



Appeal Decision

Site visit made on 27 July 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/K1128/W/22/3311450

RMC Quarry, The Old Kiln, Kiln Road, Marlton TQ3 1SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Just Vanz Ltd against the decision of South Hams District Council.
 - The application Ref 1304/21/ARM, dated 3 April 2021, sought approval of details pursuant to condition No 1 of a planning permission Ref 34/1890/15/O, granted on 27 September 2017.
 - The application was refused by notice dated 5 August 2022.
 - The development proposed is 5 new dwellings and associated infrastructure.
 - The details for which approval is sought are: scale, layout, appearance and landscaping.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely scale, layout, appearance and landscaping submitted in pursuance of condition No 1 attached to planning permission Ref 34/1890/15/O dated 27 September 2017.

Preliminary Matters

2. Despite some conflicting wording of the description of development on the original decision notice, outline permission was granted with detailed access and with all other matters (scale, layout, appearance and landscaping) reserved for future consideration.
3. By way of planning condition 2 on the outline planning permission, three years was given for the submission of reserved matters applications, i.e., until 27 September 2020. Under section 93A of the Town and Country Planning Act 1990, unimplemented planning permissions which were due to lapse between 19 August 2020 and 31 December 2020 were extended to 1 May 2021. The appeal application was therefore made validly on the 3 April 2021.
4. A consolidated hard and soft landscape plan was submitted with the appeal (Ref 637 051). It shows largely the same information as that already considered by the Council but with the addition of tree planting. Given the minor differences between this plan and those already submitted, I do not consider accepting it would be prejudicial to the Council's case and have considered it alongside the plans listed in the decision notice.
5. No other issues are raised in respect of the scale, layout or appearance of the scheme and I find no reason to reach a different conclusion.

Main Issues

6. The main issues are:

- whether the proposal would include an adequate means of surface water drainage;
- the effects on the living conditions of the occupiers of Hazelmere, with particular regard to privacy; and
- whether the landscaping scheme would be satisfactory.

Reasons

Surface water drainage

7. Condition 2 of the outline planning permission requires the approval of reserved matters within three years of the date of the permission. The matters reserved were the scale, layout, appearance and landscaping. Condition 1 of the outline permission specifies, rather than just the reserved matters, that the development shall be carried out in accordance with detailed drawings which shall include details of (e) the arrangements for the disposal of foul and surface water and (f) the means of access from public highways.
8. Condition 12 of the outline planning permission stipulates as follows:
- "No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment Report 14-0281/FRA1RevA prepared by Robson Liddle dated December 2014".*
9. The overview details of the surface water system are shown in the submitted plans as largely comprising a number of on plot soakaways. However, condition 12 condition ultimately requires the detailed design to be specified prior to commencement of the development. Conditions 13 and 14 also relate to construction phase drainage and drainage adoption measures respectively. Consequently, the level of detail being required at this stage is unnecessarily repetitive.
10. Consequently, I consider that subject to the planning condition which would remain to be discharged, the proposal would include an adequate means of surface water drainage in accordance with Policy DEV35 of the Plymouth and South West Devon Joint Local Plan (2018) (JLP). This Policy seeks to ensure that development is safe without increasing flood risk and pollution elsewhere.

Effect on the living conditions of neighbouring occupiers

11. The neighbouring dwelling, Hazelmere, is a detached bungalow to the south-west of the appeal site. The site sits on an elevated level relative to Hazelmere and views from the site are largely towards its pitched, tiled roof. It has no windows or roof windows facing towards the appeal site.
12. Plots 2 and 3 would be the closest to Hazelmere. Though they would be two storey and sited higher relative to the finished floor level of Hazelmere, they

would be sufficiently distant and orientated and designed so as to avoid undue overlooking. The provision of boundary treatment, in the form of the native hedging referred to in the plans, would also provide further visual separation between Hazelmere and the respective plots. A cross section plan may have further helped to demonstrate the potential effects, but from the submitted information and from my assessment on the site visit, I am of the view that the relationships would be satisfactory.

13. For the foregoing reasons, the proposal would not harm the living conditions of the occupiers of Hazelmere, with particular regard to privacy. It would therefore comply with, in particular, Policy DEV1 of the JLP which seeks to ensure that new development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance for both new and existing residents, workers and visitors.

Landscaping

14. During the processing of the appeal application, amended plans were submitted showing the hard landscaping and soft landscaping respectively. No issue appears to be taken with the hard landscaping, as the reason for refusal focusses on the soft landscaping. I find no reason to reach a different conclusion in this regard. For the purposes of this appeal, my consideration has focussed on the consolidated landscape plan (Ref 637 051), which shows largely the same information as that already considered by the Council but with the addition of tree planting and with detail of the grass mixes to be used.
15. The soft landscaping plan shows a large amount of grass within the gardens (both front and back) and on incidental spaces alongside the estate road. There would also be two different types of native hedging along the boundaries of the site and another form of hedging to separate the front of plots. The only instances of use of close boarded fencing would be between the rear gardens of plots, so essentially out of public view. A previously submitted 'Landscape Specification' (Ref 759/02) also provides guidance and detail on how the various landscaping would be undertaken and maintained.
16. The Appellant has explained that the reason behind the use of two different mixes of species for the hedgerows is to promote biodiversity. I see no particular issue with the use of two mixes of hedgerows with native species, particularly as there would be some overlap between the species.
17. The Council has also suggested that a planning condition be imposed to secure a landscaping scheme at least prior to occupation of any of the permitted dwellings and for the replacement of any trees or plants that die within five years of the development. This would provide further reassurance that the soft landscaping scheme would be implemented and that the Council had means to enforce any necessary tree or plant replacements if it deemed that some had failed to establish.
18. In summary, the landscaping scheme would be satisfactory and the scheme therefore accords with, in particular, Policies DEV20 and DEV23 of the JLP. Collectively, these Policies seek to ensure development conserves and enhances landscape, townscape and seascape character and scenic and visual quality and delivers landscape design that is appropriate to the location of the development.

Conditions

19. In the interests of certainty, a condition is needed to specify the approved plans.
20. In the interests of maintaining the character and appearance of the area, conditions are needed to secure details of the external finishes, and implementation of landscape works.
21. Lastly, in the interests of the biodiversity interests of the site, a condition is necessary to ensure that the development proceeds in accordance with the submitted ecological impact assessment.

Conclusion

22. For the reasons outlined, the details submitted comply with the development plan when taken as a whole. There are no other considerations that indicate that a decision should be taken other than in accordance therewith.
23. The appeal is therefore, allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan, Ref 10031-150303 SK_01, dated 3rd June 2021;
 - Site Plan, Ref 010 Rev H, dated 18.01.22
 - House Type 1 - Plans and Elevations, Ref 020 Rev D, dated 07.02.22
 - House Type 2 - Plans & Elevations, Ref 021 Rev D, dated 07.02.22
 - House Type 3 - Plans & Elevations, Ref 022 Rev E, dated 07.02.22
 - Garage - Plan & Elevations, Ref 025 Rev B, dated 07.02.22
 - Consolidated landscape plan, Ref 051, dated 18.11.22
 - Ownership Plan, Ref 050, dated 18.01.22
 - Proposed Drainage Strategy, Ref 0500 Rev P5, dated 03.03.22
 - Proposed Highway Details, Ref 0555 Rev P1, dated 23.02.22
 - Proposed Highway Long-Section, Ref 0556 Rev P1, dated 23.02.22
 - Landscape Details and Notes, Ref 759/02, dated 16.03.21
- 2) Prior to installation/use, a schedule of materials and finishes to be used in the construction of external surfaces, including roofs, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and thereafter so retained.
- 3) Notwithstanding the details set out on the submitted drawings, the recommendations, mitigation and enhancement measures of the Update Ecological Impact Assessment by GE Consulting dated May 2021 shall be fully implemented prior to the commencement of the use hereby approved and adhered to at all times. In the event that it is not possible to do so, all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the Local Planning Authority.
- 4) All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

Any trees or plants that, within an establishment period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with other species, size and number as originally approved, unless the Local Planning Authority gives consent to any variation.