



Appeal Decision

Site visit made on 14 November 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/N1160/W/22/3309324

Arcadia Road, City of Plymouth PL9 8EG

- 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 Westcountry Land (Alphington) Ltd against the decision of Plymouth City Council.
 - The application Ref 22/00784/FUL, dated 6 May 2022, was refused by notice dated 8 July 2022.
 - The development proposed is the erection of five detached residential dwellings, access, estate road, drainage and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the words that are not acts of development from the description in the banner head above.
3. The appellant has provided additional information, including amended plans, relating to biodiversity as part of the appeal. Following a review of this information, the Council confirmed this sufficiently demonstrates that the scheme would provide a biodiversity net gain as required by Policy DEV26 of the Local Plan¹. Therefore, the Council is no longer contesting this reason for refusal. As the changes to the plans are not significant and the Council has had the opportunity to comment on them, no party would be prejudiced by my accepting them as part of the appeal scheme. I have determined the appeal accordingly.
4. The Council referred to the National Planning Policy Framework 2021 (the Framework) on the decision notice. A new version of the Framework came into effect in September 2023, and I have determined the appeal in accordance with it. As the Framework's policy content insofar as it relates to the main issues is unchanged, no party would be prejudiced as a result of this approach.

Main Issues

5. The main issues are:
 - whether the proposed shared surface access road would be suitable with regard to refuse collection arrangements, provision of services and the safety of its users;

¹ Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan)

- whether the proposed dwellings would be safe from flooding and whether the scheme makes adequate arrangements for surface water drainage; and
- the effect of the proposed development on the provision of green space.

Reasons

Shared surface access road

6. The proposed development comprises five detached dwellings accessed off Arcadia Road using the existing driveway to Harris House, in the form of a private, shared surface road. Whilst it is not intended for the road to be adopted, nevertheless it would be required to provide a safe and functional layout through the application of minimum design standards.
7. The design of the proposed turning head is such that, when reversing out of the space between Units 02 and 03², the front of the vehicle would overhang the proposed wildflower grass verge and manoeuvre very close to the side elevation of Unit 02. Whilst the Highways Design Guide³ provides some flexibility to the required dimensions, this relates to the allowance for vehicles to overhang the ends, rather than the sides, of the turning head. On this basis, it has not been demonstrated that a large refuse vehicle entering and exiting the site in a forward gear would have sufficient space to manoeuvre with ease. This could result in conflict with other users of the access road, prejudicing safety. Additionally, potential conflict with the built form and landscaping, including biodiversity enhancements would arise.
8. The proposed access road would meet the carriageway width standard for Shared Surface Access Ways as set out in the Highways Design Guide. However, the proposed service strips would not be as wide as the verge width stipulated and therefore some services may need to be located within the carriageway. Despite this, the overall width of the access road and the service strips would be sufficient for safe vehicular access even when essential maintenance of the services is undertaken. This is not an uncommon scenario where shared surface areas are proposed, as identified in the MfS⁴ and approved by the Council in other locations, even if these are not directly comparable to the appeal scheme in other aspects.
9. The purpose of the verges, as set out in the Highways Design Guide, is for the accommodation of services and not to provide defensible space where a pedestrian or wheelchair user could move out of the way of a moving vehicle. Moreover, shared surfaced streets are specifically designed to encourage low speeds and cautious driving, amongst other benefits. Therefore, as set out in both the Highways Design Guide and MfS, separate footways are not required. The number of dwellings that would be served by the proposed shared surface access road, its layout, carriageway width and length, would enable pedestrians and wheelchair users to move safely within the development.
10. Nonetheless, I conclude that the proposed shared surface access road would not be suitable with regard to refuse collection arrangements and, consequently, the safety of its users. It would conflict with Policy DEV29 of the

² As shown on drawing ref: C20093-SPA003C – Swept Path Analysis Plan, prepared by Advance Consulting Engineers Ltd, dated 22 March 2022

³ Devon County Council's Highways in Residential and Commercial Estates Design Guide (the Highways Design Guide)

⁴ Department of Transport's Manual for Streets (MfS)

Local Plan which requires development, amongst other things, to provide safe and satisfactory traffic movement and vehicular access to and within the site.

11. I also find conflict with Chapters 9 and 12 of the Framework where safe, suitable and inclusive access which promotes sustainable modes for all users, into well-functioning developments is required.

Flood risk and surface water drainage

12. The site is located within Flood Zone 1 and therefore considered to be at low risk from fluvial flooding. However, mapping provided by the Environment Agency shows that part of the site is at risk from a 1 in 100-year return flood event from the watercourse that runs along the southern boundary. Proposed Unit 03 would be situated on this part of the site. Surface water from the development is proposed to freely discharge into the watercourse. Therefore, without mitigation, Unit 03 would be at risk of flooding from the watercourse during a flood event.
13. The proposed finished floor levels of Unit 03 would be above the watercourse bed level. Further measures, including the culverting of the watercourse upstream and a maintenance regime for the existing culvert downstream are proposed. However, in the absence of additional information including any hydraulic modelling or similar, the existing capacity in the watercourse and the effect of blockages to the downstream culvert, the very low risk of flooding assertion has not been fully justified. Furthermore, irrespective of the width of the watercourse, its small catchment area and its relationship with the proposed dwellings, the level of risk of flooding to existing properties beyond the site has not been sufficiently demonstrated.
14. Moreover, the plans showing the proposed drainage strategy, maintenance, exceedance runoff and finished site levels⁵, are all based on the previous site layout. While this may be considered by the appellant to only be marginally different to the appeal scheme and the drainage scheme would remain in private control, nevertheless, this lack of consistency does not provide the level of certainty required to allow this appeal. Combined with the flood risk information provided, it has not been demonstrated that the proposed surface water drainage system would meet the appropriate design standards.
15. Even though a no-objection response subject to the submission of further information was issued on an earlier application⁶, now withdrawn, on the site, the Council and statutory consultees are within their rights to update their representations on subsequent schemes. Such updates in approach are not always necessarily a result of changes to local or national planning policy. Whilst frustrating and seemingly more onerous than necessary to the appellant, in any event, this level of information would have been requested had the earlier application been approved.
16. I conclude that it has not been satisfactorily demonstrated that the proposed dwellings would be safe from flooding and that adequate arrangements for surface water drainage would be provided, contrary to Policy DEV35 of the Local Plan. Amongst other provisions, Policy DEV35 stipulates that surface

⁵ Drawing refs: C20093-C001 rev B - Proposed Highway and Site Levels; C20093-C010 rev A - Proposed Drainage Strategy; C20093-C011 rev A - Drainage Maintenance Plan; and C20093-C012 rev A - Exceedance Runoff Plan

⁶ Application ref: 21/00784/FUL

water from proposed developments should be discharged in separate drainage systems.

17. It would also conflict with Chapter 14 of the Framework which requires the planning system to take full account of flood risk and new development ensures that flood risk is not increased elsewhere.

Green space

18. The appeal site comprises an area of undeveloped land which the main parties agree previously formed part of the land associated with the adjacent property known as Harris House. Such residential garden land in built-up areas is excluded from the definition of previously developed land in the Framework. Except for the section of land to the rear of Harris House and the property known as West End, the site forms part of the locally designated Arcadia Road Neighbourhood Green Space (ARNGS). The POSA⁷ categorises the ARNGS as a natural and semi-natural green space that provides multi-functional space, biodiversity, local climate regulation, cultural health, health and well-being and aesthetic benefits.
19. Policy DEV27 of the Local Plan seeks to protect and support a diverse and multi-functional network of green space by requiring the development of NGSs to meet one of three tests. As the proposed development is not for alternative sports and recreation provision (Test 3), the following are relevant;
- Test 1: the space is surplus to requirements; or
 - Test 2: it will be replaced by the equivalent of better provision in a suitable location.
20. Section DEV27.2 of the SPD⁸ provides guidance when determining a proposal against these tests. To meet Test 1, the value of the green space in terms of its typology and size, the potential to increase the value or quality, the site's accessibility and the amount of green space in the area form the judgement as to whether the site is surplus to requirements.
21. Despite the lack of agreement between the parties regarding its value and the correct accessibility identification in the POSA, the ARNGS was assessed as having value and quality scores below the aspirational threshold and, in the case of quality, by a significant margin. Although a small site, its natural habitats and biodiversity are significant benefits, including the visual relationship it has to Arcadia Road. However, given the area listed on the POSA proforma comprises the entirety of the ARNGS, it is unclear to what degree the publicly accessible land beyond the site, including the watercourse corridor, contributes to these scores. In any event, the inclusion of biodiversity net gain measures as part of the appeal scheme demonstrates the ability of the proposed development to increase the value of the ARNGS despite reducing the area of the ARNGS.
22. In terms of accessibility, the only part of the ARNGS that is accessible is located outside the site boundary and is not part of the appeal scheme. Based on the evidence before me, at no time has the site been used as an accessible

⁷ Plymouth Policy Area Open Space Assessment (POSA), prepared for Plymouth City Council by LUC, dated February 2017

⁸ Local Plan Supplementary Planning Document (the SPD)

green space nor is public access permissible via a public right of way. In Plymstock, the quantity of accessible natural and semi-natural green space exceeds the existing average standard per thousand population across the Plymouth area as a whole⁹. Furthermore, the provision of all types of accessible natural green space in Plymstock is significantly greater than the Plymouth average. Therefore, the loss of the appeal site as a designed NGS would not result in the local area failing to meet its quantity or accessibility standards.

23. Consequently, based on the evidence before me, it has been demonstrated that the part of the ARNGS located on the site is surplus to requirements, meeting Test 1 of Policy DEV27.
24. Notwithstanding the biodiversity net gain achievable on the site, given my conclusion on Test 1, I don't need to assess if the appeal site will be replaced by an equivalent or better provision in a suitable location as it would not alter my conclusion on this main issue.
25. I conclude that the proposed development would not cause harm to the provision of green space and accords with Policy DEV27 in this respect. Additionally, it would not conflict with Chapter 15 of the Framework which seeks to conserve and enhance the natural environment.

Other Matters

26. The proposed development would provide social and economic benefits in the short term from the construction of the dwellings which supports the Government's objective of significantly boosting the supply of housing where it is needed. In the longer term, the occupation of five homes within an existing settlement will increase households' spend in the local area. The specific provision of larger houses seeks to address a local need identified in Policy DEV7 of the Local Plan, an aim also supported by the Framework.
27. Concerning environmental benefits, these would be derived from the use of high-energy performance building fabric which would exceed current statutory requirements and building performance standards. Additionally, the proposed development would incorporate sustainable construction methods including the use of renewable technologies such as air source heat pumps and solar thermal. The proposed biodiversity net gain, exceeding the standards set out in guidance for minor developments, would also provide environmental benefits.
28. The Framework indicates that significant weight should be given to development that reflects design policies. However, the lack of objection in principle from the Council's Urban Design Officer and the absence of conflict between the scale and design of the proposed development and Policy DEV10 and DEV20 of the Local Plan does not outweigh the harm outlined above. Additionally, a bespoke architectural approach, the use of a palette of traditional and contemporary materials and design do not alter this harm. Similarly, the fact that the Council has not specifically cited conflict with the three dimensions of sustainable development, as set out in the Framework, does not weigh in favour of the grant of planning permission.
29. Any concerns regarding the due process during the determination of the application, including if the appellant had the opportunity to respond to

⁹ Excluding the Urban Fringe

representations made by statutory consultees, fall outside the scope of this decision.

Planning Balance and Conclusion

30. Whilst I have concluded that the proposed development would not cause harm to the provision of green space, this is a neutral factor. It does not outweigh the harm I have found concerning the provision of refuse collection arrangements, flooding and surface water drainage.
31. Therefore, the proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, that outweigh this conflict.
32. For the reasons identified above, the appeal is dismissed.

Juliet Rogers

INSPECTOR