



Appeal Decision

Site visit made on 30 August 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Appeal Ref: APP/Y1138/W/23/3317428

Land at NGR 276783 94569, Little Mounson, Cheriton Bishop

- 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 Mr Geoff Smith against the decision of Mid Devon District Council.
 - The application Ref 22/01756/ARM, dated 7 September 2022, sought approval of details pursuant to condition No 1 of a planning permission Ref 18/01633/OUT, granted on 17 March 2020.
 - The application was refused by notice dated 15 December 2022.
 - The development proposed is the construction of two replacement dwellings.
 - The details for which approval is sought are: appearance and landscaping.
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Decision

1. The appeal is dismissed and approval of the reserved matters is refused, namely the appearance and landscaping details submitted in pursuance of condition 1 attached to planning permission Ref 18/01633/OUT dated 17 March 2020.

Preliminary Matters

2. In response to the reason for refusal, the appellant has submitted additional information with this appeal; two technical reports (a Landscape and Visual Impact Appraisal and a Ground Investigation Report) and two section plans (ref. 2422/01S-B and 2422/02S-B).
3. The Procedural Guide: Planning appeals – England sets out that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Furthermore, in considering whether to accept the proposed amendments, I have had regard to the fairness of doing so. That is to say, if I were to consider the amended scheme, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation.
4. The appellant asserts that the submission of these documents is supportive evidence, rather than an evolution of the scheme. I consider that whilst the two technical reports are supportive evidence and therefore relevant to consider as part of this appeal, the plans represent a material amendment to the scheme considered by the Council.
5. Whilst comments have been provided by interested parties during the appeal process, I am not aware that any wider consultation has been carried out. Where the plans show changes to the topography of the site and the

introduction of retaining walls, I am not persuaded that all those who should have been consulted on these changes have been given the opportunity of such consultation, particularly given the level of public interest in this case.

6. It is therefore my view, in the interests of fairness, that this appeal must be determined on the basis of the plans submitted to the Council, upon which it based its decision, and which have been subject to consultation. I therefore do not consider that it would be appropriate to take the newly submitted section and section comparison plans 2422/01S-B and 2422/02S-B into consideration.
7. I note also that the Council has not listed the earlier iterations of these plans (ref. 2422/01S and 2422/02S) as part of the suite of plans that were considered in determining the application. However, these plans also form part of the appellant's submission to this appeal. As these plans show the same scheme as that considered by the Council, I'm satisfied that no parties would be prejudiced by their consideration, and I have therefore referred to them as needed.

Main Issues

8. The main issues are:

- The effect of the proposed development on the character and appearance of both the immediate environs of the site and the wider landscape; and
- Whether the proposals would provide suitable ground conditions to maintain the structural integrity of the site and the adjacent highway.

Reasons

Character and appearance

9. The appeal site lies on the upper slopes of a ridgeline running broadly north from the A30. The ground of the site slopes steeply down to the south-east, away from the adjacent lane. This lane is flanked by a mature hedgerow on a low bank, which also marks the north-western site boundary. A substantial section of this hedgerow has been removed, and some young recent infill planting is evident.
10. During my site visit, I was able to view the site from the adjacent lane, and noted the expansive outlook across the rolling agricultural landscape from this location. The far-reaching views from the site also take in a number of properties in the village of Cheriton Bishop and its surrounding landscape, suggesting further significant intervisibility with the site across a considerable area. I visited one of the footpaths highlighted on the map in Section 8 of the submitted Landscape and Visual Impact Appraisal (LVIA), just south of Drummer's Well Brake, to the south-east of the site. I found that clear and unobstructed views of the site were available from this footpath, and contrary to the conclusions of the LVIA, consider that such views would be similarly available from other elevated locations in the wider context south-east of the site.
11. Seen from the wider area, the appeal site is visible as rough pasture within a horizontal pattern of fields running along this local ridgeline. The skyline is predominantly treed, with two built features comprising a farm and a cluster of residential dwellings some distance from the appeal site along the same

ridgeline. A strong hedgerow pattern between the fields brings lines of trees and some considerable areas of woodland onto the upper slopes of the ridge, resulting in an attractive verdant rolling landscape.

12. The outline permission has established the principle of two dwellings at the site, with an approved site configuration broadly in line with that now proposed. However, within the detail of the 'appearance' and 'landscaping' reserved matters, there are some material differences between the proposals described at outline stage and those before me. Primarily, these relate to the reduction of ground levels around the properties, and the resulting change from split-level to two-storey dwellings. The current appeal scheme also shows an altered configuration for the driveway and parking area for the southernmost plot.
13. The appellant advances that the plans submitted illustrate the height and massing of the proposed dwellings would be no more than that approved by the outline permission. Whilst the upper ridgeline of the dwellings has been lowered by approximately 1m, the visible massing of the buildings would be considerable. Where previously the split-level design and limited incursion into the sloping ground created a sense of the buildings nestling into the slope, the proposals would now substantially sit proud of the altered landform, conflicting with the gently rolling character of this rural ridgeline. Any screening that was afforded by the retained ground levels would be limited to a significant degree, with the proposals seen as a stark incursion into the landscape both at close proximity from the adjacent lane, and in wider views from the surrounding area.
14. There are isolated pockets of development in the local area, including some detached dwellings that are at a higher ground level than the proposed built form. However, those that I was able to see are typically associated with a functional agricultural complex, or are modest residential properties that reflect locally distinctive traditional proportions and materials. Neither form provides an appropriate context for the proposed dwellings and their associated groundworks. Moreover, whilst a contemporary form of development at the appeal site has been broadly accepted by the outline approval, it does not follow that the appearance and context of the dwellings should not respond sensitively to both the character of the site, and its visually prominent location.
15. Given the approved scale and form of the dwellings, the proposed use of stone and timber cladding would present a sensitive palette of materials in this isolated rural location. In addition, the relatively restrained use of glazing on the most visible front and rear elevations, and the shadow set-back on the upper storey of the rear elevation, would reduce the opportunity for glare and light spill, which can be particularly harmful in a rural setting. However, the use of sensitive materials and design details would not overcome the overall harm to the character of the area, or the visual prominence of the proposals.
16. The details shown on the Landscape Plan include native tree and hedgerow planting, both of which are relevant to the area. However, the introduction of planting on the road-side of the dwellings would not screen or assimilate the stark form of the development when seen from the wider landscape. Whilst the proposed wildflower meadows are valuable features for land management and biodiversity, they would provide limited mitigation for the wider landscape and visual effects of the development. The Landscape Plan also lacks sufficient

detail (for example sizes, densities and numbers of plants, maintenance and management details) to demonstrate that the planting shown would provide effective screening of the proposals from the road, or appropriately mitigate the approved changes to the access.

17. For these reasons, the proposed development would markedly detract from the rural character of the area. Whilst the dwellings would not affect any important landscape features, their interruption of the sloping landform, and the engineering works to accommodate the building footprints and parking areas would fundamentally alter the ridgeline landscape. The proposals would also introduce unduly stark and visually prominent built form into an area of attractive open and verdant countryside.
18. I therefore conclude that the proposed development would result in harm to the character and appearance of both the immediate environs of the site and the wider landscape. This would conflict with policies S1, S9, S14 and DM1 of the Mid Devon Local Plan (the Local Plan). Taken together, these policies require development to preserve and where possible enhance the character and appearance of the countryside, respect local character, and create visually attractive places that are well integrated with surrounding landscapes.

Ground conditions

19. The ground level of the appeal site slopes notably down from the boundary hedgerow and adjacent road edge, and I saw during my site visit that some excavations to accommodate the footprint of the dwellings have already been undertaken on the land below the road.
20. The submitted Ground Investigations Report seeks to determine the ground conditions of the site and make recommendations on suitable design solutions. There is limited evidence before me to contradict the findings of this report, and I therefore afford it considerable weight. However, references within the report to a retaining wall and retaining structures suggest that this report is based upon an amended scheme, and not the details considered by the Council.
21. Alongside suitable foundation design, the report indicates that retaining structures and altered angles of slope are needed, together with suitable drainage and landscaping. Whilst details of drainage measures are secured by a condition on the outline approval, the treatment of the ground surrounding the dwellings, including the formation of banks, terraces, or other earthworks, falls within the details of landscaping to be determined as part of this appeal.
22. No specific landscape proposals relating to the slopes are shown on the submitted Landscape Plan, nor does the Ground Investigations Report indicate that the plans as submitted would be a suitable or safe engineering solution for the site. Due to the visibility of the site and the effect of the currently proposed ground level changes on the character and appearance of the area, it is not appropriate to leave further details of ground levels and retaining walls to be conditioned.
23. I therefore conclude that whilst technical evidence has now been submitted, without meeting the measures recommended in the Ground Investigations Report the proposals would not provide suitable ground conditions to maintain the structural integrity of the land adjacent to the highway. This would conflict

with Policy DM1 of the Local Plan where it requires high quality design that demonstrates a clear understanding of the characteristics of the site and the creation of safe places. I note that the Council and the appellant have also referred to Policies S1, S9, and S14 of the Local Plan. However, these policies relate to matters concerning the environment, countryside and strategic sustainable development priorities that are not directly relevant to my consideration of this issue.

Other Matters

24. The principle of two new dwellings in this location has been established by the outline planning permission, and the benefit of housing delivery was given due weight during that decision making process. I have taken into account the scheme's contribution to the supply of new homes, however, the modest benefit of delivering two dwellings does not outweigh the harm that I have identified.
25. Both parties have alluded to perceived unreasonable behaviour on the other's part. However, the option to make an application for costs has not been taken by either party. Any complaint with the handling of the application should be taken up with the Council in the first instance, and in determining the appeal I have only had regard to the planning merits of the case.
26. A high number of third party representations have been received raising concerns including the principle of development and the safety and suitability of the access onto the adjacent road. These matters were considered and approved as part of the outline planning permission, and it is therefore not necessary for me to consider them further here.
27. The Council and a number of third parties have also raised concerns over the adherence of this scheme to the parameters approved at outline stage, with particular reference to the change to the front elevation of each dwelling, and the configuration of the access track and carport of the southern-most plot. As I am dismissing this appeal on other substantive grounds, and as a condition has been attached to the outline permission to control the provision of the access driveway, turning and parking areas, it is not necessary for me to examine these matters further as part of this appeal.

Conclusion

28. For the reasons given above I find that the proposals would conflict with the development plan when read as a whole. There are no material considerations that have been shown to carry sufficient weight to indicate a decision otherwise than in accordance with it. Accordingly, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR