
Appeal Decision

Site visit made on 4 August 2020

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

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Appeal Ref: APP/P1133/W/20/3248350

Land to the rear of Mount Pleasant Road, Kingskerswell, 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 Mr John Whiteway-Wilkinson of Springfield Estates (Torquay) Ltd against the decision of Teignbridge District Council.
 - The application Ref 18/01701/MAJ, dated 15 August 2018, was refused by notice dated 10 December 2019.
 - The development proposed is approval of details for 34 dwellings (approval of access, appearance, landscaping, layout and scale).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency. Furthermore, I have used the address for the appeal site as provided on the appeal form in the banner heading above.
3. The Council have advised that they have withdrawn the fifth reason for refusal as provided on the decision notice dated 10 December 2019 in respect of submitted plans. I therefore do not address this matter in the reasoning below.

Background and Main Issues

4. Outline planning permission (the Outline Planning Permission) was originally granted in August 2018 subject to a number of conditions¹.
5. The main issues in this appeal are:
 - Whether or not Reserved Matters approval can be granted for the appeal scheme given the position with regards to the application site boundary,
 - Whether or not the proposed development would provide adequate formal play space,

¹ Local Planning Authority Reference: 16/01961/MAJ

- Whether the details submitted pursuant to satisfy condition 15 of the Outline Planning Permission with regards to ecology, are adequate to ensure an acceptable form of development; and,
- Whether future residents would be likely to experience acceptable living conditions with regards to the siting, design and layout of the proposed development.

Reasons

Application Site Boundary

6. The fourth reason for refusal, as provided on the decision notice dated 10 December 2019, identifies a concern regarding the appeal scheme and that part of the development proposed would be located outside the application site boundary.
7. In this regard, the Appellant has put it to me that in the event that works were required which were located outside of the application site boundary, then such matters would be the subject of a separate planning application.
8. The appeal concerns a Reserved Matters proposal and, accordingly, Reserved Matters approval can only be granted for development subject of an outline planning permission. From the evidence before me, it appears that part of the proposed development would be located outside the outline appeal site boundary. In this regard, it appears that a fundamental part of the proposed development could not be implemented in the absence of the works which would be outside the outline appeal site boundary, and that works outside the outline site could not be undertaken without development occurring on the outline site.
9. In respect of this reason for refusal, I therefore conclude that the proposed development cannot be considered without regard to elements of the appeal scheme which would be located outside of the appeal site, and consequently such matters would have to be addressed by the Appellant and considered further by the Council. On this basis, I therefore cannot grant Reserved Matters approval.

Public Open Space

10. Notwithstanding the above, Policy WE11 of the Local Plan concerns green infrastructure and requires, amongst other things, that residential development provides at least 10 square metres per dwelling of children's' and young persons' play space plus any specific requirements set out in a site allocation policy.
11. Condition 10 of the Outline Planning Permission required that the proposed development provide the necessary amount of play space and include suitable provision for formal play. In this regard, the proposal indicates that sufficient space could be set aside within the site to provide an area upon which the formal play space could be positioned. Whilst I acknowledge the Appellant's submissions, the relevant condition did specifically refer to 'formal play' and therefore detailed submissions regarding the proposed play equipment would be required. However, matters such as the type and amount of formal play equipment to be provided could, in my view, be adequately secured by the imposition of an additional condition in relation to the appeal scheme.

12. Nonetheless, it is apparent from the information supplied that the play space would be positioned above an underground attenuation tank which would serve the development. In this respect, whilst I have very limited information as to how play equipment could be securely attached, there is no information or confirmation as to how the equipment would be positioned so as to ensure that maintenance or repair of the attenuation system could be achieved without disturbing or restricting the use of the required play space.
13. Consequently, given that it has not been demonstrated how the play space could be adequately and safely positioned within the appeal site, it cannot be said that the appeal scheme would accord with the requirements of condition 10 of the Outline Planning Permission. The appeal proposal would, for this reason, conflict with Policy WE11 of the Local Plan.

Ecology

14. Policy EN8 of the Local Plan emphasises the need to protect and enhance biodiversity. Policy EN12 of the Local Plan concerns woodlands, trees and hedgerows and requires that development should contribute to the protection and enhancement of these features.
15. The Outline Planning Permission included an approved ecological impact assessment which provided details on the measures designed to protect the ecology of the appeal site. In this regard, the ecological impact assessment, amongst other matters, provided that a buffer area would be included adjacent to the stream which is located in the southern section of the site, that existing hedgerows and trees would be retained and that approximately 245 metres of additional new hedgerows would be planted along the northern and eastern boundaries of the site and between the proposed built form of development and the abovementioned buffer area close to the stream.
16. Condition 15 of the Outline Planning Permission required that a Landscape and Ecological Management Plan (LEMP) which complied with the details of the ecological impact assessment be submitted and approved by the Council. In this regard, a LEMP was submitted which, the evidence before me indicates, was initially approved by the Council. However, it is also apparent from the submissions that the Council's initial advice changed upon further inspection of the LEMP.
17. Whilst it is acknowledged that the LEMP confirmed mitigation details such as the retention of hedgerows and provision of additional bird boxes amongst other matters, it did not include all of the measures put forward in the ecological impact assessment. In this regard, the proposed layout of the appeal scheme did not include any buffer area between the stream and the adjacent built form of the proposal, and, from the evidence before me, it appears whilst there would be additional hedgerow planting along the eastern boundary of the site, there would be a shortfall of approximately 145 metres of additional hedgerows when compared to the details submitted within the ecological impact assessment.
18. In light of the above, the LEMP does not accord with the details provided within the ecological impact assessment and there is therefore insufficient certainty that the appeal scheme would adequately mitigate the impact of the proposal on biodiversity, trees and hedgerows. Given these circumstances, it cannot be

said that the submitted LEMP would comply with the requirements of condition 15 of the Outline Planning Permission.

19. The Appellant has put it to me that a further and updated LEMP could be provided and secured by a further appropriately worded condition. However, in my view, it would not be possible to overcome this issue with the requirement that a further LEMP be provided, given that the additional measures, such as the buffer area adjacent to the stream, could result in later revisions having to be made to the overall layout of the scheme.
20. In conclusion of the above with regards to this main issue, the appeal scheme fails to comply with condition 15 of the Outline Planning Permission and would not comply with the requirements of Policies EN8 and EN12 of the Local Plan.

Living Conditions

21. The Council contends that the living conditions of future residents would be likely to be adversely affected by the siting, design and layout elements of the appeal proposal which, it is maintained, would fail to integrate with the surrounding built environment. The Council raises concerns with regards to a number of matters which concern individual elements of the proposal.
22. The proposal would provide a mixture of housing types. Whilst I note that there are some terraced forms of dwellings within the recent development at Charles Road, I find that the proposed mixture of housing would integrate well with the character of the nearby residential developments. Furthermore, while I note that the building line would be staggered in places and that garden amenity space varies from plot to plot throughout the proposed development, I conclude such arrangements would be necessary in order to reflect the contours and changes in land levels throughout the site. In terms of garden amenity space, it would appear that the proposal would reflect the position as provided within the nearby established residential areas.
23. I acknowledge that the recent development within Charles Road is, in part, characterised by buildings set back behind stone walls and that railings are also prevalent. However, dwellings located within Charles Road which did not form part of the recent development, are characterised by dwellings which are set back behind modestly sized front gardens, and which do not include walls or railings. Consequently, I find that the absence of railings or walls on the frontage of the proposed dwellings would not result in the appeal scheme failing to integrate with the adjoining built environment.
24. With regards to variety of materials to be used in the construction of road surfaces within the proposed development, it has been noted that Devon County Council would prefer to have all relevant surfaces be constructed with black top surface or imprint. The appeal proposal includes areas of paved carriageway as well as macadam and, in relation to this issue, I find that by including this variety of surfaces, the visual interest of the development would be enhanced. Whilst such variety in road surfacing is not commonplace within the locality, I conclude that its inclusion would not necessarily result in the proposed development failing to integrate with its surroundings or result in unacceptable living conditions for future residents.
25. In respect of the proposed bungalow which would be located close to the entrance of the site, whilst I acknowledge the Council's submissions, I find that

the dwelling would integrate well in terms of the surrounding built environment given that the separation distance between the building and its neighbour would be modest and would reflect the position with regards to the adjoining recent residential development within Charles Road. Furthermore, whilst the proposed bungalow would be separated from the proposed play space by parking and a wall, in my view the proposed dwellings on the opposite side of the carriageway which would face the proposed play space, would provide an appropriate sense of overlooking of this public space.

26. Notwithstanding the above, in terms of parking arrangements, I note that a significant portion of the proposed dwellings at the appeal site would incorporate parking spaces into the front garden amenity areas and, in some instances, these spaces would span across almost the full frontage of the relevant plot. In my view, such an arrangement would result in parking that would dominate the site's appearance and function.
27. Furthermore, by reason of the proposed levels of parking spaces available within the site and given that no separate parking would be provided for visitors, it is likely that there will be increased pressure to park vehicles on-street and which would be harmful in terms of road safety and congestion. In respect of parking arrangements, the proposal would therefore conflict with Policies S1 and S2 of the Local Plan and would not accord with the provisions of the National Design Guide 2019 which, together and amongst other things, seek to ensure development integrates into its surroundings and is not harmful in terms of road safety or increased road congestion.
28. Further to the above, and based on the evidence and information before me, there are significant concerns regarding waste and recycling bin storage within the site. In this regard, it is noted that the proposed bin storage area which would be located in the north eastern section of the site serving six properties which would front onto an unadopted road, would be insufficient in size to accommodate the required level of bin storage.
29. Furthermore, in terms of provision of bin storage throughout the remainder of the site, there is very limited information as to how and where bin storage for the individual plots would be located. In this respect, as noted above, frontages of a significant portion of the proposed dwellings would be dominated by parking space provision and, consequently, it would appear that there would be insufficient space to the front of individual plots to accommodate the bin storage requirements.
30. In light of the above, it is likely that bins would be stored within parking spaces or would occupy the remainder of the modest front garden areas which are found throughout the site. Such arrangements would be harmful to the character and appearance of the site and its immediate surroundings and would be likely to increase the pressure for on street parking within the development to the detriment of road safety. In this regard, the proposal would conflict with Policies S1 and S2 of the Local Plan and would fail to accord with the provisions of the National Design Guide 2019.
31. In summary of the above, whilst I conclude that the proposed mixture of housing, garden amenity space and materials used in certain features would be acceptable, I have found that the parking and household waste storage arrangements would result in a form of development which, overall, would not integrate into the surroundings and would be harmful to the living conditions of

future residents. When taken as a whole, the proposal therefore conflicts with Policies S1 and S2 of the Local Plan and would fail to accord with the provisions of the National Design Guide 2019.

Other Matters

32. Weighing in favour of the appeal scheme, I acknowledge that the proposal would provide social benefits in terms of additional housing including the provision of seven affordable dwellings, at a site which is conveniently located with regards to access to services and facilities. In terms of economic benefits, the proposed development would provide employment opportunities during the construction phase, with further longer term benefits being provided through the spend of future occupants within local businesses.
33. Whilst these benefits are materially positive, in my view, such benefits do not outweigh my findings with regards to the harm identified above and the resulting development plan conflict, to which I attach significant weight
34. Interested parties raise several additional objections to the proposal including potential noise and disturbance, potential loss of privacy, drainage and highway safety. These are all important matters and I have taken into account all of the evidence before me. However, given my findings in relation to the main issues, these are not matters that have been critical to my decision.

Conclusions

35. For the reasons given above, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR