
Appeal Decision

Site visit made on 23 March 2021

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

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/K1128/W/20/3264409

Land Adjacent 40 Weymouth Park and Rear of Lothlorien, Hope Cove, Kingsbridge TQ7 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by P Hibbert & Tenby London Ltd against the decision of South Hams District Council.
 - The application Ref 4175/19/PIP, dated 19 December 2019, was refused by notice dated 5 June 2020.
 - The development proposed is a new 2 bedroom dwelling.
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This decision is issued in accordance with section 56(2) of the Planning and Compulsory Act 2004 (as amended) and supersedes the decision issued on 6 April 2021.

Decision

1. The appeal is allowed and permission in principle is granted for a new 2 bedroom dwelling at Land Adjacent 40 Weymouth Park and Rear of Lothlorien, Hope Cove, Kingsbridge, TQ7 3HD, in accordance with the terms of the application, Ref:4175/19/PIP, dated 19 December 2019.

Background and Main Issue

2. The appeal proposal is for a Permission in Principle. In accordance with the Planning Practice Guidance (the PPG) and the Town and Country Planning (Permission in Principle) Order 2017, this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage). Planning permission does not exist unless both the permission in principle and the technical details are approved. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme. As the appeal does not relate to technical details, I have taken the submitted plans to be illustrative only.
3. The PPG advises that the scope of permission in principle applications at the first stage, is limited to location, land use and amount of development. The amount of residential development must be expressed as a range, indicating the minimum and maximum number of new dwellings. In this case, permission for up to one dwelling is being sought. I have determined the appeal on this basis.
4. In light of the above and the submissions of the main parties, the main issue is whether the principle of the proposed development is acceptable, having

regard to the location of the appeal site and to policies of the development plan.

Reasons

5. The appeal site comprises the northern section of the rear garden at Lothlorien and an undeveloped, modestly sized, area of land which is accessed from Weymouth Park. The site is surrounded by residential development, with a public right of way located adjacent to the western boundary of the site and which connects Weymouth Park to the South West Coast Path. The site is located within the South Devon Area of Outstanding Natural Beauty and Heritage Coast.
6. The development plan comprises the policies of the Plymouth and South West Devon Joint Local Plan 2014- 2034 (the JLP). The evidence before me indicates that the Emerging South Huish Neighbourhood Development Plan 2019 -2034 (the SHNDP) has reached an advanced stage, although the referendum has been postponed to some date to be determined, during May 2021, due to the Covid-19 pandemic. Whilst not yet part of the Development Plan, the Council acknowledges that this post-examination plan is a material consideration which attracts substantial weight in the determination of this appeal. In accordance with Paragraph 48 of the National Planning Policy Framework (the Framework) I have attached substantial weight to the policies of the SHNDP in the determination of this appeal.
7. The evidence before me indicates that Hope Cove is a settlement which provides access to a range of services and facilities. Criterion 4 of Policy TTV1 of the JLP provides that development will be permitted in such locations only if it can be demonstrated that it supports the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2 of the JLP.
8. Policy SPT1 identifies a range of principles of sustainable development. Policy SPT2 details a number of principles of sustainable linked neighbourhoods and sustainable rural communities. This policy, amongst other matters, requires development to support the creation of neighbourhoods and communities which have a good balance of housing types and tenures to support a range of household sizes, ages and incomes to meet identified housing needs.
9. The Council have put it to me that that part of the appeal site which is located within Weymouth Park, represents an area of valuable greenspace within the residential area which is integral to the character of this part of Hope Cove and integral to enjoyment of the abovementioned public right of way which runs adjacent to the appeal site. The evidence before me indicates that this part of the appeal site was originally identified as a 'Local Green Space' within the early drafts of the SHNDP. However, it is acknowledged by the Council that following examination of the draft SHNDP, it was determined that this part of the appeal site did not satisfy the relevant test of the Framework with regards to Local Green Space designation and, consequently, was not included within the SHNDP.
10. That part of the site within Weymouth Park is undeveloped and, at the time of visit, appeared as a well-maintained area of relatively level land. Dwellings within Weymouth Park are predominately set back from the highway, giving this estate a somewhat open appearance. In this respect, by reason of the

surrounding and nearby residential development and well-maintained gardens, in my view the appeal site does not significantly contribute to the somewhat established open appearance of the estate. Consequently, a dwelling that reflected local distinctiveness in terms of scale and design would not necessarily be at odds with this character.

11. Furthermore, whilst the Council's contention that the appeal site frames the entrance into Weymouth Park from the adjacent public right of way is noted, as I observed on my site visit, when travelling from the South West Coast Path towards the estate, by reason of its constrained nature, visibility into the site was very limited. In this regard, it was noted on my visit that once the user of the public right of way approached the point where the footpath joined the pedestrian footway within Weymouth Park, it was apparent that they were entering into a residential estate. The appeal site did not appear to provide expansive open views across the area to the east of the site and, in my view, a suitably scaled and designed dwelling would be seen in the context of the nearby residential development and would not be harmful to the enjoyment of the public right of way.
12. It is noted that the examination into the SHNDP concluded that the appeal site did not hold a particular local significance and therefore should not be designated as Local Green Space. Consequently, and again in combination with the above reasons, I find no conflict with Policy DEV27 of the JLP which concerns 'Green and play spaces'. Furthermore, as noted above, the appeal site is not identified as a Local Green Space within the SHNDP and, consequently, the appeal proposal would not conflict with Policy SH Env4 of the SHNDP.
13. The appeal proposal would be located within a settlement that provides access to services and facilities and development of the appeal site would not interfere with the ability of local residents to continue to access public open spaces located close to Weymouth Park. The proposal would make a contribution of a two-bedroom dwelling towards housing supply, within a settlement which provides convenient access to services and facilities. The evidence before indicates that there is an imbalance in the local housing stock with regards to two-bedroom dwellings and, consequently, the appeal scheme would contribute towards redressing that imbalance. In combination with the above reasons, I find that the appeal scheme would comply with the provisions, aims and objectives of Policy SPT2 of the JLP.
14. I have had regard to the substantial number of comments provided by local residents and interested parties. Concerns have been raised regarding a number of other matters which include: disturbance and interference with the adjacent public right of way during construction works; drainage; scale and layout of development; and restricting occupancy of the proposed dwelling to those with a local connection. However, these are not matters which would fall within the scope of consideration for the first stage of the Permission in Principle consent route. These issues will need to be addressed as part of the technical detail stage of the process as described above.
15. Further to the above, it is noted and acknowledged by both the Council and the Appellant that that part of the appeal site which is located within Weymouth Park, has been maintained by local residents. It has been put to me by interested parties that the actions of these local residents over a period of time

would give rise to a right of way over that part of the appeal site by reason of prescription. Whilst the comments and details provided are acknowledged, whether such rights over land exist is a civil matter which is outside the scope of this section 78 appeal.

Conclusions

16. For the above reasons, I conclude that the appeal should be allowed and permission in principle for a new two bedroom dwelling is granted. As stated in the PPG, it is not possible for conditions to be attached to a grant of Permission in Principle and I have therefore not considered such matters in the determination of this appeal.

A Spencer-Peet

INSPECTOR