



Appeal Decision

Site visit made on 6 December 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/N1160/W/22/3296614

Pasley View (land adjacent to Pasley Street Lane), Plymouth PL2 1DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Atrill of McCaren Design Ltd against the decision of Plymouth City Council.
 - The application Ref 20/02034/OUT, dated 21 December 2020, was refused by notice dated 21 October 2021.
 - The development proposed is an outline application for the erection of 9 houses with details of access, layout and scale (details of appearance and landscaping reserved for future consideration).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr David Atrill against Plymouth City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description in the banner heading is taken from the Council's Decision Notice. It differs from the description on the application form as the scheme has been revised since it was initially submitted to the Council. I have therefore considered the appeal on the basis of the revised scheme and plans which were before the Council when it made its decision.
4. The proposal is in outline with access, layout and scale being the only matters for which approval is sought. As such, I have had regard to the proposed submitted plans insofar as they indicate the details of access, layout and scale only.

Main Issues

5. The main issues in this appeal are:
 - The effect of the proposal on the provision of City Green Space;
 - The effect of the proposal on the health and vitality of off-site trees; and
 - The effect of the proposal on designated heritage assets including the Scheduled Monument and whether the proposed development would preserve or enhance the character or appearance of the Stoke Conservation Area.

Reasons

City Green Space

6. The appeal site is a roughly triangular piece of sloping land with a row of derelict garages on the lowest part of the site, accessed from Pasley Street Lane. The remainder of the appeal site rises steeply up towards Blockhouse Park and is described as 'scrub land'. The appeal site is located within an area of land designated as the Blockhouse Park City Green Space (CGS) although the area with the derelict garages on is excluded from the designation.
7. Policy DEV27 of the Plymouth and South West Devon Joint Local Plan 2014-2034 adopted March 2019 (JLP) seeks to protect and support a diverse and multi-functional network of green space across the plan area recognising the benefits it can offer to, amongst other things, wildlife, the historic environment, health and recreation.
8. The appellant points to the definition of 'open space' set out in Town and Country Planning Act 1990. However, that definition is to be used for the purposes of applying the provisions of the Act and is not pertinent to the appeal before me.
9. The National Planning Policy Framework (the Framework) is a material consideration in the determination of planning applications. It describes open space as, 'all open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.'
10. At the point where the appeal site meets Blockhouse Park, there are clear views out over the densely developed urban area surrounding the site. Given the sloping nature of the appeal site and the topography of the surrounding land, the CGS of Blockhouse Park is visible from a wide area and provides a green break in an otherwise built-up area.
11. Whilst the appeal site may not be publicly accessible by virtue of its ownership, topography and unkempt condition, access for public recreation is not the only function of open space. The assessment of Blockhouse Park in the POSA¹ highlighted seven identified functions of the space including its role in air quality and noise regulation, local climate regulation together with its cultural and aesthetic values.
12. For these reasons, I find that the appeal site constitutes open space and forms part of the CGS. As such, Policy DEV27 applies.
13. Policy DEV27 of the JLP states that existing open spaces, which includes designated CGS, should not be built on unless it is demonstrated that the open space is surplus to requirements; or the loss would be replaced by equivalent or better provision; or the development is for alternative sports or recreation provision – the latter not being relevant to the appeal before me.
14. The Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document (SPD) provides further advice on how an assessment can be made about whether a site is surplus to requirements.

¹ Site ID 177

Amongst other things, it advises that the amount of existing greenspace in the area will indicate whether a site is surplus to requirement. The SPD indicates that if the loss of CGS would lead to increasing an already existing deficiency, then the site cannot be considered to be surplus to requirement.

15. The Plymouth Policy Area Open Space Assessment dated February 2017 (POSA) provides a quantitative and qualitative assessment of open space in and around Plymouth. Blockhouse Park is located within the south west area of the city where the POSA identifies a deficiency in existing open space provision in an area of high deprivation. Given that the appeal site is located within a designated CGS and has been included in the calculation relating to existing provision, the appeal proposal to develop the site for housing, would increase the identified deficiency further.
16. The SPD is clear that the existing low quality nature of a green space will not be part of the consideration as to whether the site is surplus to requirements unless there are proposals to replace the green space with better provision in a suitable location. This is not proposed in the appeal scheme.
17. Turning to the second policy test of whether the loss would be replaced by equivalent or better provision in a suitable location, the appellant refers to discussions with the Council in respect of financial contributions towards delivering improvements to existing open space provision. However, the consultation response from the Council's Natural Infrastructure Team dated 1 March 2021 indicates that any financial contribution would be to improve the value and quality of existing green space and that this would be required in addition to demonstrating that the second policy test has been met. This is in line with the advice set out in the SPD which acknowledges that new homes create a need for new green spaces. In any event, financial contributions would need to be secured through a Section 106 Planning Obligation and no such Obligation is before me.
18. There is no unequivocal evidence before me that the CGS is surplus to requirement or that equivalent or better provision can be provided in a suitable location. In addition, the proposal before me does not relate to an alternative sports or recreation provision. As such, the proposal would lead to a net loss of designated open space in an otherwise built-up urban location in an area with high deprivation. The proposal is therefore contrary to Policy DEV27 of the JLP which seeks to protect and support a network of green space across the Plan area to ensure that open spaces are available in the interests of amongst other things, health and recreation and to help reduce health inequalities.

Trees

19. Policy DEV28 of the JLP seeks to avoid the loss or deterioration of trees. The appeal site does not contain any trees but there are a number of trees located in groups and singularly within Blockhouse Park, close to the boundary with the appeal site.
20. There is nothing before me to suggest that the trees are aged or veteran. However, given that they are located on elevated land, they are visible from a number of locations to the north of the appeal site as shown in the appellants Desk-based Assessment and Walkover Survey ².

² By South West Archaeology Ltd dated 12 September 2020

21. Plymouths Plan for Trees³ indicates the importance of trees to the community and in creating attractive places to live and work, with the city having an average of seventeen percent tree cover. By contrast, The Tree Canopy Cover Assessment⁴ indicates that the area in which the appeal site is located has just under ten percent tree cover. Whilst I have nothing before me regarding the status of these documents, the appellant does not appear to dispute the figures presented by the Council.
22. Whilst the trees are adjacent to, rather than upon, the appeal site the topography of the site indicates that works on the appeal site may have an impact on the root system of those trees. Given that 'layout' is a matter which falls to be considered in the context of this appeal, the impact that the proposal would have on the trees it is not a matter which could be considered at a later date under a reserved matters submission or via a planning condition.
23. In this context, I have nothing before me which demonstrates that the appeal proposal would not lead to the loss or deterioration of trees adjacent to the appeal site. Given the relative under-provision of tree cover in this part of the city, the loss of further trees without suitable mitigation would be detrimental to the character and quality of the urban environment. As such, I find that the proposal would conflict with Policy DEV28 of the JLP and the advice in Paragraph 131 of the National Planning Policy Framework (the Framework) which seeks to retain existing trees wherever possible.

Designated Heritage Assets

24. The appeal site is located below the Scheduled Monument (SM) known as 'Mount Pleasant Redoubt'. It is an eighteenth-century artillery fort designed to protect the naval dockyard at Devonport. Its significance can be appreciated due to its prominent siting on the hilltop with clear views of the city in all directions indicating its defensive function in a strategic location. The appeal was accompanied by a heritage assessment which describes the significance of the heritage and accords with Paragraph 189 of the Framework. The appeal proposal would be located on the lower slopes of Mount Pleasant such that it would not intrude into the key views from the SM. This would have a neutral effect on the way in which the significance of the SM would be appreciated. The proposal would therefore have a neutral effect on the setting of the SM.
25. The appeal site lies outside but adjacent to the northern boundary of the Stoke Conservation Area (CA). The CA is a largely residential area radiating out from the central commercial core of Stoke Village. There are a mix of property ages and styles from tight knit terraced dwellings located at the back edge of the pavement to detached villas located in their own grounds along tree-lined streets. The CA therefore gains historic value and significance from the townscape, pattern of development and mix of period buildings.
26. The provision of dwellings on the appeal site would add to the mix of properties within the CA. The location of the appeal site on the lower slopes of Blockhouse Park results in very limited intervisibility between it and the wider CA and as a result, would not affect the way in which the CA is appreciated nor its significance. As such, I find that the proposal would have a neutral effect on the CA thereby preserving its character and appearance.

³ Appendix 12 of the Council's Statement of Case

⁴ Appendix 13 of the Council's Statement of Case

27. Whilst I have concluded above that the loss or deterioration of the off-site trees would be detrimental to the character and quality of the urban environment, this would be a localised effect given the topography of the site and the lack of intervisibility with the wider CA. As such I am satisfied that the proposal would preserve the character and appearance of the CA as a whole having regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
28. As a result, I find no conflict with Policy DEV21 of the JLP which seeks to conserve the historic environment.

Other Considerations and Planning Balance

29. The loss of the CGS and the harm to trees would conflict with the development plan. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
30. The proposal would boost the supply and mix of housing in a sustainable location close to shops and services and could be built out quickly as set out in Paragraph 69 of the Framework. However, as the JPL area has a healthy housing land supply standing at 5.8 years, I have given this benefit only modest weight.
31. There would be economic benefits arising from the construction and occupation of nine dwellings to which I attach moderate weight.
32. Conditions could be imposed to ensure that the proposal would be compliant with Policy DEV32 and DEV 28 which relate to low carbon development and biodiversity respectively. However, rather than being a benefit of the proposal, these policy compliant matters would be neutral in the balance.
33. I have given substantial weight to the value of using suitable brownfield land within settlements as set out in Paragraph 120 of the Framework. However, the land occupied by the derelict garages forms a small part of the appeal site as a whole and Paragraph 119 requires that the reuse of existing land should also safeguard and improve the environment, ensuring safe and healthy living conditions and I have found that the appeal proposal would not do so. As such, the weight I have attributed to the reuse of land is tempered.
34. To conclude, the benefits of the proposed scheme would not be of sufficient force to outweigh the conflict with the development plan and accordingly the appeal must fail.

Other Matters

35. Various concerns have been raised by interested parties which include highway safety, drainage, living conditions and the impact on the character and appearance of the area. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed on the main issue.
36. The appeal site lies within the Zone of Influence of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA). As the appeal has failed, an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC and SPA is not required.

Conclusion

37. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has failed.

Alison Fish

INSPECTOR