

Appeal Decision

Site visit made on 16 August 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2022

Appeal Ref: APP/U1105/W/22/3294916

The Cottage, 11 Douglas Avenue, Exmouth EX8 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Carey against the decision of East Devon District Council.
 - The application Ref 20/2363/FUL, dated 15 October 2020, was refused by notice dated 30 September 2021.
 - The development proposed is erection of three residential dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are, (a) whether the scheme would be well designed, having regard to the character and appearance of the area, its relationship with existing trees and the living environment that would be afforded to future occupiers, and (b) the effects on protected species, namely reptiles.

Reasons

Design

3. The proposal would involve the demolition of an existing dwelling, The Cottage, which itself is of no particular architectural or historic merit, and its replacement with 3 no. houses, each with five bedrooms. The houses would be detached and centred around a small inner courtyard to provide parking and garages. Gardens would largely be to the rear, separated from the neighbours by existing boundary features, including an established cluster of trees.
4. The site is tucked away behind existing dwellings on 'The Avenue' and is accessed via a shared meandering driveway. Its side elevation faces down from the top of the driveway and is unlike its more traditional principal elevation. The dwelling is unusually situated in the south-easternmost corner of the site, meaning that it has an open, generous garden area which hosts many trees within it and on its boundaries.
5. The character and appearance of the area is described in the '*Design Statement – The Avenues, Exmouth*' (2005) (Design Statement). The Design Statement outlines the area's beginnings as a residential expansion for the middle classes from around c.1890 of which the defining qualities are large, attractive houses within spacious gardens planted with extensive mature trees and hedges. The common building material in the area is red brick with slate roofs and a range of features, including bay windows, prominent stacks and

contrasting brick or timber detailing. More modern interventions within the character area are noticeable for either their larger scale, more contemporary design or appearance, or urbanising effects through the amount of hard landscaping and reduced number of trees and areas of planting.

6. The appeal scheme would involve the construction of three detached houses, each of which would be large and would be constructed of a brick material consistent with buildings found within the surrounding area. The design of the dwellings, in themselves, would be unobjectionable, not to say particularly attractive or ambitious, but when taken individually, their basic scale, form and appearance would not jar with the surrounding built environment.
7. However, taken cumulatively and given their siting in close proximity of each other and to the established trees and green boundaries, the scheme as a whole would appear cramped and overly dense. These effects would be particularly apparent in the vicinity of Plot 2 with its constrained rear outlook into the canopies of the trees at close range and its modest garden space which would be shaded much of the time by the same. Similarly, in my view, the inner courtyard would be constrained by the close proximity of the dwellings and garages and would contrast with the otherwise low density character of the area and more spacious means of arrival by the meandering driveway. Given the size of the dwellings proposed and modest size of the site, it is clear that the quality of the scheme has been compromised by the desire to maximise built floorspace without sufficient regard to the area's prevailing character.
8. Therefore, I regard that the scheme would not compliment or reinforce the surrounding area. Whilst I note the reference to other schemes that do not typically accord with guidance outlined in the Design Statement, instances of harm to not justify a further dilution of the area's character, even if the site is positioned so as not to be highly visible from the public realm.
9. For related reasons, I consider that the living environment for at least Unit 2 would be compromised through its undersized and shaded garden and, even if construction impacts could be avoided and future works controlled through a Tree Preservation Order, would put the future of the tree at risk through the close relationship that would be created.
10. For the reasons expressed, the proposal would not be well designed and it therefore conflicts with Policies EN1 and EB2 of the Exmouth Neighbourhood Plan (2019) and Policies D1, D2 and D3 of the East Devon Local Plan (2016) (Local Plan). Collectively, these Policies, amongst other things, require that development should not harm the distinctive landscape, amenity and environmental qualities within which it is located and should ensure a high level of design as exemplified in 'The Avenues Design Statement'.

Protected Species

11. The appeal was submitted with an Ecological Impact Assessment (EIA) (Cornwall Environmental Consultants, June 2022). The survey findings in the EIA revealed a medium population of reptiles and detailed findings for the range of flora and other mammal species present or suspected to be present in the wider surroundings. Such a population of reptiles indicates that the site is of local value in this regard.

12. The presence of reptiles necessitates the employment of mitigation measures, the high level detail of which is outlined in the EIA and includes suggestions about translocations, protection within a retained hedgerow and removal of the log and brash piles at times when it is least likely to be harmful to any reptiles.
13. The Council has suggested a condition to secure a Landscape and Ecology Management Plan which would include the specific avoidance measures, timeframes and compensatory habitat creation. I am of the view that such a condition would be necessary to secure the recommended measures, but that subject to adherence thereto, the scheme would not adversely affect a protected species.
14. In view of the above, the proposal would not harm protected species and would therefore comply with Policy EN5 of the Local Plan which seeks to ensure that that the impacts of the development on valued natural features and wildlife are mitigated to their fullest practical extent.

Other Matters

15. The site is within influence of the Exe Estuary Special Protection Area (the SPA) and the Pebblebed Heaths Special Protection Area and Special Area of Conservation (the SPA/SAC). These are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017. It does not appear that there is a dispute between the main parties that the proposal, considered alone or cumulatively with other schemes, would give rise to significant effects on the SPA/SAC due to increased recreational use.
16. The Council indicate that the likely significant effects can be mitigated by a financial contribution made pursuant to the South-East Devon European Site Mitigation Strategy through the collection of Community Infrastructure Levy (CIL) and a financial contribution by way of a planning obligation. The Council indicate that the development is CIL-liable and that the financial contribution has been secured. However, as the appeal is failing for other reasons, there is no need for me to further assess this position within an Appropriate Assessment or otherwise.
17. I have taken the representations into account which cover issues such as highway conflicts, construction phase impacts and loss of privacy. I have no reason to disagree that these issues are either acceptable or capable of being made so with the imposition of planning conditions. The issue of ownership of the shared access is not a planning consideration, but is a civil matter.

Planning balance and conclusion

18. Insofar as the scheme would be of an unacceptable standard of design, it conflicts with the development plan, when considered as a whole.
19. The public benefits of the scheme would result from the addition of two sustainably-located dwellings to the local housing stock which in turn, creates additional opportunities for home ownership. There would also be economic benefits from the construction phase, although these would be temporary in nature. These benefits are capable of attracting moderate weight.
20. However, in my view, the public benefits are not capable of outweighing the identified harms and, therefore, do not indicate that a decision should be taken other than in accordance with the development plan.

21. Consequently, the appeal is dismissed.

Hollie Nicholls

INSPECTOR