



Appeal Decision

Site visit made on 6 October 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/D0840/W/20/3254932

Land on the north side of Lake Lane, Liskeard, Cornwall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Linden Homes South West against the decision of Cornwall Council.
 - The application Ref PA19/04221, dated 13 May 2019, was refused by notice dated 11 February 2020.
 - The application sought planning permission for the resubmission of refusal PA16/09328 to allow for the replan and plot substitution of phase 7 of development site to allow for the erection of 45 dwellings and associated works (part of larger site that already benefits from approval 07/01820) without complying with a condition attached to planning permission Ref PA17/05618, dated 23 March 2018.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".
 - The reason given for the condition is : For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission has been granted for a scheme of 45 units on the appeal site. This proposal seeks a new planning permission, by varying condition 2 of the earlier permission, to accommodate 45 dwellings with changes including to the form and layout, it is argued, that would better reflect the slope of the land. It is explained this would reduce the need for engineering structures and spoil removal.
3. I noted at my site visit that some of the dwellings had been constructed on site, it appears, in accordance with the proposed levels and layout. At the appeal stage, representations have been received from the occupier of 135 Catchfrench Crescent raising concerns with overlooking from the raised platform area attached to the rear of the recently constructed dwelling (Plot 173) adjoining her property. The appellant has set out comments to seek to address these concerns at the final comments stage and therefore no party would be prejudiced by my consideration of this matter as another main issue.

Main Issues

4. The main issues are:

- whether the proposal would provide a satisfactory site layout, especially with regard to the parking areas and the character and appearance of the area, and
- the effect of the raised platform to the rear of Plot 173 on the living conditions of the occupiers of 135 Catchfrench Crescent, with particular regard to any overlooking.

Reasons

Layout

5. The site is located within the built up area of Liskeard and is accessed via a network of roads some of which are fronted by more recent housing developments. This housing generally faces the curving roads, steps up the land with a variety of ridge levels reflecting the slope, and with parking and some landscaping often to the frontage. The appeal site is an area of sloping land adjoining the built form of Liskeard and is accessed from the adjoining residential road.
6. With the approved scheme, the main spine road had a gently curving form and this allowed the siting of the adjoining buildings to have a layout that would provide some variety within the street scene and that would broadly reflect the character of the adjoining residential areas. While car parking areas would be prominent there was some spacing between the blocks and the plans showed some areas for structural landscaping as part of the overall proposal.
7. Much of the revised layout is similar to the approved scheme and the proposed finished floor levels for those buildings fronting Jago Close and Golitha Rise would not be out of character with the surroundings. Within the main part of the site, the spine road would be linear in form and the buildings on either side would be regimented in layout. While this would be different to the pattern of some of the surrounding streets, the spacing between the dwellings on Plots 203-210 on one side of the road and those opposite would be reasonably well separated and, consequently, there would be a feeling of some spaciousness within the road. The buildings in both rows would have ridges which step down the slope and this would provide a characteristic feature of the area and one that would provide some variation to the street scene. The dwellings at the end of the spine road would provide a sense of enclosure and, therefore, I consider that the layout of the road and buildings themselves, with the accompanying levels, would be acceptable.
8. However, the road would be dominated by the position of the proposed car parking. From Plot 179 to Plot 194 there would be a fairly long, straight and almost continuous stretch of car parking spaces and this would be mirrored to a lesser extent on the other side of the road. The blocks of parking would not be an attractive feature and the token areas of landscaping between spaces would not be integrated sensitively into the built form so as to acceptably soften the appearance of the street scene. The undue prominence and extent of the car parking would, therefore, not add to the overall quality of the area or establish a strong sense of place as required by the National Planning Policy Framework (the Framework).

9. I appreciate that the proposal would provide an additional 5 car parking spaces compared with the earlier approval. In terms of numerical provision this would be beneficial and the spine road would be finished in block paving rather than tarmac which may be visually more attractive. I have also taken into account the housing scheme to the south which, it is said, provides a similar layout approach to the present scheme, although it seems to have some greater variation to the road layout and landscaping. Even taking these matters into account, they do not outweigh the harm that would be caused by the proposed layout of the car parking spaces along the sides of the spine road which would materially diminish the approved scheme and result in a layout that would not achieve a well-designed place.
10. In the light of the above analysis, I conclude, while the layout and the finished floor levels of the buildings would be acceptable, the impact from the car parking areas identified above would not provide a satisfactory site layout. The proposal would thereby harm the character and appearance of the area. Accordingly, the scheme would not comply with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) and Policy H9 of the Liskeard Neighbourhood Development Plan which, amongst other things, encourage a high standard of design.
11. Furthermore, it follows that the scheme would not comply with the design requirements of the Framework, the National Design Guide, the Cornwall Design Guide 2013 and the Chief Planning Officer's Advice Note on Good Design in Cornwall.

Living Conditions

12. Compared with the approved scheme, the finished floor level of Plot 173 has been raised. The result is that the front elevation relates satisfactorily with the areas to the front of the building. However, at the rear, the effect is to raise the ground floor up above the garden level. Egress from the rear double patio doors is now onto a raised platform with steps down to the garden. The level of the platform is set at about the top of the side boundary fence.
13. The raised platform is a size which would allow sitting out and when used by the future occupiers of Plot 173 there would be direct and reasonably close views towards the kitchen window, balcony and garden of 135 Catchfrench Crescent. This would cause a harmful level of overlooking.
14. The appellant has suggested that this could be addressed by the provision of a privacy screen to the side of the raised platform as well as an enhanced boundary treatment such as a 2m high fence with trellis above and a planting scheme. This approach would help to reduce overlooking.
15. However, the raised platform is reasonably close to the boundary and, notwithstanding the provision of a side privacy screen, there is still likely to be views from some of the steps and the area of the platform near the top of the steps down across parts of the rear garden of No 135. This would lead to overlooking to these areas and I do not have the information that satisfies me that this concern could be addressed by changes to the fence and planting. A privacy screen around the raised platform and steps of a scale and extent to ameliorate this impact would, in all likelihood, be harmful to the amenities of the future occupants of Plot 173.

16. Accordingly, I conclude that there is not the clear evidence which demonstrates that the raised platform could be altered, together with planting and fencing alterations, that would address the overlooking concerns which I have identified. In these circumstances, it would not be appropriate in any permission to seek to address this matter by way of planning conditions. Consequently, the proposal would not have an acceptable relationship with the adjoining property in terms of the provision of adequate living conditions and this would conflict with Policy 12 of the Local Plan, which seeks, in this respect, to protect individuals and property from overlooking and unreasonable loss of privacy.

Other Matters

17. The scheme would provide 45 units of accommodation and there would be other benefits such as the footpath link to adjoining neighbourhoods and the completion of this site for housing which has been stalled for some time. However, while the present scheme may be more deliverable than the earlier approval because of the proposed finished floor levels and engineering changes, the previous permission is extant and could still be delivered on the site. That scheme would also provide 45 units and with a layout that would not have the design concerns that I have identified with the appeal proposal. Consequently, the presence of the earlier approval, with the same level of planning obligations that would be provided in this case through the deed of variation, lends little weight in support of the present scheme.
18. The present proposal would be delivered in association with a registered housing provider and all the units would provide affordable housing. This is a significant benefit of the proposal. However, the provision of this level of affordable housing (over and above the obligation required as part of the approved scheme) would not be secured by a planning obligation and therefore in these circumstances, it does not afford any more than limited weight.

Conclusion

19. For the reasons given above, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR