



Appeal Decision

Site Visit made on 1 March 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/Y1138/W/20/3264331

12 Kabale Close, Tiverton EX16 5QB

- 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 Mr & Mrs G Wright against the decision of Mid Devon District Council.
 - The application Ref 20/00622/OUT, dated 21 April 2020, was refused by notice dated 5 November 2020.
 - The development proposed is the erection of one detached dwelling.
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Decision

1. The appeal is allowed and outline planning permission granted for the erection of one detached dwelling at 12 Kabale Close, Tiverton EX16 5QB in accordance with the terms of the application Ref 20/00622/OUT, dated 21 April 2020, and subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) Construction works shall not take place outside 07.30 hours to 19.00 hours Mondays to Fridays and 07.30 to 13.00 hours on Saturdays and at no time on Sundays, Bank Holidays and Christmas Day.

Applications for costs

2. An application for costs has been made by Mr & Mrs G Wright against Mid Devon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application has been made in outline with all matters reserved. The plans show a potential layout with landscaping for the development and I have considered this as indicative of what the appellant has in mind for the proposal. A signed and dated Unilateral Undertaking (UU) has been submitted which provides a contribution to public open space/play area and I will consider this matter later.

Main Issues

4. The main issues are:

- whether the proposal could be provided with a suitable vehicular access, and
- the effect of the proposed access to the site on the living conditions of the occupiers of nearby residential properties.

Reasons

Access

5. Although access is a reserved matter, if outline permission was to be granted then, as a matter of principle, some form of development of the site for a dwelling would be expected to take place. As there is effectively only one means of access from the site to the public highway it is appropriate to consider whether the site can be provided with a suitable access at the outline stage.
6. Kabale Close is a cul-de-sac of fairly modern, mainly semi-detached houses. The properties generally have a garage and a driveway area that provides the parking provision for each property. The road has a shared surface with no footway.
7. 12 Kabale Close is located at the end of one section of the cul-de-sac and has a drive which leads from the end of the road to a single garage. The garage is attached to another garage which serves an adjoining property.
8. The proposed site for the dwelling would be accessed by an extension to the present drive following the demolition of the single garage associated with No 12. The drive would not meet with the standard width requirements of the County Highway Authority and would be set at an angle from the end of the road. However, the proposed access drive would be approached from a fairly gently curving section of Kabale Close such that the alignment onto the angled drive would not present an especially difficult layout for drivers. In all likelihood, because of the nature of the road, vehicles would be moving fairly slowly at the end of the cul-de-sac and drivers to the new property and the parking area for No 12 would, based on all the evidence and my observations on site, be able to manoeuvre satisfactory past any parked cars and onto the adjoining drive and along the access.
9. Even if I was to accept the width dimensions that local residents who object to the scheme have set out in their submissions and the effect of making good the end gable of the garage, the reasonably short length of drive to the proposed property would not present a demonstrable highway concern or be so narrow as to restrict the typical types of vehicles that would generally need to access the site. The drive is already used by existing vehicles to access the garage and the section beyond that could be slightly wider in front of No 12 before entering the parking area for the proposed dwelling. With the overall reasonably short section of restricted width to the boundary of the proposed dwelling site, the access as a whole would be satisfactory for its intended purpose.
10. I consider there would be space within the front garden of No 12 to park two vehicles, even taking into account the position and size of the porch. The turning into these spaces would be restricted but achievable and any extra

manoeuvring across the proposed drive should not normally affect the free flow of traffic in Kabale Close.

11. Two parking spaces could be provided for No 12 and this would replicate the existing numerical provision of a space and a single garage¹. The proposed dwelling could be provided with parking to the appropriate standard and a layout agreed at the reserved matters stage. As a consequence, while local residents have raised issues with car parking locally, there is no robust evidence that the scheme would lead to increased levels of parking off site that would materially add to local parking issues.
12. The Council raised directly with the County Highway Authority the issues with regard to the width of the access and it provided specific advice. The Highway Authority confirmed that the proposal would not cause a severe impact on the highway network and commented that although the access is slightly narrower than the guidance, this would not be a concern for the County Highway Authority. I have taken into account all the objections raised to the use of the access drive, including from local residents, however, I place substantial weight on the advice of the Highway Authority in this case.
13. It follows from the above that the scheme would comply with the National Planning Policy Framework (the Framework) policy requirement that development should ensure a safe and suitable access to sites can be achieved for all users.
14. In the light of the above analysis, I conclude that the proposal would be provided with a suitable access and, as a consequence, would comply with Policy DM1 of the Mid Devon Local Plan 2013-2033 (the Local Plan) and the Framework which in this respect, notably, seeks that new development should create safe and accessible places.

Living conditions

15. The properties in Kabale Close are generally set back from the road behind front gardens. The road already serves a number of dwellings with associated vehicle movements and the appeal proposal would add one further dwelling to the Close. The additional traffic movements associated with a further dwelling would be unlikely to be at a level that would materially add to any effect from the existing vehicles on the living conditions of residents generally within the Close.
16. The new access drive would pass in front of 10 Kabale Close. With the garden separating the house from the drive, the relationship would not be untypical of layouts generally found in other residential areas. In all likelihood, vehicles would be moving reasonably slowly to the two adjoining properties because of the nature of the drive and the offset alignment which has been discussed above. In the circumstances of the proposed access layout, and the transitory impact resulting from the traffic movements associated with two dwellings, the situation, in my judgement, would not have a material and adverse effect on the living conditions of the occupiers of No 10.
17. The impact on the residents of No 12 would only be in relation to those traffic movements to the proposed dwelling. The property would be separated from

¹ I have noted the calculation of parking spaces as set out in the Council Committee Report and the reference to the Mid Devon 'Provision of parking in new development' Supplementary Planning Document.

the drive by its parking area and for the reasons explained in relation to No 10, the impact of the development would not result in a harmful arrangement.

18. Accordingly, I conclude that the effect of the proposed access to the site would not be likely to materially affect the living conditions of the occupiers of nearby residential properties and thereby the development would accord with Policy DM1 of the Local Plan and the Framework in this respect.

Other Matters

19. I have taken into account all the representations submitted both at the application and appeal stages. These include letters of objection, the petition from local residents in Kabale Close who are opposed to the development and the objections set out by Tiverton Town Council. I have examined the key issues that have been raised in the analysis above.
20. Additionally, it is also argued that the proposed dwelling is not needed in this location because there are larger developments being delivered elsewhere to meet the housing targets. However, those targets are not maxima and the proposal would assist in a small way with the Framework objective of significantly boosting the supply of homes and supporting the development of windfall sites. The Framework requires that great weight be attributed to the benefits of using suitable sites, such as this, within existing settlements for homes.
21. 12 Kabale Close would lose its garage to make way for the development. However, the provision of two dwellings without garages, whilst they would be the exception in the road, would not result in the development being visually unacceptable. This is because the layout of the access drive would be suitable, the site next to No 12 would be satisfactory in size and accord with the general pattern of development, and an acceptable design for the dwelling could be secured at the reserved matters stage. Overall, the scheme would maintain the area's prevailing character and setting as required by the Framework.
22. The details of the layout at the reserved matters stage could also ensure that the proposed dwelling did not cause overlooking of other properties or lead to an unacceptable loss of privacy for adjoining occupiers.
23. Submissions make the case that the proposal would breach a range of covenants that apply to the estate. However, the covenants appear to be private legal matters and therefore are not key issues which can be considered in the context of a planning appeal which needs to focus on material planning considerations.

Unilateral Undertaking

24. The Council has confirmed that it does not wish to pursue the UU at this time as the Local Plan explains that smaller housing developments are not required to provide a public open space contribution. Accordingly, the UU would not be necessary to make the development acceptable in planning terms. The UU would, therefore, not meet with the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and I afford it no weight in my considerations.

Conditions

25. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The standard outline conditions are necessary in the interests of certainty.
26. Additionally the Council seek a condition which would set out what information would be required at the reserved matters stage, including landscaping details and materials. These are detailed matters which can be covered by a reserved matters submission and it is not necessary for a condition to specify them at the outline stage.
27. A condition restricting working hours is necessary to protect the amenities of occupiers of the adjoining residential properties.

Conclusion

28. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that, subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR