

Appeal Decision

Site Visit made on 22 June 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/K1128/W/21/3270732

Hartlands, Lodge Lane, Brixton PL8 2AU

- 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 Mr Tom Rowley against the decision of South Hams District Council.
 - The application Ref 2243/20/VAR, dated 21 July 2020, was refused by notice dated 17 December 2020.
 - The application sought planning permission for construction of four new dwellings, with associated access road, landscaping and infrastructure including demolition of existing stables/outbuildings without complying with a condition attached to planning permission Ref 3055/17/FUL, dated 15 February 2019.
 - The condition in dispute is No 2 which states that:
The development hereby approved shall in all respects accord strictly with drawing number(s):
3608 50 Proposed Block Plan
14499 – 200 – Rev P3 Foul and Surface Water Drainage Layout
3608 10 Q Proposed Site Plan
3608 11 D Proposed Long Site Section A-A
3608 12 E Proposed Landscape Plan
3608 13 F Proposed Site Entrance
3608 23 B Plots 3 & 4 - Proposed Floor Plans Elevations & Sections
3608 25 A Plots 1 & 2 Garages Floor Plans & Elevations
3608 22 B Plots 1 & 2 - Proposed Floor Plans Elevations & Sections
received by the Local Planning Authority on 12 September 2017 and 14 June 2018
 - The reason given for the condition is:
To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.
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Decision

1. The appeal is allowed and planning permission is granted for construction of four new dwellings, with associated access road, landscaping and infrastructure including demolition of existing stables/outbuildings at Hartlands, Lodge Lane, Brixton PL8 2AU in accordance with the application Ref 2243/20/VAR dated 21 July 2020, without compliance with condition number 2 previously imposed on planning permission Ref 3055/17/FUL dated 15 February 2019 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal seeks permission to alter the external materials to be used on two of the dwellings. Specifically, it proposes the omission of the stone-facing shown on the approved plans in favour of a rendered finish. The application sought to achieve this through the removal or variation of Condition 3, which

required the submission of details of external materials for approval prior to their installation. However, Condition 2 of the planning permission requires that the development shall in all respects accord strictly with the drawings submitted for approval. These drawings show stone-facing on the two plots in question. Consequently, the omission of the stone-facing requires variation or removal of Condition 2.

3. My consideration of the variation or removal of Condition 2, rather than Condition 3, would not alter the nature of the development that is being proposed. It would not, therefore, deny those who have been consulted through the planning application process the opportunity to comment on the proposal. Therefore, after consultation with the parties, I have determined the appeal on this basis.

Main Issues

4. The main issue is the effect that varying the condition would have on the character and appearance of the area.

Reasons

5. The appeal site lies on the edge of Brixton, with open countryside to the north and west. It is long and narrow, with a vehicular access at its eastern end off Lodge Lane. The four dwellings permitted by the previous planning permission are all nearing completion. Plots 3 and 4 are sited one behind the other, near to the access point. The appeal relates to Plots 1 and 2, which lie a considerable distance away at the western end of the site. These two plots are at a lower level, and are served by a private drive, which meanders around Hartlands, the existing dwelling on the site. There are high boundary hedges and trees to the north and south, but the lower hedge at the western end of the site allows views to the fields beyond.
6. The four dwellings, as approved, would be similar in scale, form, and materials. They would all be substantial two-storey houses with gabled roofs of natural slate, and walls clad in a mixture of render, stone, and timber-effect weatherboarding. However, Plots 1 and 2 would be of a different detailed design to Plots 3 and 4. Consequently, in view of the distance that separates them, the difference in levels, and the presence of Hartlands that intervenes between them, the houses appear as two pairs of dwellings, rather than as a group of four. The omission of the stone cladding from Plots 1 and 2 would not, therefore, result in an obvious loss of unity within the overall development.
7. Plots 3 and 4 can be viewed together from the site entrance, with the backdrop of the countryside beyond. The stone gables and slate roofs are appropriate in this setting, and the two houses appear as a coherent pair. Plots 1 and 2 are not readily visible from here, being at a lower level and hidden behind Hartlands, which has rough-cast rendered walls and an artificial slate roof. Only the roofs of the houses can be seen, and these are natural slate, in keeping with Plots 3 and 4. From this viewpoint the use of render on the walls, rather than stone, would have no impact on the coherence of the group, or the character and appearance of the area in general.
8. The east elevations of Plots 1 and 2 are visible from viewpoints within the site. The gable of Plot 2 can be seen from a point directly in front of Plot 3. However, when viewed from this location, it is seen in closer association with

the rough-cast exterior of Hartlands, which is within the same field of vision. The rendered walls of the adjacent house, Sandways, are also visible from here. Plots 3 and 4 are behind the viewer, so they are not seen in juxtaposition with Plots 1 and 2. In any event, the approved west-facing elevations of Plots 3 and 4 would, largely, be rendered. Consequently, the use of render, rather than stone, on the east-facing elevations of Plots 1 and 2 would not appear out of keeping with their context, or with the character of the overall development.

9. The houses on Plots 1 and 2 are visible across open fields from the A379 to the west. The omission of stone from the rear gables would, therefore, be evident. However, from here the houses are seen largely in isolation, because Plots 3 and 4, and Hartlands, are screened by boundary hedging and trees. As render is a traditional material in the locality, it does not appear incongruous in these rural surroundings. Whilst stone is also a vernacular material, the few other isolated buildings that are visible from this location are of render and slate construction. The use of stone would not, therefore, be necessary to ensure that the development assimilates into its rural surroundings.
10. The configuration of Plots 1 and 2, with projecting gables and differing ridge heights, dictates that each of their elevations is multi-faceted. The overall mass of the buildings is, therefore, broken down into smaller constituent elements, with shadow lines emphasising the different planes of the facades. Furthermore, the use of weatherboarding on the upper levels of the houses, and large areas of glazing, avoids extensive expanses of unrelieved wall space. Consequently, whilst the original proposal for stone would have added further variety, its omission would not materially diminish the quality of the development, so would not be contrary to paragraph 130 of the National Planning Policy Framework (the Framework).
11. I therefore conclude that varying the condition to allow the omission of the external stonework on Plots 1 and 2 would not harm the character and appearance of the area. Consequently, the proposal would comply with Policies SPT1, SPT2, DEV20 and DEV23 of the Plymouth & South West Devon Joint Local Plan 2014-2034 and Policy Dev2 of the Brixton Parish Neighbourhood Plan 2014-2034. These policies seek to ensure that development proposals conserve and enhance local distinctiveness, landscape, and townscape, by meeting good standards of design that are appropriate to their context. The proposal would also accord with the Framework's aim of achieving well-designed places.

Other Matters

12. The evidence indicates that the original planning permission, granted under reference 3055/17/FUL, was the subject of a Section 106 Agreement to secure financial contributions to mitigate the impact of the development on education services. The outcome of this appeal results in a new permission being created, which is not governed by the obligations in the Agreement. However, the Council has confirmed that the financial contributions have been paid to Devon County Council, and that no Deed of Variation is required. Consequently, no further action is necessary in respect of planning obligations.

Conditions

13. The Planning Practice Guidance says that, to assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the

relevant conditions from the original planning permission, unless they have already been discharged. If certain conditions have already been discharged, that is a matter for resolution between the parties. As the development is already well underway, it is unnecessary to reimpose Condition 1 of the original permission, which required commencement within a set timescale.

14. I have imposed a condition requiring compliance with the approved drawings, but have amended the list of plans to include the drawing showing the elevations of Plots 1 and 2 without the stone-facing.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 3608 50 - Proposed Block Plan; 14499 - 200 - Rev P3 - Foul and Surface Water Drainage Layout; 3608 10 Q - Proposed Site Plan; 3608 11 D - Proposed Long Site Section A-A; 3608 12 E - Proposed Landscape Plan; 3608 13 F - Proposed Site Entrance; 3608 23 B - Plots 3 & 4 - Proposed Floor Plans Elevations & Sections; 3608 25 A - Plots 1 & 2 Garages Floor Plans & Elevations; 3608 22 B - Plots 1 & 2 - Proposed Floor Plans & Sections only; J215 - 50 - Proposed Elevations - Plots 1 & 2.
- 2) Prior to their installation details and samples of facing materials, and of roofing materials to be used in the construction of the proposed development shall be submitted to, and approved in writing by, the local planning authority. The development shall then be carried out in accordance with those samples as approved.
- 3) Before development proceeds above slab level, full details of a hard and soft Landscape Scheme to include tree and hedge planting shall be submitted to, and approved in writing by, the local planning authority. The Landscape Scheme shall be prepared by an appropriately qualified professional and shall include:
 - materials, heights, levels and extent of hard landscape treatment, including access and hardstanding areas;
 - materials, heights and details of fencing and other boundary treatments;
 - materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas;
 - the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - the method of planting, establishment and protection of tree, hedge and shrub planting;

- maintenance schedules for the establishment of new planting and its ongoing management;
- all planting shall be implemented within the first planting season following substantial completion of the development.

All elements of the Landscape Scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. All work shall be completed in accordance with the timetable agreed in writing. Any tree or plant which dies, fails to thrive or is removed within a minimum period of 5 years from implementation shall be replaced with the same species unless otherwise agreed in writing with the local planning authority.

- 4) The tree protection measures contained in the submitted Arboricultural Survey and appended Tree Protection Plans by Tom Hurley dated 4 September 2017 to secure the retention of the boundary trees and hedgerows during construction shall be implemented.
- 5) The parking areas shown on the approved plans shall be completed and available for use before the occupation of the approved dwellings and shall be retained as such thereafter.
- 6) Prior to commencement of the buildings the site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with Diagram 3608 13 Rev E where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 30 metres in a westerly direction (nearside of the road) and 30m in the other direction (to the centre of the road).
- 7) Prior to commencement of any part of the site the local planning authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 08:00 and 18:00 Mondays to Fridays inc.; 09:00 to 13:00 Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the local planning authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no

construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the local planning authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

- 8) No mud, stones, water or debris shall be deposited on the public highway at any time.
- 9) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

- 10) The drainage scheme shall be installed in strict accordance with the approved plan 14499 – 200 – Rev P3 and 'Statement on Management and Maintenance of Surface Water Drains and Soakaways', and shall be maintained and retained in accordance with the agreed details for the life of the development. Any alternative scheme shall first be agreed in writing by the local planning authority.