



Appeal Decision

Site visit made on 28 March 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/W1145/W/22/3308151

Land at Alpha Place (including Sunnyside Yard), Appledore EX39 1QY

- 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 S Price against the decision of Torridge District Council.
 - The application Ref 1/0096/2022/OUT, dated 26 January 2022, was refused by notice dated 6 April 2022.
 - The development proposed was originally described as “application for two homes for two applicants who live locally. Highly sustainable residential development on the main applicants own garden and yard which he has owned for many decades. An immediately available infill site to provide much needed housing in an area of high need. Located entirely within the development boundary. A minimal density development to maintain an open green character to the site.”
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Decision

1. The appeal is allowed and planning permission is granted for outline application for 2 dwellings with matters reserved except access, at Land at Alpha Place (including Sunnyside Yard), Appledore, EX39 1QY in accordance with the terms of the application, Ref 1/0096/2022/OUT, dated 26 January 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. For reasons of clarity, I have used a different description from that on the application form and banner heading above in the formal decision. This reflects both the appeal form and the Council’s decision.
3. The plans submitted with the application are not clear about the site access arrangements. However, the submitted Transport Note (TN) dated 16 July 2020 includes plans that are clear. The Council’s Highways consultation response refers to the TN and they have therefore had the opportunity to comment on these plans. Consequently, I do not consider that any party would be unfairly prejudiced and I therefore have had consideration to the submitted drawings in determining this appeal.
4. I note the appeal is made in outline with all matters other than access reserved for later consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.
5. The appellant has provided additional indicative plans that were not before the Council when it made its decision. Although indicative, the appeal process should not be used to evolve a scheme and in applying the ‘Wheatcroft Principles’ I have made my decision on the basis of the plans considered by the Council, and on which interested people’s views were sought.

Main Issues

6. The main issues are (i) whether the proposed development would preserve or enhance the character or appearance of the Appledore Conservation Area (CA) and (ii) the effect of the proposal on highway safety.

Reasons

Character and appearance

7. The appeal site forms part of the wider CA where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA is derived from its historic dense urban quayside form, with a network of narrow streets of largely two and three storey buildings, rendered, painted, and roofed in slate.
8. The appeal site provides some breathing space and adds to a sense of openness between the dense housing street layout and characterful rooftops that surround it. However, it does also include some built form of no particular architectural merit that disturbs the openness of the CA. At my visit I observed that the most prevalent verdant features are found outside and surrounding the application site; and that these make a significant contribution to the break in the dense urban form of the area. Furthermore, the surrounding trees and vegetation act to screen parts of the site from the immediate and surrounding wider areas of Appledore, Instow and the estuary.
9. Consequently, given the generous size of the site, it is conceivable that a well-designed and well landscaped development of two properties could be progressed at the reserved matters stage, positively responding to the characteristics of the site without harmfully affecting its overall openness or the historic street pattern.
10. Therefore, I conclude on this main issue that the proposal would preserve the character or appearance of the CA. As such, it would not conflict with Policies ST04, ST15, DM04 or DM07 of the North Devon and Torridge Local Plan 2011-2031 (LP), which together in this respect seek to promote development that would conserve and enhance the historic landscape setting and character of the area. There would also be no conflict with chapter 15 of the Framework which attaches great weight to conserving and enhancing designated landscapes.

Highways

11. I note the Council's Highway officer objects to the proposal and considers that any increase in traffic movements on Alpha Place would result in additional conflict with parked cars. The parked cars on Alpha Place would mean that access for delivery vehicles and emergency services would not be possible. At my visit I noted that the appeal site accommodated a number of parked vehicles. Although 2 additional properties would require their own spaces, I am satisfied that the submitted indicative layout plan shown in Appendix B of the TN demonstrates that a similar number of parking spaces could be provided as a result of the development. Additionally, I was able to easily find a space to park on the street near the site and observed a number of free spaces in the area. Although my observations only represent a snapshot in time, recognising that there may be busier times of the year, I have not been provided with any substantive evidence to suggest the proposal would harmfully increase street parking pressure over and above existing levels. Indeed, the size of the appeal

site means that parking could be accommodated as well as two dwellings without harmfully affecting the character and appearance of the area.

12. Service and emergency vehicle access to the site is restricted by the adjoining narrow streets, and parking on the footway of Alpha Place could continue regardless of the proposed spaces for local residents. However, the development would not, based on the evidence before me lead to an increase in on street parking. Nor would it, based on the provision of only two houses, lead to a significant increase in car movements using Alpha Place. Furthermore, service and emergency vehicles would currently have to negotiate the restricted lane to access existing properties, and I therefore find it unlikely, based on the above, that the proposal would materially exacerbate this scenario. I have also not been provided with any substantive evidence to suggest this would be the case.
13. Further, the junction of Alpha Place and Meeting Street has limited visibility from and of emerging traffic, though I observed traffic speeds here to be very low in this area. I therefore concur with the Council that the increased use of this junction would not lead to harm to highway safety.
14. I therefore conclude on this main issue that the proposal would be unlikely to harmfully affect highway safety. As such, the proposed development would not conflict with Policy DM05 of the LP which, amongst other things, seeks developments ensure a safe vehicular for all users. There would also be no conflict with chapter 9 of the Framework which in this respect says that development should create places that are safe - which minimise the scope for conflicts between pedestrians, cyclists, and vehicles.

Other Matters

15. My attention has been drawn to a Grade II listed Congregational Chapel on the corner of Meeting Street close to the site, and consequently there is a statutory duty to pay special regard to the desirability of preserving the building or its setting. The building's significance relates to its grand rendered pedimented fronts, Doric doorway, rusticated window surrounds and bell cupola, and forms part of a group of listed buildings mainly fronting Meeting Street. Although the listed building wraps around Alpha Place, the appeal site is set behind intervening terraces and, as such, does not have a close visible relationship. It therefore does not contribute to the significance of the Congregational Chapel. Consequently, the proposal would not conflict with Policies ST17 or DM07 of the LP which together in this respect seek to preserve and enhance the historic environment. There would also be no conflict with the Framework which attaches great weight to the asset's conservation.
16. The Council refers to an appeal decision at Odun Road. Whilst there are similarities with the issues raised, neither site is in the same area and, given these differences, I cannot be sure of the site-specific circumstances. In any case, I have determined this appeal on its merits in light of the evidence before me.
17. In reaching my decision I have had regard to representations made by interested parties. Representations relating to privacy are noted though the detailed design of the properties would be reserved for later consideration by the Council in the first instance. Concerns over drainage and the construction phase can be adequately mitigated through the imposition of appropriately

worded conditions. Given the small-scale nature and temporary effect of the development, I do not find it necessary to restrict operation construction hours.

18. Third party concerns over wildlife and the age of the submitted ecology report are noted, though the report identified limited ecological constraints and it is identified as still being valid. Furthermore, I have not been provided with any substantive evidence to suggest the proposal would be harmful in this regard. Whether the properties would be used for holiday let purposes is not within the scope of this planning appeal.

Conditions

19. I have imposed standard conditions relating to the submission and timing of reserved matters applications and the commencement of development. It is necessary to require compliance with the submitted plans, but only in relation to access as this is not a reserved matter. For the avoidance of doubt, it is also necessary to clarify that the dwelling and landscaping details shown on drawing 1917 C01 001 Rev 02 are not to be implemented.
20. The Council's Archaeology Section suggest the site lies in an area of archaeological potential and therefore it would be reasonable to require a Written Scheme of Investigation (WSI) in order to ensure appropriate recording. Construction method and surface water details are required in the interests of drainage and highway safety.
21. Even though the properties would be within the CA and a sensitive landscape there is no substantive evidence that indicates that Permitted Development rights should be removed. Furthermore, the Council's Conservation officer indicates the area is the subject of an article 4 direction which removes householder Permitted Development rights.
22. I note the Environmental Protection Officer has requested conditions relating to contamination due to the garage use of the site. However, this only relates to a very small part of the site and I am satisfied, from the indicative layout, that two houses and their gardens could be provided without encroaching into this area. However, I will impose a condition in case unexpected contamination arises. Given the small scale of development and reasonable distance from nearby neighbours I am not imposing conditions to control noise or operation hours during the construction phase.
23. I have made some amendments to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework.

Conclusion

24. For the reasons given I conclude the appeal should succeed.

J Hills

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, scale, and layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1917 P 001 Rev 00 and 1917 C01 001 Rev 02 (but only in respect of those matters not reserved for later approval and excluding the proposed dwellings and landscaping details shown in plan 1917 C01 001 Rev 02).
 - 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation of a programme of archaeological work. The development shall be carried out in accordance with the approved scheme.
 - 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the

local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

8) No building hereby permitted shall be occupied until a scheme for the disposal of surface water has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and retained as such thereafter.