



Appeal Decision

Site visit made on 22 August 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2023

Appeal Ref: APP/N1160/W/22/3304964

Land at Fitzroy Road, Plymouth PL1 5PY

- 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. Jim Woodley against the decision of Plymouth City Council.
 - The application Ref 21/02217/FUL, dated 16 December 2021, was refused by notice dated 16 February 2022.
 - The development proposed is the construction of building containing 7no dwellings including associated parking, bike and bin storage and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application, the main parties agreed to amend the description of development. I have therefore used the description as provided on the decision notice.
3. Prior to the application being determined, the appellant submitted amended plans. However, the Council's decision was not based on the amended plans, and they were not subject to consultation. As a result, I have only considered the approved plans as listed on the decision notice.

Main Issues

4. The main issues are the effect of the proposed development on: (i) the character or appearance of the Stoke Conservation Area, including the effect on protected trees; (ii) the living conditions of future occupiers in respect of daylight and outlook, and those of the occupiers of No. 22 Fitzroy Road in respect of private outdoor space; (iii) biodiversity; (iv) highway safety with particular regard to other road users; and also (v) whether the proposed development would be sustainable, with regard to carbon emissions and the use of sustainable forms of transport; and (vi) whether contributions for affordable housing and infrastructure are required.

Reasons

Character and appearance

5. The appeal site is located within the Stoke Conservation Area, a predominantly residential area that contains a variety of building styles and sizes. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is largely derived from the abundance of mature trees, hedgerows and other vegetation, as well as the aesthetic value of some of the residential dwellings.

In combination with the layout of development, this results in a particularly spacious and verdant character.

6. The appeal site fronts onto Fitzroy Road. Part of the site comprises an element of private amenity space for the occupiers of No. 22 Fitzroy Road and there is some bare ground. However, a large proportion of the land contains mature trees, and the site as a whole is protected by a Tree Preservation Order. Indeed, while in general the site can be said to have a rather untidy 'scrubland' type appearance, the mature trees add greatly to the verdant character of the immediate area. In particular, given their size and coverage, the row of established trees that line the road, and the other vegetation that surrounds them, forms a continuous and relatively unbroken screen of greenery that contributes very positively to the significance of the Conservation Area.
7. The proposed development would see the removal of the trees that line Fitzroy Road and the provision of a building that would contain seven dwellings with associated parking and amenity space. The design of the building itself would be quite modern in appearance with a flat roof and predominantly clad with timber. Given the variety of building sizes and styles that already exist in the immediate area, which includes the modern looking development of three dwellings immediately adjacent, the general appearance of the proposed building, when considered in isolation, would not result in harm.
8. However, the proposal would introduce a relatively significant amount of built form onto a site where there is currently none. In addition, while several of the existing trees on the south-eastern part of the site would be retained, the removal of the trees that front onto the road, in combination with the proposed built form, would result in clear and obvious harm in relation to a loss of spaciousness and greenery. Indeed, the overall effect of the proposal would be to further urbanise the immediate area and make it feel more crowded and less verdant.
9. The proposal includes plans to plant several new trees on the frontage of the site and the appellant has set out that these would be species which are more suitable to the area. However, notwithstanding the Council's concerns about the likely success of the proposed tree planting and landscaping in that location, it would likely take many years for those trees to reach the same height and have the same coverage of those that currently exist. Furthermore, even if they were to mature to be of equivalent aesthetic value, the proposed building, and the driveways to the front with cars parked on them, would still be highly visible and the harm arising from that, when compared to the site's current appearance, would be clear and enduring.
10. The appellant has provided a Tree Survey and Tree Constraints Plan which assesses the quality of the trees on site. The majority of those proposed for removal are regarded as being of low quality, apart from one tree which is identified as being unsuitable. However, the assessment does note that, while the trees are of poor quality when assessed as individuals, they do have collective value. Moreover, the Tree Impact Assessment Plan identifies that the vast majority of the trees to the front of the site would be removed due to a conflict with the proposed layout rather than good management, and there is no substantive evidence before me to suggest that the trees would not live for many years to come. Therefore, the harm caused by their removal has not been justified.

11. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The proposal would have a negative effect on the significance of a designated heritage asset. Due to the limited extent of the proposal, this can be categorised as being 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
12. In this instance, the development would provide a net increase of seven energy efficient dwellings in a sustainable location and would make efficient use of land. The provision of new homes would also have associated economic benefits both prior to, and after, occupation. These benefits attract moderate weight. The proposal would result in an increase in biodiversity on the site, and the appellant has noted that the condition of the remaining trees could be enhanced. However, being a site of limited size, any increase in biodiversity would be limited, and it is not clear why similar outcomes could not be achieved without the proposed development taking place.
13. When considered in combination, the public benefits do not outweigh the less than substantial harm that I have identified. The proposed development would therefore fail to preserve or enhance the character or appearance of the Conservation Area and would result in harm to its significance. This would fail to satisfy the requirements of the Act and would conflict with Policies DEV20, DEV21, DEV23 and DEV28 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 (LP), and the relevant aspects of the Joint Local Plan Supplementary Planning Document, July 2020 (SPD). In part, these policies and guidance seek to ensure that character and appearance is maintained, including trees that contribute to local character, and that the significance of designated heritage assets, is preserved. Finally, the proposal is also contrary to paragraphs 197, 200, 202 and 206 of the Framework, which set out how designated heritage assets, including Conservation Areas, should be conserved and enhanced.

Living conditions

14. Due to the sloping nature of the appeal site, the lower two floors of the proposed building would be below ground level when viewed from Fitzroy Road. The approved plans show that the hardstanding that forms the parking spaces in front of the building would extend as far as the front elevation in the form of a parking bridge. As a result, the bedrooms in Units 1 to 4 would likely receive relatively little daylight and would also have a limited outlook. However, while the use of a lightwell would perhaps be a better solution, the bedrooms are not primary living spaces, and a relative lack of daylight and outlook is not unusual in basement accommodation which these bedrooms would effectively be akin to. Indeed, given that the primary living spaces of those properties would all receive good levels of daylight, I do not find harm in this regard.
15. Part of the appeal site currently forms a proportion of the private outdoor space associated with No. 22 Fitzroy Road. The proposed development would therefore mean that the amount of overall private outdoor space for that property would be significantly reduced. However, that area of land is very

unusually sited in that it is functionally detached from the rest of the property. In addition, the remaining garden space would still be of a sufficient size to contain a table and chairs and other garden paraphernalia, and as such, would still be able to adequately perform its function.

16. I therefore conclude that the proposed development would not harm the living conditions of future occupiers or those of the occupiers of No. 22 Fitzroy Road. It therefore conforms with LP Policies DEV1, DEV2 and DEV10 and the relevant aspects of the SPD. The relevant aspects of these policies and guidance seek to deliver high quality design and protect living conditions. It also conforms with paragraph 130(f) of the Framework, which in part, has similar aims.

Biodiversity

17. LP Policy DEV26 does not contain specific targets in relation to biodiversity, but in terms of its general thrust, it seeks to enhance the level of biodiversity on sites as a result of development. The SPD, which is a material consideration, does set out that a 10% increase in biodiversity will be sought.
18. In this instance, the proposed development would result in the loss of several protected trees and currently undeveloped land. However, through additional planting and the installation of other features such as bat and bird boxes and invertebrate bricks, it is likely in my view that an increase in biodiversity would be achieved. This is reinforced by the findings of the Ecological Impact Assessment, November 2021 (EIA), which includes an assessment of biodiversity net gain. While the EIA does not confirm whether there would be a 10% gain overall, I am satisfied that, given the limited scale of development, the proposed measures to increase biodiversity are proportionate and that they could be secured via an appropriate condition.
19. I am therefore satisfied that the proposal would enhance the biodiversity of the site. As such it conforms with the overall aims of LP Policy DEV26 which seeks to protect and enhance biodiversity. It also conforms with the relevant aspects of the SPD and paragraph 174(d) of the Framework which have similar aims.

Highway Safety

20. The proposed development would provide one parking space for each of the seven dwellings, while the SPD sets out that a two dwelling property should provide two parking spaces. However, this is described as an indicative parking standard, with provision considered on a case-by-case basis. In this instance, the appeal site is in a very sustainable location, close to city centre services and facilities which can be easily reached by utilising sustainable modes of transport.
21. In my view, the proposed level of parking provision strikes an appropriate balance between providing off-street spaces, while promoting the use of sustainable transport. Indeed, given the location of the site, the likelihood of future occupiers owning additional vehicles is reduced, and as a result, I do not consider that the proposed development would lead to an increase in on-street parking with the consequential harm to highway safety that would then follow.
22. Furthermore, I observed on my site visit that Fitzroy Road appears to be very quiet with relatively few traffic movements, and in any event, cars appear to travel at slow speeds given the limited width of the road. While cars may need to reverse out of the proposed parking spaces onto the road, this is in no way

unusual, and the quiet suburban nature of the road means that there is no quantifiable risk in this regard. Furthermore, while there is no pavement on the south side of Fitzroy Road, there is a pavement on the other side, meaning that there is a safe route for pedestrians. Overall, in the absence of any substantive evidence to the contrary, including the identification of any existing highway safety issues in this location, there is no reason for me to conclude that the proposed development would cause harm in this regard.

23. It therefore conforms with LP Policy DEV29 which seeks to ensure that development proposals do not cause harm to highway safety, including by providing a sufficient number of parking spaces. It is also in conformity with the relevant aspects of the SPD and section 9 of the Framework, which in part, have similar aims.

Whether the proposed development would be sustainable

24. LP Policy DEV32 requires development to contribute to a reduction in carbon emissions. Moreover, the SPD requires minor developments to provide relevant information in the form of a Design and Access Statement. In this instance, the appellant has produced an Energy Statement which goes beyond the requirements of the SPD and sets out the energy saving measures that would be utilised as part of the proposal, including the installation of photovoltaic panels. This issue could therefore be addressed through a suitably worded condition to secure the necessary measures.
25. Furthermore, I am satisfied that the proposed development includes measures to encourage the use of sustainable transport. In particular, provision would be made for fourteen bicycles in a locked store in line with the requirements of the SPD. The Council has objected to the size of the store. However, in my view, there is no reason why it could not accommodate 14 bicycles by utilising modern design solutions. I am satisfied that this issue could be addressed satisfactorily through the imposition of a suitable condition. The store would be accessed via a limited number of steps, and while this may not be particularly convenient for occupiers, it does not mean that the facilities, or the means of accessing them, would be inadequate or unusable. In addition, the site is close to existing bus stops that serve the city centre and is within walking distance of an abundance of services and facilities.
26. As a result, the development would be in conformity with LP Policies DEV32 which seeks to reduce carbon emissions in new developments, and Policy DEV29 which, in part, encourages that use of sustainable transport measures. It also conforms with the relevant aspects of the SPD and the Framework which have similar aims.

Affordable housing and infrastructure contributions

27. The appellant previously completed a development of three dwellings on land adjacent to the appeal site¹. The Council has alleged that the appellant purposefully split the site in two in order to avoid contributions towards affordable housing and infrastructure.
28. In this instance it is likely that, prior to the development of the three dwellings, the land on which they are situated, and the appeal site, would have formed a single site for planning purposes. However, the appellant has set out that the

¹ Planning application ref: 17/02399/AMD

planning application was approved when the land was in different ownership. The Council does not appear to dispute this. Moreover, the appellant previously submitted an application for ten dwellings on the appeal site which was subsequently refused by the Council. Given the change in ownership, and the planning history of the site, I am satisfied that the two schemes cannot be considered as being a single development. It is therefore not necessary for me to consider whether one additional residential unit could have been provided on the site.

29. The proposal is therefore in accordance with LP Policy DEV7 which requires developments of more than ten dwellings to contribute to affordable housing, as well as Policy DEV30 which requires major development schemes to contribute towards community infrastructure. It is also in conformity with the relevant aspects of the SPD which provides further guidance on these issues, and paragraph 34 of the Framework which supports the preparation of development plan policies that secure necessary contributions.

Conclusion

30. I have found that the appeal proposal would cause harm in relation to its effect on the character or appearance of a designated heritage asset. Consequently, the proposal would conflict with the development plan taken as a whole, notwithstanding that I have found no harm in relation to the other main issues that I have considered. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR