



Appeal Decision

Site visit made on 5 April 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2022

Appeal Ref: APP/P1045/W/21/3289780

The Bungalow, Edgefold Road, Matlock, Derbyshire, DE4 3NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Mr D Walker (Matlock Building Services) against the decision of Derbyshire Dales District Council.
 - The application Ref 20/00547/REM dated 16 June 2020 sought approval of details of reserved matters pursuant to condition No. 2 of outline planning permission Ref: 18/00418/OUT granted on 20 June 2018.
 - The application was refused by notice dated 20 October 2021.
 - The development proposed is residential development of two dwellings and associated access.
 - The details for which approval are sought are: 1) The external appearance of the development and 2) The landscaping of the site.
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Decision

1. The appeal is allowed, and the reserved matters are approved, namely the external appearance of the development and the landscaping of the site, submitted in pursuance of condition No.2 attached to planning permission Ref 18/00418/OUT, granted on 20 June 2018, subject to the conditions set out in the Schedule attached to this decision.

Application for Costs

2. An application for costs was made by Mr D Walker (Matlock Building Services) against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Whilst the application was being considered, revised plans were submitted in attempt to address concerns raised by the Council. The application was re-validated on 4 May 2021. Taking them into account would not materially prejudice the interests of objectors or other parties (who were reconsulted). Consequently, I have considered the proposal on the basis of the revised plans.

Main Issue

4. The main issue is the effect of the external appearance and landscaping of the proposed development on the character and appearance of the surrounding area, including the setting of the adjacent Matlock Bank Conservation Area.

Background

5. Outline planning permission for two dwellings (Ref: 18/00418/OUT) was granted on 20 June with permission granted for the means of access, layout and scale. The appeal is made against the Council's refusal of the subsequent reserved matters application (20/00547/REM). Details showing a scheme for the management of surface water have also been submitted as required by condition of the outline permission.

Reasons

Appearance

6. One of the main planks of the Council's case is that the scale of the proposed would not be compatible with or in context with the character of the immediate surroundings. Article 2(1) of the *Town and Country Planning (Development Management Procedure) (England) Order 2015* (the Order) includes definitions which provide a helpful starting point and a legal basis for determining what can and cannot be considered at the reserved matters stage. Scale is defined as the height, width and length of each building proposed within the development in relation to its surroundings. It is clear from the evidence that scale (together with layout and access) was fully considered at the outline stage, including an assessment of the indicative sections through the site. The maximum ridge heights and ground levels were also clearly shown, and a planning condition stated that the reserved matters should be in accordance with these plans.
7. The Council submits that scale does not simply mean the height of a building, but also includes its mass and bulk. However, questions of mass and bulk are an integral part of an assessment of scale and should not be revisited as part of the consideration of appearance in a reserved matters application.
8. Although the Council says the dwellings appear over large (referring to plan dimensions and height), they would be of one and a half storeys, as anticipated at the outline stage. Furthermore, the base level of the dwellings shown on the reserved matters plans appears to correspond closely to the outline plans. The length and width of the dwellings also conforms with the approved details, and the ridge heights do not exceed to the maximum permitted.
9. Although the reason for refusal refers to the amount of excavation and engineering work needed to form retaining walls, the outline plans and sections show the extent of excavation that would be required in order to keep ridge levels as low as possible relative to surrounding existing development. Overall, based on the evidence before me, I am satisfied that the scale of the dwellings as now proposed is not at variance with the parameters established at the outline stage.
10. The definition of 'appearance', given in Article 2(1) of the Order is 'the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.'
11. The officer report for the outline application says: 'It is likely that the resulting design would be relatively contemporary whilst respecting the simple form and materials of adjacent dwellings'. I am satisfied that the reserved matters

details follow this approach. Given that the principle of development, the scale, the layout and other matters are already established, I consider the amended proposal represents an acceptable contemporary design solution that would respect the character and appearance of the surrounding area. I am also satisfied that the one and a half storey houses would make good use of the site characteristics with part of the ground floor accommodation being built into the slope, and the use of roof lights prevents overlooking whilst allowing as much natural light into the properties as possible.

12. Although the Council says the simple rectangular design serves to accentuate the length of the front elevations of the dwellings by means of dominant roofscapes and window proportions, I am satisfied that the way the dwellings respond to the sloping site would mitigate any such concerns.
13. I find no conflict with Policies S3 and PD1 of the *Derbyshire Dales Local Plan* (LP) adopted 2017 which, among other things, requires development to be compatible with the character and appearance of the area in terms of scale, density, layout and to be of a high quality of design.

Setting of Conservation Area

14. The site lies adjacent to the Matlock Bank Conservation Area (CA). Paragraph 199 of the *National Planning Policy Framework* (the Framework) makes it clear that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 says where a proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
15. The significance of a CA is dependent upon how it is experienced and affected by development outside it. Under such circumstances proposals must be judged according to their effect on the CA as a whole. LP Policy PD2 requires development within or affecting the setting of CA's to demonstrate how the proposal has taken account of design, form, scale and mass and the use of appropriate materials and detailing, to ensure that the design minimises harm to the heritage asset.
16. At the outline stage the Council said: 'the site is surrounded by modern development and the proposed scheme would assimilate well with the surroundings and have no adverse impact on the character and appearance of the adjacent CA'. For the reasons given above I have reached the same conclusion with regard to the reserved matters details. I consider that the appearance of the development would have a neutral effect that would not harm the setting or significance of the CA and would preserve its character and appearance. Therefore, the question of public benefits to outweigh any harm does not arise. As such, I find no conflict with LP Policy PD2 and the Framework's heritage policies.

Landscaping

17. The refusal of the landscaping details appears to be on the basis of the extent of engineering operations (excavation and retaining walls) required to accommodate the dwellings in accordance with the approved layout of the site. The Council has raised no objections to the 'soft' landscaping elements, and I find no reason to disagree. Although substantial retaining walls would be built,

these are unavoidable given the steeply sloping nature of the site and the requirement to comply with the approved layout, ridge heights and floor levels pre-determined by the parameters of the outline permission.

18. The landscaping scheme has been designed to reduce the amount of surface water run-off created by the development and incorporates various permeable types of paving. The application was accompanied by a drainage report to which the Council has not raised objections. I am satisfied that this provides a satisfactory scheme for the management of surface water.

Conclusion on the Main Issue

19. Overall, I conclude on the main issue that the external appearance and landscaping of the development would not materially harm the character and appearance of the surrounding area, having regard to the setting of the adjacent Matlock Bank Conservation Area.

Other Matters

20. Local residents have raised many issues including the houses still being too large for the area, problems from surface water run-off, overlooking, loss of privacy, insufficient parking, and the inadequacy of the access. I have had full regard to all points raised in reaching my decision. Nonetheless, whilst I note these and other valid concerns, none is sufficient to alter the considerations that have led to my conclusion.

Conditions

21. I have considered the conditions put forward by the Council in the light of the advice on conditions in the Government's *Planning Practice Guidance* (PPG).
22. Conditions attached at this stage are additional to those imposed on the outline permission and must directly relate to the reserved matters. I agree that a condition referencing the approved (revised) plans is necessary for the avoidance of doubt. Conditions requiring details of window and door joinery, samples of wall and roof materials, and boundary treatments are needed in the interest of the appearance of the area, as is a condition for the implementation and maintenance of the landscaping details. A condition to ensure that the approved parking areas are retained for residents' use is justified in the interests of highway safety. As this is a reserved matters application the Council's suggested 3-year standard time condition for the commencement of development does not apply.

Conclusion

23. Overall, I conclude that approval of the appearance and landscaping details would amount to an acceptable form of development that would satisfy the policies of the development plan and the Framework when taken as a whole. Therefore, for the reasons given above, taking into account all matters raised, I conclude that the appeal should be allowed.

Nigel Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan 1:1250 scale; Drawing Nos 2765-002-01 (Proposed Site Plan); 2765-003-01 (Proposed Site Contours); 2765-004-Rev B (Landscaping and Surface Water Drainage); 2765-005-01 (Proposed Plans-Unit 1); 2765-006-01 (Proposed Plans -Unit 2); 2765-007-01 (Proposed Site Sections and Elevations); 2765-008-01 (Proposed Elevations-Unit 1); and 2765-09-01 (Proposed Elevations Unit 2).
- 2) Prior to the occupation of any dwelling, space shall be laid out within the site in accordance with the approved plans for the parking of residents' cars and maintained thereafter free from any impediment to its designated use for the life of the development.
- 3) Details of all new external window and door joinery and/or metal framed glazing shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The submitted details shall include depth of reveal, details of heads, cills and lintels, elevations at a scale of not less than 1 in 10 and horizontal/vertical frame sections (Including sections through glazing bar at not less than 1:12. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until samples of all external wall and roof facing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved sample details.
- 5) No means of enclosure shall be erected until the design, location, and materials to be used on all boundary walls/fences/screen walls etc. have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments so approved shall then be completed prior to the occupation of either of the dwellings and shall thereafter be retained.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.