
Appeal Decision

Site visit made on 18 February 2020

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/K1128/W/19/3240806

Extended garden of The Holt, Bolberry Road, Hope Cove TQ7 3HT

- 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 Trevor and Mrs Pauline Rendle against the decision of South Hams District Council.
 - The application Ref 4152/18/FUL, dated 14 December 2018, was refused by notice dated 25 July 2019.
 - The development proposed is 3 dwelling houses within the trees.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in this case are:
 - 1) whether the proposal is justified at this location, having regard to local policy restricting development in the undeveloped coast,
 - 2) the effect of the proposal on the character and appearance of the area, bearing in mind the sites location near to the Inner Hope Conservation Area and Grade II listed buildings, as well as within the South Devon Area of Outstanding Natural Beauty,
 - 3) whether the proposal meets an identified local need,
 - 4) whether occupiers would experience adequate living conditions in respect of internal living space and private outdoor space,
 - 5) the effect of the proposal on the living conditions of the occupiers of the properties of Mallards and Homelands, with particular regard to overlooking, and
 - 6) the effect of the proposal on protected trees.

Reasons

Location

3. The site lies within an area designated as Undeveloped Coast, where policy DEV24 of the Plymouth and South West Devon Joint Local Plan (adopted March 2019) (the JLP) sets out the circumstances where development will be permitted. The policy seeks to protect this area from any detrimental effect on

its undeveloped and unspoilt character. The proposed development has not been substantiated as one which requires a coastal location and there is no demonstration that the development of three additional dwellings cannot be reasonably located outside of the designated area. Thus, the scheme would not accord with policy DEV24.

4. Policy TTV1 of the JLP sets out the Council's strategy for the distribution of housing. The Council state Hope Cove is not identified as a Main Town, Smaller Town, Key Village or Sustainable Village within this policy, but sits within the Smaller Villages, Hamlets and the Countryside category. The explanation to the policy further acknowledges that the JLP does not define settlement boundaries. As such, in order to determine the appropriate policy requirements, a judgement is required as to whether a site lies within or outside of a built-up area.
5. I observed that the site comprises an extended area of land associated with an existing dwelling. However, the site was devoid of any significant development, there being only a number of minor structures, and had a considerably vegetated appearance. Whilst there were some existing dwellings nearby, the site shared little affinity with these and visually appeared distinct from the preponderance of dwellings located further to the north. Consequently, in my view, the site does not lie within a built-up area and thus lies within the countryside.
6. In light of this, policy TTV1 permits development where it supports the principles of sustainable development and sustainable communities, including as provided for in policies TTV26 and TTV27. The first limb of policy TTV26 states that isolated development in the countryside will be avoided and only permitted in exceptional circumstances. The Council accept given the proximity of other dwellings that the proposal does not comprise isolated development and I have no reason to disagree with this stance. Accordingly, I find no conflict with this limb of the policy. The second limb sets out criteria which development proposals should achieve, where appropriate. In respect of these criteria, I find nothing that would weigh against the specifics of the proposed development that is before me. Thus, I find that the scheme would not offend policy TTV26.
7. Policy TTV27 permits residential development on sites in proximity to an existing settlement where for affordable housing for local people. It is also required that such schemes are managed such that they continue to meet identified needs in the future. There is no evidence before me to show that the scheme is proposed as affordable housing, nor in any event any mechanism to ensure it would remain as affordable housing in the future. The scheme therefore conflicts with this policy.
8. Whilst I find that there would be no conflict with the policy relating to development in the countryside, this does not outweigh that the proposal would be contrary to policies DEV24 and TTV27 of the JLP. Accordingly, the proposal is not justified at this location, having regard to local policy restricting development in the undeveloped coast.

Character and appearance

9. The appeal site comprises a wooded area adjacent to the built-up area of the settlement of Hope Cove. Whilst not an open countryside location, the site

shares a greater affinity with the surrounding countryside than with the nearby built development. The site also lies within the undeveloped coast, where policy DEV24 seeks to protect the undeveloped character. In this light, the introduction of new built development to the site, notwithstanding that it would be positioned amongst the existing trees, would diminish the undeveloped nature of the area and the presence of the buildings would degrade the appearance of the site as a natural space within the undeveloped coast.

10. In terms of the height of the proposed dwellings, I note that they would appear taller than many of the trees within the site and as such it is likely that the roof terraces, as a minimum, would be visible above the canopy. I note the steep topography of the site, as well as that the land to the south continues to rise in level. However, the buildings would break through the tree canopy. Whilst the buildings would not be visible above the crest of the hill, nor would they break the skyline, they would be visible as additional built features within the landscape, protruding above the trees within the site. In this respect, their appearance would be at odds with character of the area.
11. I note there is also concern raised by the Council in respect of the effect of additional lighting at an elevated position, where it is considered that this would increase the visual prominence of each dwelling. Whilst there are existing properties near to the site which occupy an elevated position above many of the dwellings in the wider locality, as well as other hillside properties in the area, the appearance of additional lighting, likely particularly from the roof terraces, would in my view be unduly prominent given the height of the buildings.
12. I acknowledge that the site is located within the South Devon Area of Outstanding Natural Beauty (the AONB), where the special qualities of the AONB should be conserved and enhanced, particularly the distinctive character of the AONB, as well as views into, within and out of it. At this location within the AONB, a key characteristic of the area is that it is undeveloped. The scheme would introduce new buildings into an area valued for its lack of development. In this respect, I consider that it would have a harmful effect on the special qualities of the AONB, thereby not preserving or enhancing them.
13. Turning to the detailed design of the buildings themselves, the appeal scheme proposes the erection of three dwellings which have been designed as cylindrical towers, which would extend to three storeys in height and include rooftop terraces. The site is located to the south of the main form of the settlement and in an area where there is considerable variety in the design, scale and form of buildings. This departs from the more consistent built form that is present further to the north, around the core of the settlement. In addition, the density of development within the immediate vicinity of the site appeared to be lower than that of the development further to the north.
14. There is no denying that the design and form of the proposed dwellings depart from the prevailing use of rendered elevations under pitched roofs and in this respect, the development would share little visual affinity with the existing built form in the area. However, the site itself sits outside of the built-up area of the settlement and thus currently shares little affinity with it. Within this context, I find that the use of an atypical design idiom would be an acceptable design response.

15. The towers would utilise a bronze mesh for the cladding of the buildings, as well as cladded shutters to windows and doors. As such, when the openings are closed, there would be a coherent outer skin to the buildings. Whilst this use of external materials would not be typical of other dwellings within the area, it would ensure that the materials would not be a stark contrast to the muted colour tones of the surrounding wooded area. Additionally, the materials would over time become tempered.
16. The site is located near to, but outside of, the Inner Hope Conservation Area (the CA). The significance of the CA appears to derive in part to it being a small area, confined to a tight-knit collection of buildings at a lower level than the appeal site, many of which were traditional in their proportions and scale, with the inclusion of thatched roofs. Many of these buildings comprise listed buildings. The change in levels between the CA, the listed buildings and the appeal site, coupled with the presence of intervening vegetation and buildings, means that there is little visual linkage between the heritage assets and the appeal site. The hillside of which the appeal site forms part of, comprises part of the broader setting of these designated heritage assets. However, the proposed development, given the visual separation and severance provided by the difference in levels, would not have an adverse effect on the setting, or significance, of the CA or the listed buildings.
17. Accordingly, whilst I find that the buildings themselves would be well-designed and that there would be no harm to the setting of the Inner Hope Conservation Area and Grade II listed buildings, I do find that the scheme would be harmful to the character and appearance of the undeveloped coastal area, as well as the South Devon Area of Outstanding Natural Beauty. The scheme therefore conflicts with policies DEV20, DEV23, DEV24 and DEV25 of the JLP.
18. Together, and amongst other things these policies seek to ensure development contributes positively to landscape, to ensure development avoids significant and adverse landscape impacts, to prevent a detrimental effect on the character or appearance of the undeveloped coast and to ensure that the AONB is protected from damaging or inappropriate development.

Local need

19. Policy DEV8 of the JLP sets out that a mix of housing sizes, types and tenures will be sought in new development, as supported by local housing evidence. This is to ensure that a range of housing is provided for existing and future residents. The Council highlight that within the parish currently almost half of properties are 3-bed properties, and over half are detached. The Council also assert that over half of the housing stock within the parish is under-occupied by having at least two surplus bedrooms. To my mind, this shows that the existing housing stock within the parish area is not meeting the needs of local residents and I agree that to permit further three bedroomed properties would further imbalance the housing stock within the area.
20. I acknowledge that the intention of the scheme is to provide two properties for children of the appellant, as well as one for the scheme architect. The Council are content that these parties have strong demonstrable links to the village and the parish. However, there is no evidence before me to show that these potential occupiers are in need of housing and as such, I cannot be satisfied that any existing housing need would be met. I am also conscious that there is

no mechanism to control that these parties would indeed occupy the properties and as such, they could be occupied by any individual.

21. I note that the appellant offers that the dwellings be secured as 'Principal Residences'. However, this appears to be on the basis of a policy in the Neighbourhood Plan of a neighbouring district and not that within which the appeal site lies. As such, there is no policy basis for seeking such a restriction. In any event, this would not to my mind have the effect of the proposal meeting any local need. Furthermore, there is no completed obligation before me in this respect. As such, this has had little bearing on my decision.
22. I therefore find that it has not been demonstrated that the proposal would meet a locally arising need and that the development would further imbalance the housing stock of the area, contrary to policy DEV8.

Living conditions - occupiers

23. The private external space for the benefit of occupiers would be confined to the roof terraces provided atop the dwellings. The appellant highlights that the terraces would extend to approximately 25 square metres (sqm), which it is contended would be equivalent to a courtyard or balcony. I have not been provided with any definitive standard for the provision of outdoor space and so I must make a judgement on the suitability of the proposed provision. Whilst the space would allow for sitting out, it would allow for little else. It would be a constrained area which, given that it would serve a three bedroomed dwelling, would not in my view provide for adequate living conditions for occupiers. I acknowledge that the dwellings would be located within a wooded area, which would provide some additional outdoor space for occupiers, however the quality of the space would be limited due to the dense tree cover. Furthermore, the surrounding wooded area would not provide any privacy due to views into the site from outside of it, albeit predominantly from a private road serving nearby dwellings.
24. Policy DEV10 of the JLP requires that new dwellings will be required to meet the Nationally Described Space Standards (the NDSS) in terms of internal floorspace. These standards require that a dwelling with two or more bedspaces has at least one double bedroom and that the double bedroom has a floor area of at least 11.5 sqm. The details submitted with the planning application showed that none of the bedrooms provided would exceed 8 sqm. However, the appellant highlights that during the course of the consideration of the planning application that amended details were provided which showed the increase in size of the ground floor bedroom to exceed the 11 sqm requirements. Subject to these amended details, the proposals would comply with the NDSS and as such would provide an acceptable level of internal floorspace.
25. Whilst I have found that the proposals would provide sufficient internal floorspace, there would be insufficient private outdoor space provided for occupiers. Consequently, the scheme would not provide adequate living conditions for future occupiers of the units and it would therefore conflict with policies DEV1, DEV2 and DEV10 of the JLP, insofar as these policies seek to ensure that development safeguards amenity for new residents, that development does not result in harm to living conditions and that sufficient external amenity space is provided.

Living conditions - neighbours

26. To the west of the appeal site lies an existing dwelling, Mallards. Dwelling number two would be located at the western extremity of the site and near to the vehicular access to Mallards. I observed that there was an outdoor seating area adjacent to the existing dwelling which, given its location, would be likely to be clearly visible from dwelling number two, particularly given the height which the proposed dwelling would reach. I find it likely, given the height of the proposed building together with the increased ground level, that there would be views from windows which would face this outdoor seating area, as well as from the roof terrace, where there would likely be uninterrupted views down onto this outdoor area. Similarly, from dwelling number one there would be views to the north, from an elevated position over what appears to be the outside garden area associated with the property of Homelands.
27. I acknowledge comments that the separation distances would ensure that there would be no unacceptable overlooking. However, given that the proposed dwellings would sit significantly above the existing properties, I consider that the separation distances would be insufficient to prevent a significant adverse effect on the living conditions of the occupiers of the existing properties, through overlooking. I am also aware that the trees would provide some level of screening of views, however this would be limited due to the height of the proposed properties.
28. Thus, I find that the proposed development would result in an unacceptable effect on the living conditions of the occupiers of the properties of Mallards and Homelands, in regard to overlooking. Accordingly, the proposals would conflict with policies DEV1 and DEV2 of the JLP, insofar as these policies seek to ensure that development safeguards the privacy of existing residents and that development does not result in harm to living conditions.

Trees

29. The appeal site is covered by a Woodland Tree Preservation Order, which serves to protect all species of trees within the area. The site has a distinctly sylvan character, defined by the presence of the trees within the site. The trees provide an attractive and valuable separation between the dwellings to the north of the site and the property 'The Holt'. As a consequence, the trees are an agreeable feature of the area and contribute positively to the character and appearance of the locality.
30. The proposed dwellings would be sited so as they would be located within existing gaps within the trees, thereby negating the need to remove any trees in order to accommodate the development. However, there would still be trees in close proximity to the dwellings, which would be likely to grow towards the buildings, notwithstanding the slower rate of branch growth at this coastal location. This would inevitably lead to an increased sense of enclosure and potentially branches becoming too close to the dwellings. As a result, there could in the future be pressure to prune, lop, or possibly remove the trees, which may be difficult for the Council to resist. The reduction of the trees or their loss would diminish to an unacceptable degree, or remove, the positive contribution that they make to the area. The inclusion of any additional planting would do little to ameliorate the impact of lopping or removal.

31. Whilst I appreciate that the scheme is likely to appeal to individuals seeking a property within a wooded environment, it cannot be guaranteed that this attraction would endure throughout an individuals' occupation or for all occupiers in the future.
32. The proposed dwellings would sit above ground level and be constructed utilising piled foundations. This would allow the position of the piles to take account of the roots of the trees and would result in as little intervention with, and effect on, the roots as possible. As such, I find that the construction work would not be likely to have a detrimental effect on the health of the trees.
33. Notwithstanding the lack of harm that would arise from the physical works, given the significant contribution that the protected trees make, the potential future pressure for a reduction in their branches or their removal would have a considerable adverse effect on both the character and the appearance of the area. This would be contrary to policy DEV28 of the JLP, insofar as it seeks to prevent the loss of deterioration of the quality of protected trees.

Other Matters

34. There is reference within the documents to the presence of a previously granted planning permission on the site for a greater number of dwellings. The Council accept that this permission is extant. However, there are no details available in regard to the details of how the remainder of the site could be developed and it is likely that approval of the details of the dwellings, should they be constructed, would be required prior to the permission being capable of being implemented further. As such, I find that the presence of the previous permission is not a matter that is sufficient to outweigh the harm that I have identified above.
35. I acknowledge that the National Planning Policy Framework advises that great weight should be given to the demonstration of innovative design within schemes. I also note that the proposal would add additional housing stock to the area, which could contribute to the vitality of the settlement. However, I do not consider these matters to be of sufficient weight to warrant allowing the appeal.

Conclusion

36. Accordingly, for the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR