



Appeal Decision

Site visit made on 5 October 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/Y1110/W/22/3296067

Land South of Redhills, Exeter

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by ALD Developments against Exeter City Council.
 - The application Ref 21/1822/OUT, is dated 25 August 2021.
 - The development proposed is outline planning application for a residential development of up to 35 dwellings and associated infrastructure.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural and Preliminary Matters

2. The planning application was submitted in outline with all matters aside from access reserved. I assessed the appeal on that basis, having regard to the drawings which accompany the appeal as illustrative, aside from where they relate to the proposed site accesses.
3. During the latter stages of the appeal the appellant submitted an appeal decision made on 11 October 2022, Ref APP/Y1110/W/22/3296946, relating to a site in Exeter at Topsham. As this decision was made after the appeal before me was submitted, and as it was of relevance, I had regard to it. In that appeal it was common ground between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites and has a supply of about four years. I adopted this previously agreed position for the benefit of my own assessment, as it is the most up to date that I have.
4. Similarly, the Council submitted an extract of the Exeter Landscape Sensitivity Assessment (August 2022) beyond the appeal timetable. Given its date of publication, after the submission of the appeal, and as it was of potential relevance, I also had regard to it as landscape evidence. The appellant was provided with an opportunity to comment on the document during the appeal.
5. The Council failed to determine the application subject to this appeal. However, it has since provided an officer report which sets out three putative reasons for refusal had the Council determined the application. The first two relate respectively to highway safety and the character and appearance of the area.
6. The third reason for refusal relates to the absence of an agreement to secure necessary planning obligations. Such an agreement (the S106) was latterly submitted with the appeal. The S106 seeks to secure planning obligations in relation to affordable housing, health, travel planning, habitats mitigation and off-site play provision. Where necessary, I have made further reference to these planning obligations later in my decision.

7. I am also mindful that the site is within the setting of the Grade II listed building Lugg's Farmhouse and that imposed upon me is a duty to have special regard to the desirability of preserving its setting.

Main Issues

8. In light of the above, and all other evidence before me including the submissions of interested parties, I consider the main issues to be the effect of the proposal on:
- the character and appearance of the area, with particular regard to the Alphington/Whitestone Valley Park;
 - the setting of Lugg's Farmhouse; and,
 - highway safety.

Reasons

Character and appearance

9. The appeal site is a long and steep parcel of open land comprising discrete paddocks above the public highway Redhills, at the west edge of Exeter. To the north, beyond the detached dwelling Orchard Bungalow, is Lugg's Farmhouse and its associated outbuildings. The site is within the locally designated Alphington/Whitestone Valley Park (the Valley Park). Amongst other things, Policy CP16 of the Core Strategy (adopted 2016) seeks to protect the character and local distinctiveness of certain identified areas, including the Valley Parks.
10. The site occupies the upper reaches of one of the hills that enclose Exeter. Whilst bound by a tall dense hedgerow for much of its length along Redhills, from the vicinity of the junction of Redhills and St Peters Mount the site is more open to view. It presents as an attractive and proudly set, sweeping area of soft, rural backcloth, exemplifying how rising undeveloped land forms the distinctive setting of the city. This is also emphasised by the contrast of the housing to the east of Redhills and by Redhills itself, which offers a strong demarcation of the interface between the built and natural environments.
11. The appellant's Landscape and Visual Appraisal (the LVA) suggests the site to have less visibility in wider views. I consider that the short distance views of the site are of significant value and sensitivity in this case but, in any event, the appraisal does not take into account certain longer-range viewpoints within Exeter. This includes Guildford Close, which links to other streets via public paths and from where I observed the site to be prominent. As such, I consider the LVA to undervalue the important and distinctive contribution the site makes to the contained setting of Exeter both in landscape character and visual terms.
12. Much of the housing across the site would be visible from the junction. The houses at the top west corner would be visible in wider views, such as from around Guildford Close. Given the steep terrain, it is logical that they would be accompanied by substantial engineering and regrading of the land in order to construct them, the estate roads and parking and turning areas. To create level outside spaces, it is likely that gardens would have to be terraced and therefore feature retaining walls. The overall effect on the landscape character would be intrusively urbanising, to the clear visual detriment of this part of the Valley Park and its important role within the immediate setting of the city.

13. I note that the scheme would augment and retain existing trees and boundary treatments and would improve public access into this part of the Valley Park. However, this is of little weight in the scheme's favour, given the overall level of urbanisation it would invoke upon this area of hitherto green infrastructure.
14. Accordingly, I conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area, with particular regard to the Valley Park. It would conflict with the landscape aims of Policies CP16 and CP17 of the Core Strategy, saved Policy DG1 of the Local Plan and the National Planning Policy Framework (the Framework).

Lugg's Farmhouse

15. As a farm dwelling of 17th century origins, Lugg's Farmhouse draws a degree of significance from its rural setting. Whilst this is chiefly delivered by the former farmland directly around it, the Devon Historic Landscape Characterisation project identifies the site as part of a wider and perhaps medieval farming landscape of open strip fields. The paddocks have a noticeable grooved texture suggestive of historic ridge and furrow farming practices. When travelling to and beyond the listed building when heading southeast along Redhills, the former farmhouse is appreciated against the backdrop of the appeal site¹, which therefore makes a positive contribution to the setting of the building.
16. This perceptible interrelationship between the site and the historic farmhouse would be lost by the heavy urbanising effects of the scheme. Looking west towards the front of the listed building, its current, luxuriant forward setting would also change to one dominated by a modern suburban access road and visibility splays. As such, harm would arise to the setting of the listed building.
17. The appellant's heritage appraisal defines this as a likely 'negligible adverse' change. However, given the likelihood that the proposal would be intrusively urbanising, I consider this to be an underestimate. Strategic landscaping would not necessarily help to assimilate the scheme into the building's setting as it is the interplay between Lugg's Farmhouse and the site's legibility as historic open strip farmland which conveys significance here. The heritage appraisal does not adopt the parlance of the Framework in its conclusions. When I do so, I find less than substantial harm to the significance of the listed building.
18. That is not to be treated as a less than substantial planning objection, and the Framework informs us that great weight should be given to the conservation of designated heritage assets. Paragraph 202 requires decision makers to weigh less than substantial harm against the public benefits of the scheme, including securing its optimum viable use. That balancing exercise must take place in the context of s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets a strong presumption against a grant of permission for development that would cause harm to the setting of a listed building.
19. The government is seeking to significantly boost the supply of housing and the scheme would contribute up to 35 new homes to the local area, half of which would be affordable housing, in a city that I can see has experienced a prolonged shortage in supply. The level of support for the planning application from interested parties is testament to that. I have no reason to question that the houses could be built out quickly. There would be short term direct and

¹ Plate 6, Heritage Statement by AC Archaeology (2021)

indirect local economic benefits during the construction phase and lasting economic benefits in association with the occupation of the housing. Exeter has a diverse array of services and facilities which would benefit through likely modest increases in their usage. The competitiveness of Exeter's economy would be enhanced. Funding secured via the Community Infrastructure Levy (CIL) would be a requirement, but nonetheless a small practical benefit. The appellant's evidence highlights the potential for modest biodiversity net gain through tree and shrub planting within the site.

20. Overall, and accepting the shortfall in Exeter's housing land supply as agreed at Topsham, the public benefits arising from the provision of up to 35 dwellings attract significant weight in the balance. However, they fall short of overcoming the harm I have identified to the setting of the listed building, to which I apportion considerable importance and weight.
21. Accordingly, I conclude on this issue that the proposal would have an unacceptable effect on the setting of Lugg's Farmhouse. It would conflict with the design and heritage aims of Policy CP17 of the Core Strategy, saved Policies C2 and DG1 of the Local Plan and the Framework.

Highway safety

22. The scheme proposes vehicular access at the northwest corner of the site with a pavement on its northwest side. To the east along Redhills a pedestrian/cycle access would also be constructed. Redhills has a 30mph speed restriction.
23. The nearest public footpath to the northwest access is on the opposite side of Redhills set down behind vegetation and is not directly accessible. The nearest footpath on St Peters Mount is well clear of the roundabout and is obstructed beyond a verge, a bollard and a road sign. Given such, there is the likelihood that pedestrians would have to walk for periods in the carriageway until segregated pedestrian space could be reached and may even feel obliged to cross the carriageway within the roundabout itself. This is a busy road environment which I note is used an entrance point in and out of the city. For these reasons, I do not consider this would be a suitably safe access solution, particularly for the elderly or those with young children.
24. 43m visibility splays would be achieved at the pedestrian/cycle access, which I understand from the appellant's Transport Statement would meet the requirement in relation to a highway with a 30mph speed limit. Nonetheless, the access would lead on to an uncontrolled crossing within a section of Redhills which is more rural and undeveloped in character, has much less of a place function than the sections to the east, and where there is a notable absence, and therefore less expectation, of people on foot. Unsurprisingly therefore, I observed a number of vehicles that were travelling at what seemed to be at best the speed limit and likely above it.
25. The proximity of the Lichfield Road junction, almost opposite the access point, adds another potential element of distraction, with drivers looking to enter Redhills bound to be focused on the potential for approaching vehicles to the east or west. Likewise, vehicles travelling along Redhills would logically focus on Lichfield Road. Even with the splays, pedestrians would not necessarily cut obvious or expected figures set against the verdant backdrop of the curving site boundary. As such, on the evidence before me, I do not have sufficient

comfort that the pedestrian/cycle access would not place residents of the proposal at unacceptable risk of collision with vehicles in the carriageway.

26. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on highway safety. It would conflict with the highway safety aims of Policies AP1 and T3 of the Local Plan and the Framework.

Other Matters

27. The appellant as stated that allowing this appeal would be consistent with the approach in relation to the appeal allowed earlier this year at Exwick Lane². Yet, each proposal must be assessed on its own individual merits, and I note in that case that the site was not of particular landscape importance and there were no issues of highway safety or heritage. It has therefore had limited influence on my own assessment.
28. This site is within the influence of the Exe Estuary Special Protection Area (the SPA). It is common ground that the proposal would have likely significant effects on the integrity of the SPA through increased recreational use. I have no reason to disagree. The S106 accompanying the appeal together with the CIL is intended to secure mitigation for these effects. If I had been minded to allow the appeal it would have been necessary for me to consider this matter within an Appropriate Assessment. As I am not, I have not done so.
29. Likewise, the ecological survey work supporting the appeal found a Dormouse within the site, very close to the location of the proposed pedestrian/cycle access and the site is of district level importance in this regard. Given such, it would have been necessary for me to further consider the impact of the development on the integrity of the Dormouse, a European Protected Species.

Planning Balance

30. The scheme would conflict with the development plan when read as a whole because it would harm the character and appearance of the area, the setting of a listed building, and have an unacceptable effect on highway safety.
31. The Council cannot demonstrate a five-year supply of deliverable housing sites. As such, Paragraph 11 of the Framework states that the most important policies for determining the appeal are out-of-date and permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposal. These assets include listed buildings. Consequently, given the harm that would arise to Lugg's Farmhouse, Paragraph 11 d) ii) of the Framework is not engaged.
32. Overall, the harm that would arise attracts substantial weight in the balance. There are no other considerations, including the Framework and the aforementioned public benefits of the scheme, which outweigh these harms and the ensuing conflict with the development plan. For the above reasons, and taking all other matters raised into account, I shall dismiss the appeal.

Matthew Jones
INSPECTOR

² Appeal Ref APP/Y1110/W/21/3278148