



Appeal Decision

Site visit made on 10 October 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13TH November 2023

Appeal Ref: APP/N1160/W/23/3318528

Land adjacent to 7 Penrose Street, Plymouth PL1 5AT

- 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 James Tasker of Plymouth Community Homes against the decision of Plymouth City Council.
 - The application Ref 22/01434/FUL, dated 17 August 2022, was refused by notice dated 11 January 2023.
 - The development proposed is retrospective planning consent to change green area into additional parking spaces for use by local residents.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken from the Council's decision notice as that provided in the application form is incomplete. Furthermore, the address above reflects that provided within the appellant's appeal form. As such, neither party would be prejudiced by me using this address.
3. I note that the Council used a different description of development in its decision notice. However, I have taken the description set out above from the application form, as applied for.
4. The application form states that work began in April 2022 and at the time of my visit I saw that parking area works had been carried out, though the layout and number of parking spaces was different to that shown on the proposed plans. I note that the application has been dealt with retrospectively. However, for the above reason, and for the avoidance of doubt, I have dealt with the appeal on the basis of the submitted plans.

Main Issues

5. The main issues are:
 - (i) the effect of the proposed development on open space provision;
 - (ii) the character and appearance of the area;
 - (iii) highway safety;
 - (iv) biodiversity; and
 - (v) drainage.

Reasons

Open space

6. Although not designated as Green Space within Policy DEV27 of the Plymouth & South West Devon Joint Local Plan 2016 (JLP), part of the appeal site closest to Penrose Street was formally an open space that is within an area where there is a recognised shortfall. Regardless of whether it was publicly or privately accessible, and notwithstanding the proximity of Patna Park, the space was nevertheless available to occupiers of nearby surrounding flats in addition to other maintained gardens. The policy notes that open spaces should not be built on unless, amongst other things, they are surplus to requirements.
7. The appellant states that the appeal site is detached from residential properties which caused an ambiguity in the status of the land, resulting in it not being previously used in a responsible way. In that context, I acknowledge the comments of the local Designing Out Crime Officer and the results of a local survey.
8. However, the appellant submits that parking within the appeal site would be provided to serve adjacent residents, which is consistent with the submitted plans. Although the former open space provided easy access for unintended users and was consequently more susceptible to anti-social behaviour (ASB) than currently, there is little evidence to demonstrate that the fly-tipping or other littering would not continue as a result of the development. Furthermore, given the close proximity of its intended users, even if CCTV did not prevent misuse or regular visits were unrealistic, I have not been provided with any substantive evidence to demonstrate why the former open space could not have been managed in such a way as to avoid ambiguity over its use for nearby residents or to avoid unacceptable ASB.
9. Accordingly, the former open space could have been maintained as a clean, useable, safe and accessible area for its residents. This would have been for the benefit of these nearby residents to meet and socialise as promoted within the Council's Plymouth and South West Devon Supplementary Planning Document (SPD). Even if there is a demand for more parking in the area, the former open space is therefore not surplus to requirements.
10. I therefore conclude on this main issue that the proposed development would cause unacceptable harm to open space provision. As such, it would conflict with Policy DEV27 of the JLP and the Council's SPD.

Character and appearance

11. The appeal site is within a high density urban area that is characterised by its street fronted terrace properties and flatted developments. These flats include frontage gardens, where breaks in built form are rare. The appeal site was formally used as an open space for local residents and also included parking to the rear. From the evidence before me, although there are other examples of off street parking in the wider area, the former open space made a positive contribution towards the local area by providing a small but partly verdant space alongside nearby gardens and adjacent footways. Furthermore, it would have provided a visual break against a backdrop of the close nit streets where on street parking remains a dominant feature.

12. I have already concluded above that the previous poor condition of the former open space could have been avoided. In that context, notwithstanding the proposed retention of a single tree and proposed screen hedges behind part of the existing boundary wall, views into the appeal site from surrounding footways would be dominated by an expanse of hard surfaces with a cluttered arrangement of bollards and painted zones, untypical of the street layout. I acknowledge that part of the appeal site was previously laid out to parking, though for the above reasons, the proposed parking layout would not have proper regard to the pattern of local development or achieve a good quality sense of place as required by Policy DEV20 of the JLP.
13. I therefore conclude on this main issue that the proposed development would harmfully affect the character and appearance of the area. As such, it would be in conflict with Policy DEV20 of the JLP. There would also be conflict with paragraph 134 of the National Planning Policy Framework (the Framework) where it says that development that is not well designed should be refused, especially where it fails to reflect local design policies.

Highways

14. Vehicles would be able to enter the appeal site in a forward gear. However, the proposed configuration including undersized spaces would be constrained. Consequently, although most vehicles would be able to turn in the space left available for such manoeuvres, the plans do not demonstrate that reversing onto Penrose Street West, or Penrose Street would be avoidable in all circumstances. I accept that the traffic speeds off this service lane are likely to be low, though pedestrians would be unlikely to be expecting to have to avoid oncoming reversing vehicles where visibility for drivers would be restricted, particularly in the dark or during inclement weather. Furthermore, even if I were to apply discretion to the proposed undersized spaces, I cannot be certain that vehicles would be able to avoid reversing manoeuvres from the appeal site onto Penrose Street West or Penrose Street. As such, although on private land, it has not been demonstrated that the scheme would provide safe and satisfactory vehicular access to and within the site as set out in Policy DEV29 of the JLP.
15. I therefore conclude on this main issue that the proposal would be likely to harm highway safety. As such, it would be in conflict with Policy DEV29 of the JLP. There would also be conflict with paragraph 111 of the Framework which says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Biodiversity

16. Although the proposal is not major development, Policy DEV26 of the JLP says that the level of biodiversity net gain required will be proportionate to the type, scale and impact of development. It adds that enhancements for wildlife within the built environment will be sought where appropriate from all scales of development. Paragraph 174 of the Framework requires that decisions should contribute to and enhance the local environment in a number of ways, including provision of net gain in biodiversity.
17. Whilst the appeal site previously contained hard landscaped areas, the plans show that it was likely to have included substantially more green space than that proposed. Given the very small scale of the development and other

available unused space within the appeal site, I am satisfied that subject to an appropriately worded condition, biodiversity net gains and wildlife enhancements could be achieved.

18. I therefore conclude on this main issue that the proposal would not harmfully affect biodiversity. As such, it would accord with Policy DEV26 of the JLP. There would also be no conflict with paragraph 174 of the Framework.

Drainage

19. Whilst the previous layout of the site included hardstandings, the proposed development would increase these impermeable areas across most of the appeal site. The proposed development is within a Critical Drainage Area where, amongst other things, Policy DEV35 says that development should include a drainage strategy including proposals for long term maintenance and management. Notwithstanding the existing storm gullies shown on the plans, I am satisfied that it would be reasonably necessary to seek further detail in this regard. Accordingly, this could be sought through an appropriately worded condition. Furthermore, there is no substantive evidence that it would not be possible to drain surface water from the site.
20. I therefore conclude on this main issue that the proposal would not harmfully affect drainage. As such, it would accord with Policy DEV35 of the JLP.

Conclusion

21. Bringing together my conclusions on the main issues, had I been otherwise minded to allow the appeal, I have found that subject to appropriately worded conditions, the proposal would not harmfully affect biodiversity or drainage. However, this would not outweigh the harm I have identified in respect of open space provision, the character and appearance of the area and to highway safety.
22. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would conflict with the development plan. There are no considerations individually or cumulatively that outweigh this conflict. Therefore, the appeal is dismissed.

J Hills

INSPECTOR