



Appeal Decision

Site visit made on 14 October 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2019

Appeal Ref: APP/N1160/W/19/3233178

Land at St Annes Road, Plymouth PL6 7LW

- 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 S Larson against the decision of Plymouth City Council.
 - The application Ref 18/01935/FUL, dated 12 November 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the erection of 4 bed detached dwelling with integral garage, parking and amenity areas.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 bed detached dwelling with integral garage, parking and amenity areas at Land at St Annes Road, Plymouth PL6 7LW in accordance with the terms of the application, Ref 18/01935/FUL, dated 12 November 2018, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr S Larson against Plymouth City Council. This application is the subject of a separate Decision.

Procedural matters

3. The appellant has provided a set of amended plans. Whilst it has been stated that they were submitted to the Council shortly before the Planning Committee meeting, it is not clear whether they were considered by the Council. I have, therefore, determined the appeal in accordance with the plans originally submitted to the Council and listed at condition 1 of the planning officer's report.
4. Since the Council made its decision, the Plymouth & South West Devon Joint Local Plan 2019 (LP) has been adopted. The Council's decision notice refers to policies within the prevailing development plan and (then) emerging LP. My decision must be made in accordance with the LP, being the development plan in force now. The appellant's appeal statement clarifies that emerging LP Policy DEV31 has the reference DEV29 in the adopted LP.
5. Whilst my consideration of the application for costs is entirely separate to this appeal decision and based upon its own evidence, I have given careful consideration to the Council's suggestion in the response to the costs application that the appellant's appeal statement had not been provided at the appropriate time. On that point, though, the Council confirmed in the response

that sufficient evidence has been provided to support the Council's position within the reasons for refusal and the comments of local residents, all of which are before me. Accordingly, I am satisfied that no injustice would arise by me proceeding to determine the appeal on the basis of the evidence before me.

Main Issues

6. The Council's first reason for refusal alleges harm arising from a lack of parking provision. The second reason suggests that the proposal would be an over intensive form of development by virtue of its layout, massing and siting within the context of the local area. It is not clear what harm is alleged to occur from the intensity of the development. However, with regard to the reasons for refusal and comments made in the numerous representations, I consider the main issues to be:

- (i) the effect on highway safety, with particular regard to parking provision at the site;
- (ii) the effect on the living conditions of future occupiers of the site and neighbouring residents; and
- (iii) the effect on the character and appearance of the area.

Reasons

Highway safety

7. The site is an existing car park that serves an adjoining 3 storey building containing ground floor commercial units with residential units above. The car park is unmarked such that the maximum number of vehicles that could be accommodated would depend upon how those vehicles had been parked. I note suggestions that the appellant's parking survey showing low use of the car park may have been conducted at times, like my own site visit, when two of the commercial units were closed and so the use at other times may be higher. Given uncertainties over the timing of the parking surveys I attribute that evidence little weight.
8. A number of local residents have commented that more formally arranged parking spaces would be harder to manoeuvre into, particularly for the numerous elderly drivers within the area, and may preclude on-site parking for larger vehicles, including delivery drivers. However, there does not appear to be any existing formal delivery or servicing provision and there is no suggestion within the Highway Authority's consultation response that the parking area would not be laid out in a way that facilitated access for all road users. A wider disabled space would also be provided, and there is no substantive evidence that a car parked there would obstruct access to the other spaces. I, therefore, attribute little weight to these concerns.
9. The appellant has provided a drawing suggesting that the existing car park could accommodate 10 cars. Local residents have provided photographic evidence suggesting that it is often full with more than 10 cars and, on occasion, up to 16 cars have been accommodated, although it is not clear how often such events occur.
10. The proposal would provide a formalised parking arrangement for 10 cars as well as two spaces for the proposed dwelling. The plans show a further space

at the opposite end of the commercial units, but during my site visit there was a car parked in that location, so it would not appear to provide an additional space. There would be a narrowing of the access from the footway onto the frontage of the commercial units, but there is no clear evidence that mobility scooters would be unable to turn into the site.

11. It has been suggested in the representations that an inadequate number of parking spaces would be provided for the commercial units and flats. However, the Development Guidelines Supplementary Planning Document 2013 (SPD) sets maximum standards for car parking, so there would be no conflict with this aspect of the SPD. Moreover, whilst noting some inconvenience in the proposed parking layout for the future dwelling, the Council's officer report indicates that adequate parking provisions for the proposed dwelling and the existing residents of the flats and users of the shop units would be provided. I accept that the more formal arrangement would not allow the design capacity to be exceeded as can occur under the existing arrangement. The consequence could be additional parking on the highway.
12. During my site visit there were a number of cars parked on the highway outside the commercial and residential units. I also witnessed people parking here whilst visiting the general store, despite ample capacity within the car park at the time. The effect of parking in this location is to narrow the highway to a single lane width, but a large number of private drives in the area provide passing opportunities, and forward visibility along the road appeared to be adequate. With regard to my own observations, there is no compelling evidence that the available highway width would be reduced so far that busses, caravans, emergency service appliances and the like could not pass, nor that it would be difficult to manoeuvre into the private drives opposite.
13. Even if the proposal were to result in a reduction in available parking spaces and delivery drivers had to stop on the highway, it appears that on-street parking in this location already takes place. There is no substantive evidence that a small increase on the occasions that the car park capacity was exceeded would create additional harm to highway safety, inconvenience or interfere with the free flow of traffic. I, therefore, attach substantial weight to the Highway Authority comments that do not raise an objection in this regard.
14. The Council's first reason for refusal also alleges to harm to amenity as a consequence of the inadequate parking. However, with regard to my findings above, it is not clear exactly what harm is envisaged or how it would arise. I, therefore, find that the proposal would not harm highway safety and that there would be no conflict with those aims of LP Policy DEV29 which require consideration of the impact of development on the wider transport network, seek to provide safe and satisfactory access to the site, and sufficient car parking.

Living conditions

15. The proposal would provide a detached dwelling with a private garden and dedicated off-street parking. The internal space available would exceed that required by the SPD. Whilst the garden space would fall below the stated requirement in terms of area, the Council's officer report indicates that it would be commensurate to the dwelling given the size of properties in the local area. I note that the reason for refusal could be deemed to suggest that the Council formally considers otherwise, but no substantive evidence is given by the

Council to contradict the earlier evidence or suggest why this would be harmful.

16. The proposed garden space would be broadly square and well related to the dwelling. It would appear to be usable, so I find that no harm would arise in respect of living conditions for future residents. It would accord with those aims of LP Policy DEV10 that seek to ensure that new dwellings are of sufficient size to provide good quality accommodation.
17. Turning to the effect on neighbouring residents, the proposed dwelling would be set substantially forward of the immediately neighbouring 23 Glenfield Road, a single storey dwelling. The two-storey mass of the proposed dwelling would be visible from within the main living room and principle bedroom of No. 23. However, this neighbouring property would continue to enjoy an outlook across its own substantial front garden.
18. It has been suggested that a "45 degree guideline" outlined in the SPD would be breached whereby the dwelling would be positioned such that it crossed a line drawn at 45 degrees from a point within the window of the closest ground floor habitable room of No.23. Whilst this may well be the case, I note that the relevant section of the SPD relates to extensions to houses and the accompanying diagram refers to an extension to a directly adjoining dwelling where the rear walls would be aligned with each other, such that the proposal would be in close proximity to the affected dwelling. By contrast, the appeal proposal would be sited some distance away, so it is not clear that a breach of this line would automatically result in harm to daylight, or an overbearing impact.
19. The proposal would also be clearly visible from 4 St. Annes Road, which faces towards the site from the opposite side of the road. However, there would be a substantial distance between the two dwellings and No. 4 would still enjoy a relatively open outlook across the junction of St Annes Road and Glenfield Road. Given the location of windows within the proposed dwelling, I do not find that No. 4 would be overlooked by it.
20. With regard to the above I find that the proposal would not result in harm to the living conditions of the two properties referred to above nor, given their relative positions, any other nearby dwellings. There would, therefore, be no conflict with those aims of LP Policy DEV20 or the National Planning Policy Framework (the Framework) which seek to ensure a good standard of accommodation and the protection of amenity.

Character and appearance

21. Although in use as a car park, the site is currently open, giving some relief to the suburban pattern of housing development in the locality. However, generally dwellings in the locality front the highway and there are a number of dwellings nearby that are clustered tightly around the junction of Cobham Close and Glenfield Road. There are a wide variety of building styles and sizes in the locality, ranging from single to three-storey.
22. There are two trees on the site that would have to be removed to facilitate the development. At my site visit, I saw that they are relatively small and do not make a significant contribution to the character or appearance of the area.

Replacement planting could be secured through planning conditions so taken as a whole, there would be no harm to the character and appearance of the area.

23. Overall, one dwelling would be provided on a plot that is large enough to accommodate such development and so the development would not appear intensive. With regard to these matters, I find that there would be no harm to the character and appearance of the area and no conflict with those aims of LP Policies DEV10 or DEV20, or the Framework that seek to protect the quality of the urban environment, ensure that development has proper regard to the pattern of local development and the wider context.

Other matters

24. The appellant's Preliminary Ecological Appraisal¹ (PEA) indicates that the development is unlikely to have a significant effect on ecology. Subject to conditions to ensure the protection of the existing hedge, which could be used by nesting birds, and a scheme to secure the replacement of the trees that have less potential to support nesting birds, the Council has not raised any objection on the basis of ecology. There is no substantive evidence to lead me away from this position.
25. Concern has been raised by local residents that a reduction in parking could affect the viability of the businesses that occupy the commercial units adjoining the site. However, even if I were to accept that there may be some loss of on-site parking, with regard to my findings in respect of the first main issue, there is no substantive evidence that the surrounding streets could not accommodate any demand nor that any harm to business viability would necessarily follow. I, therefore, attribute this matter limited weight.
26. The proposed parking spaces would be provided right up to the edge of the building containing the commercial and residential units. However, parked cars would not impede access or egress from the external staircase leading down from the residential units. There would be potential to impede access to doors which are said in the representations to provide storage to one of the commercial units. I understand from those representations that the door may be rehung to open inwards, which may in turn reduce the available storage space. However, there is no substantive evidence that this would have a significant effect on the viability of the unit in question.
27. It has been suggested that the property could be occupied as a House in Multiple Occupation. However, there is no compelling evidence to support this assertion, and even if it were to be occupied this way, harm would not necessarily result.
28. The Council has suggested that a bus shelter adjoining the site would need to be removed to facilitate access to the proposed dwelling. The Highway Authority objected solely because there was no mechanism in place to secure funds for its relocation, although there is no objection to its removal in principle as busses no longer stop here. However, the consultation response also indicates that the shelter is privately owned and the developer would not be able to move it without the permission of its owner. It is not clear from the submitted plans that access would be impossible without relocation. If access

¹ Cornwall Environmental Consultants Ltd (2018) Preliminary Ecological Appraisal for Land at St Anne's Road, Glenholt, Plymouth, Devon, Ref: CEC3155

proves impossible, then I find that it would be the developer's responsibility to arrange removal directly with the owner.

29. I note the various concerns surrounding the timing of the application, consultation and appeal. I am also aware that a large number of local residents consider that this proposal is very similar to one previously considered by the Council. However, these matters have little to do with the planning merits of the scheme, which I have assessed with regard to the main issues and all of the comments that have been put to me.

Conditions

30. In addition to the statutory time-limit condition, a plans condition is required in the interests of certainty. The Council's officer report indicates that the time for commencement should be reduced to two years, citing a need to comply with LP Policy SPT3. However, there is no clear reason in the policy, nor in other evidence to reduce the time for commencement from the standard 3 years, so I have not done so.
31. To protect the character and appearance of the area, conditions are necessary to secure a landscaping scheme landscaping. To maximise the provision of on-site parking during the construction phase and to secure the provision thereafter, conditions are required to secure a construction phasing programme and ultimate delivery of the parking provision. The revised parking arrangements would have a narrower access onto the highway than the existing car park. In the interests of highway safety, the redundant section of footway crossover should be removed and the footway reinstated. A condition to this effect is necessary.
32. To protect wildlife, the Council has suggested conditions to secure the protection of the hedge and a further condition that development is carried out in accordance with the appellants PEA. The latter is rather imprecise in terms of its requirements so, having sought the views of the parties, I have amalgamated the conditions and imposed an alternative to meet this aim. To ensure risks from land contamination to the future users of the land are minimised, a condition is required to ensure that site investigations and, if necessary, remediation is carried out. To protect the living conditions of neighbouring residents a condition is required preventing extensions or alterations under permitted development rights.
33. The Council has suggested a condition requiring the appellant to enter into a unilateral undertaking to secure fees for the relocation of the bus shelter. Even if I deemed such an approach to be appropriate, in light of my above findings, the condition is not necessary.

Appropriate Assessment

34. The foregoing suggests that conditions exist that would lead to the grant of planning permission. The increased population, in combination with other development in the area, could lead to additional recreational pressure on the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA) (the European Sites). This could result in contamination, physical damage, loss of habitat and bird disturbance affecting the status and distribution of key species and features and therefore act against the stated conservation objectives of the European

Sites. Accordingly, Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 is required. This I have carried out on a proportionate basis, with regard to the evidence provided by the Council², which includes a development-specific consultation response of Natural England.

35. The Council's evidence indicates that mitigation as drawn up through the Tamar Estuaries Management Plan and the Yealm Estuary Environmental Management Plan would avoid the harmful effects noted above. I understand that such mitigation delivers communications, marketing and awareness initiatives, preparation of codes of conduct for a variety of coastal activities, enhanced monitoring research and assessment, a delivery officer and management support.
36. The Council indicate that payment to deliver appropriate mitigation would be provided through the Community Infrastructure Levy (CIL) and that each year, the Council will draw down the appropriate amount from the CIL pot, based on the total number of houses delivered as identified through the annual monitoring process, and commit it to the delivery of the two management plans.
37. Natural England have indicated agreement in their response to the Council that with the appropriate financial contributions being in place, the development would not have an adverse effect on the integrity of the European Sites. Considering this, and in the absence of any evidence to the contrary, I am satisfied that the use of CIL contributions in this way would deliver the necessary mitigation. Therefore, as competent authority and following Appropriate Assessment, I find that there would be no adverse effect on the European Sites.

Conclusion

38. In respect of the main issues, I have found that no harm would arise and that there would be no conflict with the policies of the development plan. None of the other matters indicate a decision otherwise than in accordance with the development plan.
39. I, therefore, conclude that the appeal should be allowed.

M Bale

INSPECTOR

² Plymouth City Council (10 January 2019) HRA02 Stage 1: Habitats Regulations Assessment (Habitats Regulations 2017) Screening Matrix and Appropriate Assessment Statement in respect of this development.

Schedule of 10 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: SK007; SK010; SAR BPC XX XX DR A 000 001 Rev P1; SAR BPC 00 00 DR A 020 002 Rev P1; SAR BPC 00 ZZ DR A 050 006 Rev P1; 05085-TCP-2018; 05085-AIA.LIP-28.11.2018.
- 3) Prior to the occupation of the dwelling hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.
- 4) Prior to the commencement of the development hereby permitted, 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.

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 dwelling or the completion of the development, whichever is the sooner; 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) Prior to the commencement of the development hereby permitted, a scheme detailing the phasing of the construction of the development including details of how car parking arrangements for the adjoining commercial and residential units shall be provided during the course of the 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 phasing scheme.
- 6) Prior to the occupation of the dwelling hereby permitted, the parking areas serving the new dwelling and adjoining commercial and residential units as shown on the approved plans shall have been provided, drained, surfaced and the spaces marked out in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Those areas shall thereafter be retained as such and shall not be used for any purpose other than the parking of vehicles.
- 7) Prior to the occupation of the dwelling hereby permitted, the redundant section of footway crossover shall be removed and the footway reinstated in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 8) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation shall not take place until sections 1 to 3 of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by

the unexpected contamination to the extent specified by the Local Planning Authority in writing until section 4 of this condition has been complied with in relation to that contamination.

Section 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and be approved in writing by the Local Planning Authority and shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Section 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared, submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Section 3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the

remediation carried out must be produced, submitted to and approved in writing of the Local Planning Authority.

Section 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of section 1 of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section 2, submitted to and approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, submitted to and approved in writing by the Local Planning Authority in accordance with section 3.

- 9) Prior to the commencement of the development hereby permitted, full details of a scheme to prevent harm to and enhance the site for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and any measures installed in accordance with the scheme shall thereafter be maintained as such.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements, improvements or other alterations, including to the roof, shall be constructed to the dwelling hereby permitted.