



Appeal Decision

Site visit made on 8 November 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2019

Appeal Ref: APP/P1133/W/19/3234375

Land south of Flores Cottage, Cockhaven Road, Bishopsteignton TQ14 9RQ

- 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 Richard Harding against the decision of Teignbridge District Council.
 - The application Ref 19/00387/OUT, dated 19 February 2019, was refused by notice dated 31 May 2019.
 - The development proposed is described as 'outline planning application for one residential dwelling on land south of Flores Cottage, Bishopsteignton'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline. The application form indicates that approval was sought for appearance, landscaping, layout and scale. However, the appellant's appeal statement clarifies that this question was misread and in fact, only access was to be determined at this stage. All parties have had the opportunity to comment and as such would not be prejudiced by my dealing with the appeal on this basis.
3. The appellant has submitted an amended plan (dwg no: TH-KT-01-XX-M3-A-XX-1823-SK106-P1) with the appeal. The amended plan shows alternative site layouts at the appeal site, which differ from the original drawings. Whilst I acknowledge that the amended plan is for 'illustrative purposes', the appeal process should not be used to evolve a scheme and it is important that I determine this appeal on the basis of what was considered by the local planning authority, and on which interested people's views were sought. Therefore, I have not had regard to the amended plan as part of the determination of this appeal.

Main Issues

4. The main issues are (i) the effect of the development upon highway and pedestrian safety; (ii) the effect of the development upon the character and appearance of the area; and (iii) the effect of the development upon the living conditions of the neighbouring occupiers of Flores Cottage, Cockhaven Road and Coombesworth, Flow Lane in respect of noise and disturbance, outlook and overlooking.

Reasons

5. The appeal site is an undeveloped parcel of land to the rear of Flores Cottage, Cockhaven Road. It is proposed to erect a detached dwelling on the site. The dwelling would be served by a new vehicular access from Flow Lane.
6. An illustrative site plan has been submitted, which shows a two-storey dwelling located broadly within the centre of the appeal site. However, the matters of appearance, landscaping, layout and scale are reserved. As such, I have considered the indicative plans solely on the basis of whether, in land use principle terms, having regard to the proposed access arrangements, approval of which is sought at this stage, it would be possible to erect a detached dwelling on this site.

Highway and pedestrian safety

7. To the south of the proposed access, there is a timber fence and to the north there is a mature hedge, both of which belong to adjoining properties and therefore cannot be altered as part of the proposal. The main parties agree that standard visibility splays, with an 'x-distance' of 2.4 metres, as per the Local Highway Authority's (LHA) standing advice, cannot be achieved at the appeal site.
8. Notwithstanding the above, the appellant argues that due to the lightly trafficked nature of Flow Lane and slow vehicle speeds, smaller visibility splays, with an 'x-distance' of 2 metres, as set out within the Manual for Streets (2007), would be appropriate at the appeal site. The appellant contends that adequate visibility splays can be achieved at the site which are set forward of the existing hedge in the ownership of Flores Cottage and utilise the existing pavement. The LHA support the appellant's position and do not object to the proposed development. However, the Council has expressed concerns relating to highway and pedestrian safety.
9. Even if I were to accept the appellant's position that smaller visibility splays were appropriate at the appeal site, to achieve the necessary visibility of on-coming vehicles, drivers would need to egress from the appeal site and drive directly onto the pavement. Due to the height and close proximity of the hedge and fence, both of which are located on land outside of the appeal site, and based on my site observations, I am not satisfied that drivers exiting the site would have clear and unobstructed views of pedestrians, especially small children and pushchair and wheelchair users, who could be using the pavement. Despite the relatively low speed of vehicles exiting the site, given the impairments to visibility, I consider that the proposal would be prejudicial to pedestrian safety.
10. Further to the above, I note that the pavement along Flow Lane forms an integral part of the highway, and, despite the provision of passing places, due to the single lane nature of the road it has a low kerb height which allows vehicles to mount the pavement to pass each other. If an on-coming vehicle was to undertake such a manoeuvre near to the appeal site, due to the aforementioned site constraints, I consider that the on-coming vehicle would not be visible to drivers egressing from the appeal site onto the pavement.
11. The main parties dispute whether a vehicle could manoeuvre out of the proposed access without having to mount the grass verge on the eastern side

of Flow Lane or by reversing and driving forward again in the road to complete the manoeuvre. Even if I were to accept the appellant's assessment that a vehicle could manoeuvre out of the proposed access without mounting the verge or reversing in the road, this would not overcome the other concerns I have identified above. As such, this is a matter of neutral consequence.

12. For the collective reasons outlined above, I conclude that the proposal would be prejudicial to highway and pedestrian safety. As such, the proposal would not accord with Policy S1(b) of the Teignbridge Local Plan 2013-2033 (Adopted May 2014) (the 'LP'), which requires new development to take account of road safety. Furthermore, the proposal would be inconsistent with Paragraph 110(c) of the National Planning Policy Framework 2019 (the Framework), which states that developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Character and appearance

13. The surrounding area has a suburban residential character and a variety of property types are present within the immediate locality, which are predominately detached or semi-detached dwellings of a traditional appearance with simple hipped or gable roof forms.
14. At the northern end of Flow Lane, the properties are set back from the highway in a loose linear pattern of development and the frontage of properties typically face the highway, albeit in an angled manner. Within the immediate area there is a mix of house types and styles, which includes a recent development of three detached dwellings immediately to the south of the appeal site, the construction of which, was nearing completion at the time of my site visit. Two of the dwellings, face onto Flow Lane, whilst the third dwelling is situated to the rear of the site in a backland position.
15. From the street, the proposed dwelling would be viewed in the context of the recent development to the south of the appeal site and therefore it would not be an isolated form of development within the streetscene. In addition, given the size of the site, the proposed dwelling would be sited in a spacious plot, which would respond to the area's suburban residential character and, thus, the prevailing pattern of development found within the locality. Overall, I see no reason why an appropriate scale, appearance and layout and landscaping scheme could not be secured at reserved matters stage.
16. For the collective reasons outlined above, I conclude that the proposal would safeguard the character and appearance of the area. As such, the proposal would accord with Policy S2 of the LP, insofar that it requires new development to be of a high-quality design, which integrates with the character of the adjoining built and natural environment. Furthermore, the proposal would be consistent with Paragraph 127(c) of the Framework, which requires development to be sympathetic to the local character.

Living conditions of neighbouring occupiers

17. Flores Cottage, Cockhaven Road and Coombesworth, Flow Lane (referred to as 'Existing Dwelling B' by the appellant) are two storey, detached properties, which are situated to the north and south of the appeal site, respectively.

Coombesworth forms part of the recent redevelopment to the south of the appeal site.

18. The number of vehicle movements associated with the one dwelling would be limited and the proposed access off Flow Lane, would be situated a moderate distance away from the rear elevation of Flores Cottage and the front elevation of Coombesworth, which would limit the noise and disturbance from the use of the proposed access. In addition, I see no reason why the parking and turning area, which would be located within the site, could not be designed in such a manner to limit the adverse effects of noise and disturbance, which could be secured at reserved matters stage. As such, I am satisfied that the proposed development would not have a detrimental impact upon the living conditions of the occupiers of Flores Cottage and Coombesworth in terms of noise and disturbance.
19. In terms of outlook, the proposal would introduce built form to the rear of Flores Cottage and to the side boundary of Coombesworth. However, given the degree of separation distance between the appeal site and Flores Cottage, I see no reason why a development could not be secured at reserved matters stage, which would maintain an appropriate outlook for the occupiers of Flores Cottage.
20. I note that the occupiers of Flores Cottage, refer to a minimum recommended separation distance of 22 metres for new development. However, I have not been referred to any local policy related to this matter, and therefore this is not a determinative point in this appeal.
21. Turning to the relationship with Coombesworth, the proposed dwelling would be situated to the side of the neighbouring property and given the constraints of the appeal site and the forward position of Coombesworth, the proposed dwelling would most likely protrude beyond the rear elevation of the neighbouring property. Whilst this may be the case, such a relationship is common within the immediate area, and, in any event, the occupiers of the neighbouring property would still benefit from townscape and skyward views to the rear of their property. Consequently, I conclude that the occupiers of Coombesworth would retain an acceptable outlook in so far that the development would not have a significantly enclosing or dominant effect.
22. In terms of overlooking, the detailed design of the proposed dwelling is reserved at this stage and I see no reason why an appropriate design could not be put forward at reserved matters stage, which would avoid harmful overlooking of the neighbouring properties and rear gardens.
23. For the collective reasons outlined above, I conclude that the proposed development would not cause significant harm to the living conditions of the occupiers of Flores Cottage, Cockhaven Road and Coombesworth, Flow Lane in respect of noise and disturbance, outlook and overlooking. As such, the proposal would accord with Policy S1(e) of the LP, which requires new development to protect the residential amenity of neighbouring occupiers. In addition, the proposal would be consistent with the aims of Paragraph 127(f) of the Framework, which requires that development does not have an adverse impact on the amenities of existing and future occupants.

Other Matters

24. The parties agree that there is a need for the development to contribute towards the mitigation of potential impacts on the Exe Estuary Special Protection Area (SPA) and the Dawlish Warren Special Area of Conservation (SAC). The appellant submitted a section 106 legal agreement with the planning application, which secures the payment of a Habitat Mitigation Contribution before development commences. As such, the Council has concluded that there will be no effect on the integrity of the European Sites. Nevertheless, as I have concluded that the proposed development would conflict with other development plan policies, I have not completed an appropriate assessment. However, given my findings on the main issues, this is not a matter I need to address.
25. Interested parties refer to a restrictive covenant at the appeal site, which relates to boundary treatments and building lines. However, this is a separate legal matter, which falls outside of the scope of this appeal.
26. I note that representations were made by local residents, some of whom raise additional concerns about the proposed development. However, given my decision to dismiss this appeal, it is not necessary to consider these matters in detail.

Conclusion

27. The proposed dwelling would provide a family sized unit, near to local services and public transport links within the settlement of Bishopsteignton, which would contribute to the District's housing land supply needs. Whilst these factors weigh positively in favour of the development, that weight is limited given the modest scale of development proposed.
28. In conclusion, the proposed development would safeguard the character and appearance of the area and the living conditions of neighbouring occupiers. In addition, there would be some benefits arising out of the proposal, most notably, in terms of a modest contribution to the supply of housing in the area. However, the above would not overcome or outweigh the significant harm that would be caused to highway safety, which is a matter of overriding concern. As such, the proposal does not constitute a sustainable form of development, for which there is a presumption in favour of, as set out within the Framework and Policy S1A of the LP.
29. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR