



Appeal Decision

Site visit made on 13 December 2022

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2023

Appeal Ref: APP/W1145/W/22/3301970

17 Barton Tors, East The Water EX39 4EY

- 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 Mr Tom Denby against the decision of Torridge District Council.
 - The application Ref 1/1340/2021/FUL, dated 24 November 2021, was refused by notice dated 13 May 2022.
 - The development proposed is erection of 2 flats adjoining 17 Barton Tors.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to the provision of outdoor space; and
 - the effect of the proposed development on highway safety.

Reasons

Living Conditions

3. The private outdoor space associated with the 2 new units would be located to the rear of the site. This area is narrow and in close proximity to the rear of the proposed flats and to the site boundary with No 17 Barton Tors. Whilst there are small areas of outdoor space proposed to the front of the units, these areas would not be private and are limited in size.
4. The rear outdoor space would be very small. With no direct rear access from the units to the outdoor space, it would only be accessible from the front of the building. The area would be narrow in nature and due to its size and position, it would be of limited use. Although I recognise that future occupants of the appeal proposal would be aware of the relationship before deciding to live in the properties and no habitable rooms would face the rear amenity area, it would still result in poor living conditions for future occupants.
5. I note that the appellant advises that the occupiers of the new units could share the outdoor space to the rear of No 17. However, in that scenario, the future occupiers would still not have direct rear access to the outdoor space, and, in any event, I am not satisfied that future occupier's use of the rear

garden area of No 17 could be secured and I have little evidence before me which indicates otherwise.

6. I appreciate that the appeal proposal is located within a reasonable walking distance of public open space. However, these areas do not provide suitable private outdoor space or address or offset the cramped nature of the rear layout of the site.
7. For the above reasons, I conclude that the proposal would lead to unacceptable living conditions for future occupiers of the proposed development. Accordingly, the proposal would not comply with Policies DM04 and ST04 of the North Devon and Torridge Local Plan 2011-2031 (LP) which seek to ensure, amongst other things, that the intended occupants would not be harmed by development and that a high quality of design and layout of private spaces is provided.
8. The Council also allege a conflict with Policy DM01 of the LP. However, the policy relates to, amongst other things, the effect on intended occupants' living conditions from existing or allocated uses. On the basis that the main issue here relates to whether the proposed development would provide acceptable living conditions, I therefore find no direct conflict with this particular policy.

Highway Safety

9. The corner plot site is located on a bend in the road and concerns have been raised about the visibility of highway users from the site, vehicles not being able to enter and exit the site in forward gear and the proposal adding to existing high levels of traffic.
10. However, I note the comments from Devon County Council as the Highway Authority in relation to the proposed widening of an existing dropped kerb, the presence of the footway providing reasonable visibility and the lack of recorded accidents in the past five years. For these reasons, given the submitted evidence indicates relatively slow vehicle speeds on the road and relatively low vehicle movements, and as I noted at my site visit that vehicular traffic was relatively light with vehicles passing the site generally travelling below the 20mph speed limit due to the traffic calming features on the road, it is not demonstrated that visibility when exiting the site would be a hazard for highway users. Due to the small scale of the proposed development the number of additional vehicles likely to be generated will be relatively low. Given this and given that the traffic passing the site is slowed by the traffic calming features, any additional traffic generated will not cause harm to highway safety. For the same reasons and given a number of similar accesses to the front of dwellings on Barton Tors, I do not find the lack of on-site turning facilities to be harmful to highway safety.
11. For the above reasons, I conclude that the proposal would not harm highway safety. As such, the proposal complies with Policies ST10, DM05 and DM06 of the LP that seek to ensure, amongst other things, the provision of safe and well-designed appropriate access and egress for new development and appropriate parking.

Other Matters

12. Although not forming part of their reasons for refusal, the Council in their evidence have stated that the proposal represents a cramped form of

development incongruous with the site's context and immediate surroundings. They also raise concerns regarding the impact upon the living conditions of nearby occupiers. However, as I have found the appeal proposal unacceptable in terms of the lack of suitable provision of outdoor space, there is no reason for me to consider these matters further.

13. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of The National Planning Policy Framework (The Framework) should be applied. The appeal proposal would provide a number of benefits, including providing much needed housing which would contribute towards the supply and mix of housing in the area, and the flats would, it is said, be reasonably priced for local people. The proposal would also benefit the local economy from construction works and the future occupiers using local services and facilities and contributing to local tax revenue. In addition, I acknowledge that the proposal would result in a tidier and improved appearance for the site. However, given the scale and nature of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in an unacceptably poor living environment which would significantly harm the occupants' living conditions. Accordingly, when assessed against the policies in The Framework taken as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
14. The development plan policies that I have found the appeal proposal conflicts with relate to ensuring sufficient living conditions for future occupiers. Although they are deemed to be out of date in relation to the approach set out in Framework paragraph 11d, this does not mean that they carry no weight, and the amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. In this instance, although the shortfall in housing land supply attracts significant weight, I am satisfied that the relevant policies are broadly consistent with The Framework and I attach significant weight to the conflict I have identified with them.
15. The proposal, which is said to be designed sympathetically to reflect the character and pattern of development in the area, is not contested in principle and it is not alleged that it would affect any designations. It would provide additional open market accommodation with good accessibility to services and facilities, an additional parking space for No 17, and would support the local economy through construction work and future occupiers contributing to local tax revenue and using local services and facilities. However, these matters neither outweigh the harm I have identified nor the conflict with the development plan.

Conclusion

16. Therefore, for the reasons given above, the appeal is dismissed.

C Rose

INSPECTOR