



Appeal Decision

Site visit made on 30 January 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/N1160/W/23/3317135

86 Milehouse Road, Plymouth PL3 4DA

- 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 T Mellor against the decision of Plymouth City Council.
 - The application Ref 22/01453/FUL, dated 23 August 2022, was refused by notice dated 12 December 2022.
 - The development proposed is described as 'Construct detached dwelling with parking space (EV charger)'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr T Mellor against Plymouth City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). There have been no fundamental changes relevant to the main issues in this appeal. The references in my decision to the paragraphs in the Framework relate to this new document.

Main Issue

4. The main issues in this appeal are:
 - Whether the proposal would provide adequate living conditions for future occupiers by reason of outdoor amenity space;
 - The effect of the proposal on the living conditions of existing occupiers by virtue of overlooking and privacy;
 - The effect of the proposal on highway safety with regards to the adequacy of parking; and
 - Whether the proposal makes adequate provision for the disposal of surface water.
5. As well as these issues, the Council's statement includes concerns that the proposal would represent over development. However, I do not intend to treat this as a main issue as it is not included as a refusal reason on the decision notice.

Reasons

Living conditions for future occupiers

6. The submitted plans indicate that the appeal site would provide an external amenity area of 40 sqm at the rear of the property. This is considerably below the 100sqm required for detached dwellings in the Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document adopted July 2020 (SPD)¹.
7. Paragraph 4.140 of the SPD is clear that other considerations can be taken into account and I have noted that there are two parks within walking distance of the appeal site, the proposal is for a two bedroom dwelling and that the appeal site is located in a high density residential area where the prevailing character is terraced houses with a rear yard area.
8. However, the proposed external space also includes parking for one vehicle, a bin store and recycling area and storage for two bikes. Therefore, the actual amount of useable outdoor space for future occupiers would be significantly below the SPD requirement. It would also be smaller than the minimum standard in the SPD for terraced houses and flats and therefore undersized to properly meet the needs of future occupiers and achieve good living standards.
9. The proposal is therefore contrary to Policy DEV10 of the Plymouth and South West Devon Joint Local Plan 2014-2034 adopted March 2019 (JLP) which seeks to deliver high quality housing and achieve good living standards through the provision of sufficient external amenity space. The proposal is also contrary to Paragraph 135 of the Framework which seeks to provide a high standard of amenity for future users.

Living conditions of existing occupiers

10. The proposed dwelling would be set back behind a low wall and front onto Beaumont Street. This would be consistent with the prevailing character of the area where dwellings with small front gardens line both sides of the road.
11. The SPD² refers to a minimum separation distance of 21 metres between habitable rooms facing directly opposite one another. The appeal proposal would fall short of this in terms of its relationship to numbers 114 and 116 Beaumont Street. The Council say that this distance is 13 metres.
12. Policy DEV1 of the JLP states that unacceptable impacts will be judged against the level of amenity generally in the area. In the context of the tight knit pattern of development in the area and the existing relationships between properties nearby, I am satisfied that the proposal would not result in any undue loss of privacy to the occupiers of 114 and 116 Beaumont Street.
13. Whilst there would be some conflict with the requirements of the SPD, the proposal would comply with Policy DEV1 of the JLP which seeks to safeguard the amenity of local communities by ensuring development provides satisfactory privacy for existing residents and Paragraph 135 of the Framework which seeks to provide a high standard of amenity for existing residents.

¹ Table 11 Outdoor Amenity Space Standards by Housing Type

² Paragraph 13.19

Parking

14. The appeal scheme includes on-site parking for one vehicle. This represents a shortfall in provision when considered against the requirements of the SPD³, which requires two parking spaces for a two-bedroom dwelling. The SPD is clear that these are 'indicative' to avoid the adverse impacts of inadequate parking.
15. I accept that on-street parking may be in demand and difficult at times. For this reason I do not agree with the Council that future occupiers would seek to park in the street rather than use the on-site parking particularly as the vehicle tracking swept path analysis indicates that the appeal site can accommodate parking for a single vehicle, at the rear of the site accessed via the adjacent service lane.
16. The appeal site is located close to bus stops with a regular bus service and within walking distance of the shops and services at Stoke Village. The submitted plans indicate the provision of bicycle storage on site and this could be secured by condition. As a result, there would be a reasonable expectation that future occupiers would have access to alternative modes of transport and the need for a car would not be essential.
17. In the absence of substantive evidence to demonstrate that on-street parking generated by the appeal proposal would result in material harm to highway safety of a magnitude that would warrant withholding permission, I conclude that the proposed parking provision is acceptable.
18. I therefore find no conflict with Policy DEV29 of the JLP and the SPD which seek to ensure sufficient parking provision to protect the amenity of surrounding residential areas and ensure the safety of the highway network.

Drainage

19. The appeal site lies within a Critical Drainage Area (CDA) where the Environment Agency have identified that the existing drainage system is at or close to capacity. Paragraph 173 of the National Planning Policy Framework⁴, requires that planning applications in such locations be supported by a site specific flood risk assessment.
20. The appellant's submissions include a Drainage Strategy (DS) which rules out the use of soakaways due to the constraints of the site and sets out some options for consideration at detailed design stage. However, the details provided do not accord with the advice set out in the Planning Practice Guidance for a flood risk assessment. Specifically, it does not include an estimate of how much surface water runoff would be generated, details of existing methods of managing surface water runoff and plans for managing surface water from the proposed development.
21. The DS notes the presence of combined sewers in the locality. However, the statutory undertaker has advised that discharge to the combined sewerage network is not an acceptable method of disposal in the absence of evidence indicating that the drainage hierarchy has been applied. The Lead Local Flood

³ Table 30 at Paragraph 8.7

⁴ Together with Footnote 59 of the Framework

Authority requested the submission of a drainage strategy prior to planning approval being given.

22. Taken together, I am not satisfied that sufficient information has been provided to demonstrate that the appeal site can be developed without increasing flood risk elsewhere. Accordingly, the proposal is contrary to Policy DEV35 of the JLP which requires proposals in CDA's to include a drainage strategy supported by options and evidence, together with maintenance and management proposals. The proposal also conflicts with Paragraph 173 of the Framework for the reasons set out above.

Other Matters

23. The Council's statement includes concerns that the proposal would represent over development. However, given my findings above it has not been necessary for me to address this matter further as the appeal has failed.

Planning Balance and Conclusion

24. Whilst I have not identified harm in terms of the living conditions of existing occupiers and highway safety, I have found that the appeal proposal would result in harm to the living conditions of future occupiers and in respect of flood risk.
25. The appellant refers to a planning application⁵ and subsequent appeal decision⁶. The appeal decision dates back to 2009. This now some age, refers to policies which are now out of date and pre-dates the Framework. For these reasons, I have given this very little weight.
26. I note that pre-application discussions with the Council were largely positive. However, such advice is always given without prejudice to the outcome of any subsequent formal application and any appeal is determined on a fresh assessment of the evidence provided. I have given this little weight.
27. Whilst the Framework promotes the efficient use of land and promotes the development of under-utilised land, in this instance this would be at the expense of the living conditions of future occupiers and flood risk and does not outweigh the harm I have identified above.
28. The proposed development is contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR

⁵ LPA Ref: 08/02175/FUL

⁶ Ref: APP/N1160/A/09/2102581