The Planning Inspectorate

# Appeal Decision

Site visit made on 8 December 2020

**by M Bale BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 January 2021**

**Appeal Ref: APP/Y1110/W/20/3257530**
**Land off Tithebarn Lane, Exeter**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by K Oram-Evenett, KD Homes against the decision of Exeter City Council.
- The application Ref 19/0952/OUT, dated 10 July 2019, was refused by notice dated 13 February 2020.
- The development proposed is residential development of 10 homes with new vehicular access to Tithebarn Lane.

## Decision

1. The appeal is dismissed.

## Procedural matter

2. The appeal relates to an application for outline planning permission. All matters are reserved for subsequent consideration. Therefore, I have treated the submitted drawings as illustrative.

## Main Issues

3. The main issues are the effect on the character and appearance of the area and the effect on living conditions of future occupiers of the site.

## Reasons

4. The M5 motorway runs alongside the site in a cutting. An acoustic impact assessment (AIA) indicates that an adequate internal acoustic environment can be achieved through careful design of the dwellings. However, to provide acceptable noise conditions in the external living spaces, further mitigation would be required. The AIA suggests that this could be provided through a 7m vertical screen or bund along the upper ridge of the site.

5. The appellant is seeking only outline planning permission with all matters reserved. It may be that other solutions are available following detailed consideration of the layout, but no particular proposals are before me. Final details of the screen/bund could be dealt with by condition or as part of any reserved matters application, but in the absence of detailed alternatives, the AIA provides the best available evidence as to the likely requirements.

6. Views are available across the motorway of the existing, recently constructed, dwellings that adjoin the site's opposite boundary. Although the area has an urban edge character, the landscaped appearance of the motorway

embankments and views across the wider landscape and townscape give a fairly open appearance. Any solid structure in the location and size shown in the AIA would be visually dominant and incongruous with this.

7. It may be that a softer, landscaped bund could be used to provide the mitigation, but it would still be of considerable height and there is no substantive evidence around the required land take or its appearance. In the absence of a detailed scheme, I, therefore, conclude that the necessary noise mitigation would have an adverse effect on the character and appearance of the area, contrary to Objective 9 and Policy CP17 of the Exeter Core Strategy 2012 (CS), and Policy DG1 of the Exeter Local Plan First Review 2005 (LP) that seek to ensure that development complements or enhances local character and distinctiveness, integrating proposals into the existing landscape of the city.

8. Although layout is a reserved matter, the noise barrier is also likely to have a significant effect on the outlook of at least some of the dwellings. While adequately sized dwellings and gardens could be provided, the considerable height of the required bund is likely to dominate external living spaces, if not the internal rooms themselves. The layout plans provided are for illustrative purposes only, but they do not provide any indication that an appropriate layout could be achieved relative to the required noise bund.

9. In the absence of such evidence, I conclude that the proposal would result in harmful living conditions to future occupiers. The proposal is, therefore, contrary to CS Objective 9, LP Policies DG4 and EN5 that seek to raise the quality of urban living, ensure that development provides a quality of amenity which allows residents to feel at ease within their homes and gardens and for noise to be mitigated so as to achieve an acceptable environment.

10. The Council is also concerned about the relationship to existing residents, but due to their orientation and position of windows and gardens, it is likely that development at the appeal site would not harm their living conditions. It is also likely that any dwellings could be appropriately designed to respect the characteristics of the surrounding built form.

11. The Council is unable to demonstrate a 5 year supply of deliverable housing land. As such, paragraph 11(d) of the National Planning Policy Framework (the Framework) must be considered. In the absence of an adequate land supply, the benefits arising from the delivery of 10 new dwellings are of substantial weight, especially as the site is in a generally appropriate location for development and is part of a larger housing allocation.

12. However, the Framework also requires development to create places with a high standard of amenity for future users, be visually attractive and sympathetic to local character, including its landscape setting. The evidence before me does not demonstrate that such can be achieved. The harm that I have identified in that regard significantly and demonstrably outweighs the benefits when considered against the Framework read as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development set out at Framework paragraph 11.

13. The proposal is in conflict with the development plan. With regard to the foregoing, I find that material considerations in this case do not indicate a decision otherwise than in accordance with it.

14. Therefore, I conclude that the appeal should be dismissed.

*M Bale*

INSPECTOR