a means of assessing sustainability in this context, although the explanatory text to Policy SPT2 explains these do not relate to sustainable villages in recognition of their more remote rural context.

18. In this instance, the proposal is a small-scale development which would be energy efficient and replace an existing building within the existing framework of the village. The settlement also has a range of essential day-to-day services including a Post Office, public house, village hall, church, public open space and a bus route to Dartmouth. There are also further services available in the wider area such a primary school provision.

19. In its submissions to the appeal, the Council appears to suggest a conflict with Policy SPT2 as Strete does not have access to a vibrant mixed-use centre and because the policy requires higher density living. It is also suggested that bus service provision is limited and most necessary services are located further afield. That contradicts the advice given in its officer report. In any event, I am satisfied that, in its context, the appeal site occupies a sustainable location as envisaged by the JLP.

20. Aside from the location of the development, the Council also contends the proposal would not accord with JLP Policy SPT2 as renewable energy measures have not been explored. However, that policy is clear that renewable energy is an aspiration of the overall spatial strategy and I am not aware of any clear local policy basis for achieving a particular standard of energy efficiency on a case-by-case basis.

21. I therefore find the appeal proposal is in a suitable location which accords with the aims and requirements of JLP Policies SPT1 and SPT2 as a whole with respect to achieving sustainable development.

22. Drawing this main issue together, I therefore conclude that the proposal would not fail to provide a mix of housing sizes, types and tenures appropriate to the area. The appeal site is also in a suitable location to accommodate the type and scale of development proposed. For the reasons given, I therefore find no conflict with JLP Policies SPT1, SPT2 and DEV8.

Provision of Open space

23. In line with the statutory tests set out in Regulation 122 of the Community Infrastructure Regulations 2010, as amended, the National Planning Policy Framework (the Framework) sets out that planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development.

24. The executed UU secures the sum of £11,700 towards the cost of improvements for Open Space, Sport and Recreation (OSSR) provision at Strete Play Park and/or Strete Village Green and/or Blackbird Wood on or before the commencement of development.

25. The Council has quantified the additional burden likely to be placed on local areas of OSSR and justified the sum sought with reference to JLP Policy DEV3 and Policy DEV30 which require development proposals to contribute to community needs; and to the South Hams OSSR Supplementary Planning Document (2006).

26. In conclusion, I consider the UU has been properly made and the financial contribution would satisfy the statutory tests and the requirements of the Framework. As such, I have taken the UU into account in my decision and conclude on this main issue that the proposal makes adequate provision for open space and recreation in compliance with JLP Policy DEV3 and DEV30. This Policies require the development of new homes to contribute to the delivery of sustainable communities with, amongst other considerations, an appropriate range of sports/recreation infrastructure.

Other Matters

27. The Strete Neighbourhood Plan (the SNP) is in the process of preparation and has reached Regulation 15 'submission' stage. That draft document sets out a range of priorities including limiting development densities in the area and promoting development on Cox's Farm Field to the immediate south of the site. However, the main parties concur that progress on its preparation has currently been suspended. I therefore attach little weight to the SNP in determining the appeal.

28. The site lies within the designated South Devon Area of Outstanding Natural Beauty (AONB). This is a matter of some importance and the National Planning Policy Framework indicates that great weight should be given to conserving and enhancing its landscape and scenic beauty. The site also falls within the designated Heritage Coast. However, it is set within the built-up area of the village, adjoining development of a variety of types and designs.

29. Whilst the creation of new accesses would represent a change in the townscape, including removing a stretch of Devon Bank, the effects would be limited to the local area. Furthermore, the existing and proposed boundary screening would be such that no distant views of the development would be gained. I am therefore satisfied that no harm would result on these designated areas. In this regard, whilst the Council has served a Provisional Area Tree Preservation Order on the boundaries of the site, I am satisfied that trees can be adequately safeguarded through a landscaping plan.

30. The proposal would be of a distinctly modern design. However, a degree of individuality is already a characteristic of the area and coupled with the extensive screening provided by existing and proposed boundary planting, the development would not be excessive in scale or otherwise harmful to the character and appearance of the area.

31. I am mindful in reaching this conclusion that the appeal site lies some distance from the boundary of the designated SCA and it would not therefore be harmful to its setting.

32. I have carefully considered representations from interested parties with respect to the effects of the proposal on the living conditions of occupiers of existing neighbouring dwellings. There are existing properties both to the east and the west of the site, together with those on the north side of Hynetown Road.

33. However, I am satisfied that, the intervening distances between properties would be sufficient to ensure no harmful loss of privacy or daylight would result. I am mindful in this regard that there would potentially be overlooking to neighbouring properties from the proposed balconies. However, this is a matter which can be addressed through the imposition of a planning condition which I consider below.

34. The development would be visible from neighbouring properties. However, a change in the existing outlook from private viewpoints is to be reasonably expected in a development of this sort and is not a matter which is determinative to my decision.

35. On the basis of the submitted evidence and my own observations, I have no reason to conclude that the proposal would adversely affect the operation of the highway. Similarly, I am satisfied that adequate and suitable space for parking and turning is proposed.

Conditions

36. In addition to the statutory period for the submission of reserved matters, the LPA has suggested 13 conditions be imposed. For the reasons given below I consider, with one exception, these are necessary. However, I have considered them against paragraph 55 in the Framework and as a result I have made amendments for the purpose of clarity.

37. A condition is necessary requiring the development to be carried out in accordance with the approved plans in the interests of certainty. In the interests of preventing flood risk and pollution, a condition is necessary requiring details of sewerage to be submitted to and approved by the Council. It is necessary for this condition to be complied with prior to commencement of development given the works would be necessary at the earliest phase of development activity.

38. Given the sloping nature of the site, I shall require a plan detailing finished floor levels to be submitted to and approved by the Council in the interest of the character and appearance of the area and the living conditions of neighbouring occupiers. It is necessary for the levels to be approved prior to commencement of development given the levels would be critical to the earliest stages of development.

39. In recognition of the nature of the appeal site in the built-up area of Strete, it is necessary for a Construction Management Plan (CMP) to be submitted to and approved by the Council, determining matters relating to the duration and method of construction and associated activities. Whilst the Council's suggested condition specified the precise hours of delivery and construction traffic travelling to and from the site, this is a matter which can be adequately included in the CMP and I have amended the condition accordingly. Given the matters covered by the CMP are intrinsic to the whole of the construction process, it is necessary for this condition to be complied with prior to the commencement of the development.

40. Given the importance of retaining and/or providing boundary landscaping a condition requiring details to be submitted and approved to the Council is necessary in the interest of the character and appearance of the area. The Council suggested two conditions in this respect, one of which would be required details to be approved prior to commencement of development, but I consider only one is necessary. It would also not be necessary to require the approval of the details prior to commencement of development and instead I have required this to be undertaken prior to any development above slab level.

41. Similarly, it is necessary for samples/details of the external materials to be used in the facing and roof to be approved by the Council. For clarity and to ensure enforceability, I have amended the Council's suggested condition to require this to be discharged prior to any development above slab level.

42. In the interest of human health and avoiding pollution, I have imposed a condition requiring certain investigative and remedial measures to be undertaken in the event of any contamination being discovered during the construction of the development.

43. In the interest of avoiding flood risk, a condition is necessary requiring a scheme for sustainable drainage to be submitted and approved by the Council prior to the installation of any part of the water management system.

44. I have imposed a condition requiring the parking, servicing and garaging areas as shown on the approved plans to be properly laid out prior to occupation of any dwelling in the interests of highway safety. For the same reason, a condition is necessary for details of access visibility splays to be submitted and approved prior to the occupation of the development and to be retained thereafter.

45. The proposed development incorporates balcony areas to all three dwellings which would incorporate privacy screening. In the interests of the living conditions of neighbouring occupiers, it is necessary for the details of such screening to be submitted to and approved by the Council prior to the occupation of the dwellings. I have therefore imposed such a condition and, for reasons of enforceability, required such screening to be retained thereafter.

46. The Council suggested a condition to remove a range of domestic permitted development rights for extensions, porches, garages and other curtilage structures in the interests of the living conditions of neighbouring occupiers. However, I have been provided with no substantive evidence as to why the removal of such permitted development rights would be reasonable and necessary in this case and I have therefore omitted such a condition.

47. The appellant has confirmed agreement to the conditions, including those which impose requirements prior to the commencement of development.

Conclusion

48. For the reason given, the appeal should succeed.

Ian Bowen

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: 7651_250B 'Proposed Floor Plans Plot 1', 7651_151B 'Proposed Context Plan'; 7651_350B 'Proposed Site Sections'; 7651_251A 'Proposed Floor Plans Plot 2'; 7651_252A 'Proposed Floor Plans Plot 3'; 7651_150C 'Proposed Site Plan'; 7651_351A 'Proposed Site Sections + Elevations'; 7651_450B 'Proposed Street Scene + Elevations'.

3) Notwithstanding the submitted details, no development shall be commenced until details of the works for the disposal of sewage have been submitted to and approved in writing by the Local Planning Authority, and the dwellings shall not be occupied until the approved works have been completed to the satisfaction of the Local Planning Authority. Details to include:

   1. Full details of the pumping system including justification for 24hrs storage capacity, pump and alarm system.
   2. Details of the management and maintenance company who will be responsible in case of emergency.

4) Prior to the commencement of any development, a plan indicating the finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved levels.

5) Prior to commencement of any development, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include:

   (a) the timetable of works

   (b) daily hours of construction

   (c) any road closure

   (d) hours during which delivery and construction traffic will travel to and from the site.

   (e) the number and sizes of vehicles visiting the site in connection with the development and their frequency of visits

   (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases

   (g) areas on site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County Highway for loading or unloading purposes unless prior written agreement has been given by the Local Planning Authority

   (h) hours during which construction traffic will be present on the site

(i) the means of enclosure of the site during construction works

(j) details to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) the proposed route of all construction traffic exceeding 7.5 tonnes

(m) details of the amount and location of construction worker parking

(n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

6) No development above slab level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority, indicating the boundary treatment of the proposed development. The landscaping shall be fully implemented in accordance with the approved scheme in the planting season following the completion of the development, 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.

7) No development above slab level shall take place until details/samples of facing materials, and of roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details/samples.

8) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.

9) Notwithstanding the submitted details, prior to the installation of any part of the surface water management scheme or before development continues above slab level, whichever is the sooner, full details of the most sustainable drainage option (SuDS) shall be submitted to and approved in writing by the Local Planning Authority. Design steps as below:

1. Further soakaway testing to DG 365 to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in the report.
2. SuDS to be designed for a 1:100 year event plus 40% for climate change.

3. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed with the Local Planning Authority.

The drainage scheme shall be installed in strict accordance with the approved plans, maintained and in accordance with the agreed details for the life of the development.

10) The dwellings hereby approved shall not be occupied until the parking, servicing and garaging areas relating to them as shown on the submitted drawing (drawing number 7651-150C) have been properly consolidated, surfaced, laid out and constructed. The parking, servicing and garaging areas shall be kept permanently available for the parking and manoeuvring of motor vehicles in connection with the development hereby permitted.

11) Details of highway visibility splays shall be submitted to and approved by the Local Planning Authority. The splays shall be laid out, surfaced and in all other respects completed in accordance with the approved details prior to the occupation of the development. Once completed, the visibility splays shall be retained and maintained free of all obstruction over 1m high at all times.

12) Prior to any construction above slab level, plans and details of all privacy screens on all the balconies hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The privacy screens shall be constructed in accordance with the approved plans and details prior to the occupation of any dwelling and shall be retained thereafter at all times.