



Appeal Decision

Site visit made on 13 May 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/U1105/W/20/3246215

Exeter Gateway Office Park (Phase 13 of approved phasing plan 5A), Land to the East of the junction between Anning Drive and Tithebarn Link Road, Redhayes, East Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Eagle One MMIII Ltd against the decision of East Devon District Council.
 - The application Ref 12/1291/MOUT, dated 7 May 2019, sought approval of details pursuant to condition No 3 of a planning permission, also Ref 12/1291/MOUT, granted on 29 November 2013.
 - The application was refused by notice dated 13 November 2019.
 - The development proposed is development of the site to provide up to 930 dwellings, a new link road, employment area (B1a Use Class), park and ride facility, local centre/square, health and fitness centre, creche, public and private open space and car and cycle parking, together with landscaping and associated servicing (all matters reserved except points of access).
 - The details for which approval is sought are: Framework Plan and Appearance Palette for Phase 13.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the submission provides for a well-designed development in terms of the balance between the car parking layout, hard landscaping, green infrastructure and orientation of buildings;
 - whether the design rationale for Building A would be acceptable in the context of the character and appearance of the surrounding area; and
 - whether the submission provides sufficient information in relation to the design for Buildings B and C.

Background Information

3. The appeal relates to Phase 13 of an outline approval for a major mixed use development. Phase 13 relates solely to an employment area (B1a Use Class) on the south-eastern edge of the wider site where Tithebarn Lane meets Honiton Road.

4. Through other changes to the outline permission which have removed other employment areas, the amount of development on the appeal site is to be intensified. The initial outline framework plan (OFP) and Design and Access Statement (DAS) showed a development with two B1a buildings in the Phase 13 parcel. The submitted scheme relates to three separate B1a buildings which was addressed by a non-material amendment permission.
5. Condition 3 specifically required that: *"Prior to the submission of any reserved matters application(s), other than in connection with the link road, for an agreed phase or phases of the development, a framework plan and statement on the appearance palette for the agreed phase or phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The framework plan(s) (1:1000) shall follow the principles established in the indicative masterplan (plan no: 9901 Rev M) and it shall be in accordance with the approved parameter plans. The framework plan(s) shall show the indicative location of buildings and their type, public and private open spaces and parking (including cycle parking) typologies, together with how the design principles in the approved Design and Access Statement will be applied at the more detailed level. The appearance palette shall be provided in the form of a statement providing information and guidance on building design and character, constructional materials and detailing, surface materials and their finishes, street furniture and street tree species"*.
6. Reserved matters application are required to be submitted within 7 years of the original date of the outline permission.

Reasons

Layout

7. In terms of the accordance of the layout with the original land use parameter plan, the Council indicate that the submitted Framework Plan and Appearance Palette (FPAP) largely accords therewith. As the proposal is an employment scheme comprising three B1a buildings, it is uncontentious in at least this regard.
8. The OFP and DAS indicated some basic principles for this particular phase of the wider scheme. It was to deliver employment buildings which were to have key frontages onto Tithebarn Lane (albeit not set directly adjacent thereto), and the site was to provide a pedestrian and cycle link to Blackhorse Lane which runs along the northern boundary of the site.
9. In terms of parking levels, despite the original Transport Assessment and Travel Plan indicating that a parking provision of 1 space per 37.5 sqm would be appropriate, the outline framework plan did not specify an amount of car parking and neither does condition 3 require it to. The agreed S106 linked with the outline application (amended version), which requires the Council to implement a Travel Plan, does not specify a maximum amount of parking for the employment development. The Development Plan does not include a specific policy on the maximum level of car parking for office space, nor is there such a level of prescription within the policies of the National Planning Policy Framework (the Framework). In this sense, whilst the broader objectives of the planning system are still to reduce travel, in this instance, there is a lack of direct mechanisms to restrict parking levels.

10. Based on a speculative office development without an identified occupier at the present time, the appellant seeks agreement to approximately 1 car parking space per 25 sqm of floor area, although this is not specifically detailed in the FPAP. From the evidence, this is consistent with the parking ratios agreed for an element of the nearby Skypark scheme and lower than the parking ratios agreed for the Council's-own, more rurally-based main office premises.
11. The Highway Authority has also sought to achieve realistic parking ratios in order to avoid undermining the purpose and efficiency of the adjoining 'Park and Change' facility. This also suggests that the design success of the scheme could have sustainability implications beyond the site boundary.
12. Notwithstanding the absence of prescriptive policies, the support from an elected Member of the Council, and the desire to ensure the success of the adjacent 'Park and Change', insofar as the scheme would appear to be overly orientated towards car parking and car travel, I find that the parking provision would amount to a modest oversupply. Based on the submitted FPAP, the road and parking infrastructure appear to be the dominant feature of the layout and has the effect of making the landscaping appear tokenistic. Combined with the easement for the electricity provider, above which there can be no tree planting, the scheme would appear to be rather lacking in greenness and trees in comparison to the concepts introduced by the OFP and DAS.
13. The compromise position in relation to parking may not result in a reduction to the originally envisaged ratio of 1 space per 37.5 sqm, but would see a downward revision to ensure adequate promotion of walking, cycling and other modes of sustainable travel. Whilst I accept that the role of implementing the associated Travel Plan rests with the Council, there is a need to ensure that all relevant developments contribute towards its success, as opposed to undermining it. For similar reasons, the amount, location and type of intended cycle parking will also be necessary to detail as an integral part of the scheme and within the FPAP.
14. In terms of building frontages, I acknowledge that the position of the site access from Tithebarn Lane is already in place. Clearly, with the single point of access to the north, from which three buildings are to be served, there are two options to service the far south of the site; either along the inside of the Tithebarn Link Road or to the outer edge of the site against the far eastern boundary. The submitted FPAP details an arrangement with the buildings set close to the road, but essentially turning their backs to it in order to provide the public fronts onto the car parks.
15. The fronting of buildings onto an adjoining road with an active elevation is a basic urban design principle to secure well designed places. Whilst the OFP detailed the buildings inset further into the site, the intention was that their 'frontages' would also face onto Tithebarn Lane. With the buildings sited as close to Tithebarn Lane as shown and with the ped/cycle crossings across it, there is an expectation that pedestrians and cyclists would be able to access the buildings from the street. Whilst the indicative details show at least Building A with a high number of window openings facing towards Tithebarn Lane, and with gaps between the buildings, the omission of any visible public entrances (secondary or otherwise), undermines the rationale for the placement of the buildings in the positions shown. Despite being more 'present' on the street than originally envisaged in the OFP, the result of turning the

buildings to open only onto the car parks would miss an opportunity to provide meaningful interaction with Tithebarn Lane and promote the widest range of sustainable travel opportunities.

16. In terms of other aspects of the layout, I can find no rationale for the omission of a pedestrian link to Blackhorse Lane from the mid-northern section of the site to link with the originally envisaged 'movement node'. Despite that the access to the site is closer to Blackhorse Lane than originally envisaged, the opportunity that this presents to maximise permeability and favour users of sustainable modes of travel should not be overlooked.
17. Drawing all of these elements together, the scheme could better promote the role of sustainable travel through a modest reduction in parking on site in combination with public entrances into each building from Tithebarn Lane. Increased permeability with a link to Blackhorse Lane and the enhanced role of landscaping as an integral part of the scheme are further aspects for inclusion within the FPAP and subsequent reserved matters application.
18. On the basis of the above, the current scheme fails to achieve the objectives of the OFP and DAS, and therefore conflicts with the requirements of Condition 3 of planning permission Ref 12/1291/MOUT and Strategies 3, 5B, 10, 13 and Policies D1 and D2 of the East Devon Local Plan 2013 – 2031 (adopted 2016). Collectively, these Policies seek to ensure new development contributes to the objectives of promoting and securing sustainable modes of travel and transport, enhance cycling and walking opportunities to link sustainable movement networks and secure attractive layouts with safe and convenient access.

Design of Building A

19. The parties agree that Building C is in fact a key architectural focus point of the scheme due to its prominent siting. Building A forms the focus of the FPAP in terms of the level of detail given that it would be likely to come forward as the first sub-phase of Phase 13.
20. There is no dispute about the level of detail submitted in relation to Building A, but more in relation to the lacking contextual awareness or ambition of the design rationale put forward. The appellant comments that there are commercial viability drivers for maintaining a proportionate and flexible approach to the final design.
21. I have found that the absence of an entrance onto Tithebarn Lane is a requirement to secure good design and thus, the submitted FPAP is unacceptable in this regard. Aside this aspect, I consider that the level of detail and design rationale for Building A would otherwise be logical. It would be a fairly typical, modern, office block design which would have some synergy with the nearby commercial buildings in terms of the overall form, subtlety of design and limited palette of materials and colours.
22. There would be an ability to further refine the building in relation to aspects such as solar shading and resource efficiency measures through the reserved matters application once an end user has been identified. As such, on the basis of the level of detail submitted, and notwithstanding that the proposal should be orientated or designed with dual frontages to face Tithebarn Lane, it could otherwise produce a building sufficiently designed for its context and purpose.

Though it would not be an 'exemplar' design, it would serve its intended role as part of a mixed use scheme which can offer more local employment opportunities to minimise the need to travel.

23. In terms of the orientation and frontage design, the details in relation to Building A do not set an acceptable design rationale to achieve compliance with Condition 3 of planning permission Ref 12/1291/MOUT. It therefore also conflicts with the Framework, at least insofar as it seeks to deliver visually attractive buildings as a result of good architecture, layout and appropriate and effective landscaping.

Buildings B and C

24. The submitted FPAP is more limited in relation to Buildings B and C than for Building A. The conceptual elevations, floor plans and CGI image refer only to Building A and the section on character, whilst referring to 'buildings' in the plural sense, rather than referring specifically to 'Building A', there is some room for doubt that the buildings will follow the same concept.
25. It is plausible that future FPAP submissions could be made to address Buildings B and C as a distinct subphase/s of development, but should it be intended that the condition be addressed for the whole of Phase 13, then my view is also that further details should be provided in relation to Buildings B and C to provide greater clarity.
26. In addition to details on the number of storeys, there is a need to ensure the Buildings have public entrances onto Tithebarn Lane. Given its prominent position, there should also be a key architectural focal point on the corner of Building C, which should be drawn out in more detail in the FPAP. The requirement for the building to take advantage of this corner position should not be overlooked. That said, the finer details in relation to design, such as solar shading and resource efficiency measures, could be addressed as part of a future reserved matters application.
27. In view of this main issue, the FPAP submission fails to provide sufficient information in relation to the design for Buildings B and C and therefore conflicts with the requirements of Condition 3 of planning permission Ref 12/1291/MOUT.

Conclusion

28. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR