
Appeal Decision

Site visit made on 18 May 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/N1160/W/20/3245614

Land at 13 Westfield Avenue, Plymouth PL9 9PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Miss Natasha Martin against the decision of Plymouth City Council.
 - The application Ref 19/01210/PIP, dated 8 July 2019, was refused by notice dated 13 September 2019.
 - The development proposed is permission in principle for 2 to 3 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is for a Permission in Principle. In accordance with the Planning Practice Guidance (the PPG) and the Town and Country Planning (Permission in Principle) Order 2017, this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage). The appeal proposal is at the first stage and therefore I have considered the principle of the scheme. As the appeal does not relate to technical details, I have taken the submitted plans to be illustrative only.
3. The PPG advises that the scope of permission in principle applications at the first stage, is limited to location, land use and amount of development. The amount of residential development must be expressed as a range, indicating the minimum and maximum number of new dwellings.

Background and Main Issue

4. Permission in Principle for one to two dwellings at the appeal site, was granted by the Council in December 2018¹.
5. The evidence before me indicates that the Council have confirmed that the development of the site for housing, in terms of location and land use, is acceptable in principle. Nonetheless, the Council maintain that the extent of the proposed development is unacceptable for a number of reasons.
6. Having regard to the above matters and to the Council's confirmation that location and land use are not in dispute, my consideration of this appeal

¹ Local Planning Authority Reference: 18/01912/PIP

scheme focuses only on the amount of development proposed. Therefore, the main issue is whether the amount of development proposed is acceptable, having particular regard to the character and appearance of the surrounding area, the effect on trees and biodiversity, the effect on the living conditions of nearby residents and the effect of the proposal on highway safety.

Reasons

Character and Appearance

7. The appeal site comprises land which forms the garden of 13 Westfield Avenue, being a two storey semi-detached dwelling. The site is bounded to the southwest by a narrow lane which provides access to two garage blocks and a public footpath which runs adjacent to the northwest boundary of the site. To the north of the site is an area of mature woodland, which is crossed by trackways which join the abovementioned public footpath. To the east of the site is the dwelling and garden associated with 15 Westfield Avenue.
8. The appeal site is located within a residential area of Plymouth which, whilst it is acknowledged that there are a limited number of detached and single storey dwellings, is characterised by two storey semi-detached dwellings set back from the highway within generous plots and which are uniform in appearance.
9. The appeal relates to a permission in principle application and the technical details would therefore be dealt with at a later stage. Nevertheless, and irrespective of the appearance of the proposed dwellings, it would increase the quantum of built development in this location. Whilst it is acknowledged that the garden at the appeal property is larger in terms of area than most other nearby properties, in my view the development of the site for three dwellings would not be in keeping with the predominant density and pattern of development of the surrounding area.
10. The proposed development would be visible to those travelling along the public footpath adjacent to the site, and would be visible from the network of trackways which cross the mature woodland located north of the appeal site.
11. I therefore conclude on this issue that, irrespective of the layout of the proposed dwellings within the site, the constraints and size of the appeal site are such that to accommodate three dwellings would result in an uncharacteristic cluster of dwellings in closer proximity to each other than most in the area. The introduction of three dwellings at the site would represent a significant departure from the otherwise more spacious plots which are associated with properties within this part of Westfield Avenue and from the predominant overall uniformity of housing density in the immediate locality. In my view, development of the site to accommodate three dwellings would therefore result in a severely cramped and incongruous development which, being visible from the areas close to the site, would be harmful to the character and appearance of the surrounding area.
12. Whilst I acknowledge the submissions of the Appellant with regards to the backland development at 11 Westfield Avenue, that development comprises one single storey dwelling. Consequently, while it could be said that that development would not reflect the predominant pattern of two storey semi-detached dwellings within the locality, it does not establish the principle that three dwellings on a similar sized plot would be acceptable in terms of density.

13. For the above reasons, I conclude that the proposed maximum number of units would conflict with criterion 6 of Policy DEV10 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034² (the JLP) which seeks to ensure that garden development does not adversely affect the character of the area. This policy is in general accordance with paragraph 70 of the National Planning Policy Framework (the Framework) with regard to setting out policies to resist inappropriate development on garden land. Furthermore, the proposal would not accord with paragraph 122 d) of the Framework regarding the desirability of maintaining an area's prevailing character and setting (including residential gardens).

Effect on Trees and Biodiversity

14. The appeal site is located adjacent to an area which has been designated as City Green Space and which includes the Ashery Wood and Warren Plantation County Wildlife Site. As noted above, there are a number of mature trees within the Wildlife Site which are located in very close proximity to the northern boundary of the appeal site. In my view, the mature trees and woodland which is located adjacent to the site, makes an important and positive contribution to the visual amenity of the area.
15. The Council have put it to me that the proposed maximum number of dwellings at the site would be likely to have a harmful impact on the mature trees and the biodiversity and ecology associated with the adjacent greenspace and wildlife site. However, the Appellant maintains that the Council has misapplied the consideration of technical standards which should not be considered at the first stage of a Permission in Principle application in relation to these matters.
16. In this regard, the potential effects of the proposed maximum number of dwellings at the site in respect of ecology and biodiversity, are technical issues which would require assessment of the level of any harm arising as well as an assessment of any mitigation that could be appropriate. Consequently, such matters are not before the decision maker in relation to an application or appeal against a Permission in Principle and such matters would fall to be considered at the technical stage.
17. However, in respect of the amount of development and its potential impact on the mature trees adjacent to the site, consideration at this stage must be made with regards to whether the amount of development would be likely to result in pressure to lop, top or remove these trees which, as noted above, make an important contribution to the surrounding area.
18. In this regard, given the constraints and size of the appeal site, I conclude that it would be likely, irrespective of the final layout of the scheme, that a significant portion of one or more of the proposed maximum number of dwellings and their respective external amenity areas, would be located within the site in an area which would be overhung by the canopies of the adjacent mature trees. Consequently, it is likely that the trees would become a nuisance for future occupants of the proposed units in terms of falling leaves and debris, and in terms of significant shading. Over time there would be pressure to lop, top or even remove the trees which would reduce or destroy their valuable and positive contribution to the surrounding area.

² Adopted March 2019

19. For the above reasons, the consideration of the potential impact on biodiversity and ecology are matters that must be assessed as part of the technical stage. Consequently, assessment of the proposal against Policies DEV26 and DEV27 of the JLP, and in respect of paragraph 175 of the Framework, are not required. However, at the maximum number of proposed dwellings at the site, I conclude that it is likely that, due to their proximity and overhanging canopies, there would be pressure to cut back or even remove these trees. Consequently, the proposal would be contrary to Policy DEV28 of the JLP which seeks to ensure that development does not result in the loss or deterioration of woodland or trees with high amenity value.

Effect on Living Conditions

20. In respect of the effect of the proposal on the living conditions of nearby residents, Policy DEV1 of the JLP requires development proposals to safeguard the health and the amenity of local communities. To achieve this objective, the policy, amongst other things, seeks to ensure that new development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance for both new and existing residents.
21. In this regard, the Council maintain that the proposed maximum number of units would likely result in additional noise and disturbance associated with the increased number of trips taken by future residents as well as additional noise and disturbance from the residential occupation of the proposed development, and that this additional activity would have a harmful impact on the existing and future residents of 15 Westfield Avenue.
22. In my view the layout of the appeal scheme could be aligned and orientated so that it would be unlikely to have a harmful impact on the existing and future residents of 15 Westfield Avenue in terms of overlooking or loss of outlook. Furthermore, whilst residential occupation of the proposed new dwellings would result in new sources of noise and disturbance for existing nearby residents, the site is located within a residential area and the noise generated would not be unusual in this context. Consequently, overall levels of noise and disturbance generated from the maximum number of proposed dwellings are unlikely to be of a scale or intensity that would cause harm to the living conditions of existing nearby residents.
23. Accordingly, through careful consideration of the siting and orientation of the proposed dwellings at the site, the proposed development would not have a harmful impact on the living conditions of nearby residents and therefore would not conflict with Policy DEV1 of the JLP. Furthermore, and for the same reasons, the proposal could accord with paragraph 127 of the Framework which, amongst other things, requires that development provides a high standard of amenity for existing and future users.

Effect on Highway Safety

24. In terms of the proposal's impact on highway safety, while illustrative details have been provided for the potential access and parking arrangements in respect of the maximum number of dwellings proposed, these are not to be considered at this first stage of a Permission in Principle application.
25. It has been put to me by the Council that the proposal would result in an intensification of the use of the lane which serves the garages adjacent to the

appeal site, and that this, in combination with the narrow nature of the lane, would make it difficult for the lane to be used by vehicles and pedestrians at the same time and would compromise highway safety.

26. In this regard, and as noted above, the details provided by the Appellant are indicative and for illustrative purposes only. In my view, the layout of the proposed scheme could be arranged such that access for one of the maximum number of units proposed, could be taken directly from Westfield Avenue. Whether these arrangements would be acceptable, or whether conditions would be needed to be imposed, are matters that would be considered at the technical stage.
27. Based on the circumstances of this case, there is no compelling evidence before me that the proposal would necessarily lead to unacceptable impacts on highway safety for users of the lane adjacent to the site. Therefore, I have not found that the proposal would be in conflict with Policy DEV29 of the JLP or would not accord with the provisions of paragraphs 108, 109 and 110 of the Framework with regards to highway safety.

Other Matters

28. I have considered the Appellant's submissions that planning permission has been granted for applications which the Appellant contends should be considered to be precedents. However, I have not been provided with the full details of these schemes and so cannot be certain that the circumstances and considerations are comparable to the appeal scheme before me. In any case, from the very limited information supplied it would appear that those other developments were for a different scale of proposal and consequently they do not appear to represent comparable development to the appeal scheme and, therefore, I have considered this appeal proposal on its own merits.

Planning Balance and Conclusion

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
30. Weighing in favour of the appeal scheme, I acknowledge that the proposal would provide some limited social benefits in terms of additional housing. In terms of economic benefits, the proposed development would provide short term employment opportunities during the construction phase, with further longer term benefits being provided through the spend of future occupants within local businesses.
31. Whilst these benefits are materially positive, they are limited in scope. In my view, such benefits do not outweigh my findings regarding the proposed amount of development on the site and the resulting development plan conflict in relation to the impact in terms of character and appearance and the proposal's impact on important trees, to which I attach significant weight.
32. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Spencer-Peet INSPECTOR