



Appeal Decision

Site visit made on 20 February 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

Appeal Ref: APP/Y1110/W/23/3322198

Newbery Car Breakers, Redhills, Exeter, Devon EX4 1SS

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Hill against Exeter City Council.
 - The application Ref is 22/0756/FUL.
 - The development proposed is six detached residential dwellings and associated access and infrastructure.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

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

Preliminary Matters

3. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated it would have been refused, the reasons for which have informed the main issues of the appeal. Specifically, the Council has confirmed that, had the appeal not occurred, planning permission would have been refused on the grounds that the proposed development would fail to promote sustainable modes of transport and harm highway safety by failing to provide safe pedestrian and cycle access to and from the site.
4. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issue

5. The main issue is whether the appeal site is a suitable location for new residential development having regard to the access to sustainable modes of transport and highway safety.

Reasons

6. The appeal site is a former car breakers yard located within the urban fringe of the city of Exeter. A single vehicular entrance from Redhills provides the only

access into the site and this would serve the proposed development. The distance along Redhills from the site entrance to St Peter's Mount, which is the nearest residential street to the site, is approximately 100 metres. This section of Redhills carries a 30mph speed limit and is unlit with no pavement.

7. When I visited the site, the road was relatively busy with numerous vehicles moving in both directions. I observed that the road is somewhat narrow as whilst there is sufficient space for vehicles to pass by each other in opposite directions, there is no dividing line down the centre of the carriageway. Furthermore, the banks on both sides of the road are steep with no grass verge. As such, there is not sufficient space for a vehicle to manoeuvre around a pedestrian walking in the road without moving into oncoming traffic, nor is there the ability for a pedestrian to step out of the road to allow a vehicle to pass.
8. I acknowledge that the distance where there is no pavement present is not substantial, but a pedestrian walking in the road for this relatively short distance, particularly when it is dark, poses a substantial danger to themselves and drivers. It is acknowledged that the Highway Authority did not object to the scheme. However, in my judgement, the use of this section of road by future occupiers of the proposed development on foot would give rise to potential conflicts between pedestrians and vehicles and the absence of a pavement therefore poses a significant risk to highway safety.
9. The appellant has submitted that the nearest bus stop at Lichfield Road, which provides access to the city centre, is approximately a 6 minute walk from the site, the nearest school is a 12 minute walk and the nearest shop is a 16 minute walk. The Council have not disputed these figures and I am therefore content to rely on them. Whilst those services and facilities may be reasonably accessible to future occupiers by foot in terms of distance, the need to walk down the section of Redhills without a pavement would present an unattractive alternative to using a private motor vehicle. As such, the absence of a pavement would also not promote walking to services and facilities, including access to public transport, instead of using a private motor vehicle.
10. I note that Redhills is part of a National Cycle Network and therefore it would not be unreasonable to conclude that future occupiers can safely cycle to essential services and facilities, particularly as cycling along the 30mph section of Redhills would not pose the same level of danger to cyclists as it would to pedestrians walking along the road. However, this does not change that there would be an issue arising from pedestrians walking along Redhills and cycling alone would not provide a sufficient alternative to using a private motor vehicle for day-to-day needs.
11. My attention has been drawn to an outline planning permission that was granted at appeal in February 2022 for up to 80 houses and associated infrastructure on a site to the north of the appeal site¹. Included with the permission is the requirement to facilitate the pedestrian usage of Redhills through the provision of a footway between Exwick Lane and St Peter's Mount. This footway would also be useable for future residents of the appeal site. However, I am conscious that the 2022 permission is only in outline form, and I have not been made aware that reserved matters have been submitted for consideration by the Council. As such, I have no guarantee that a footway will

¹ Appeal reference APP/Y1110/W/21/3278148

be delivered between Exwick Lane and St Peter's Mount and I am therefore only able to apply limited weight to its potential future introduction along Redhills.

12. The appellant references a 2018 planning permission for five dwellings on the site². I have been provided with the decision notice and a plan showing the indicative layout for six dwellings. The consultation response from the Highway Authority in relation to that application referred to six dwellings. It has become apparent from the evidence that the scheme was amended at some point to a proposal for five dwellings, but the Highway Authority assessed a proposal for six dwellings. I note that the Highway Authority did not raise an objection to that application either. However, I have already disagreed with the Highway Authority's assessment of the proposed six dwellings that are the subject of the appeal and, as such, I am not persuaded that the Highway Authority's response provided in relation to the 2018 planning permission alters my earlier finding. Furthermore, as that permission appears to have lapsed, it carries limited weight in the determination of the appeal.
13. The appellant has also referred to a planning permission for three dwellings on the site³, which they have stated as being extant. However, apart from a decision notice, I have been provided with limited information on that permission and there is no formal documentation before me sufficiently demonstrating that the permission has not lapsed. As such, the permission for three dwellings is not determinative in my consideration of the appeal.
14. For these reasons, I conclude that the appeal site is an unsuitable location for new residential development when having regard to the access to sustainable modes of transport and highway safety. Consequently, the proposal would conflict with Objectives 1, 3 and 5 and Policies CP9 and CP17 of the Exeter Local Development Framework Core Strategy (2012) and Policies AP1, H2, T1, T3 and DG1 of the Exeter Local Plan First Review (2005), which collectively seek, in part, to support sustainable development through promoting sustainable modes of transport and to ensure that highway safety is not compromised. Additionally, the proposal would fail to accord with the guidance contained within the Council's Sustainable Transport Supplementary Planning Document (2013) and Residential Design Supplementary Planning Document (2010), insofar as they seek to promote sustainable travel.
15. The proposal would also conflict with the Framework insofar as it promotes sustainable transport modes and seeks to ensure safe and suitable access to sites for all users and the prevention of unacceptable impacts on highway safety.

Planning Balance

16. The Council accepts it cannot demonstrate a five-year housing land supply (5YHLS). The Council's 5YHLS Statement dated May 2023 confirms that the land supply for Exeter is 4 years and 4 months (roughly equivalent to 4.3 years). I note that the appellant has referred to an appeal decision made in August 2023⁴ where the Council agreed with that appellant that the land supply range was between 4 and 4.1 years. However, the emerging Local Plan is at

² Planning application reference 17/1928/OUT

³ Planning application reference 03/0906/FUL

⁴ Appeal reference APP/Y1110/W/22/3298452

Regulation 18 stage and under the provision of Paragraph 226 of the revised Framework the Council is now required to demonstrate a four-year housing land supply (4YHLS).

17. The Housing Delivery Test results for 2021 show that the Council had a housing delivery measurement of 155%. As such, the 20% buffer mentioned in Paragraph 77 of the Framework does not need to be applied to the housing supply figures. Given the Council can demonstrate a 4YHLS and have a delivery measurement above 75%, the presumption in favour of sustainable development set out under Paragraph 11 of the Framework no longer applies to this case.
18. There is no dispute between the parties that the appeal site constitutes previously developed land, and the Framework promotes the effective use of land in meeting the need for homes, including making as much use as possible of previously developed land. However, Footnote 49 of the Framework means that the proposal's conflict with other policies in the Framework results in it not gaining support from provisions therein that encourage the use of previously developed land.
19. The proposal would make the contribution of six dwellings towards the housing stock in the district. However, given that there is a 4YHLS, I give this benefit moderate weight. Given the current use of the site, the proposal would result in a biodiversity net gain, and I afford this benefit moderate weight as well. There would also be associated social and economic benefits for the city of Exeter through providing support to the local economy (including during the construction phase) and local community facilities. However, such contributions would be limited given the small-scale nature of the development under consideration.
20. The Council have not raised concerns in relation to the impact on the character and appearance of the landscape or living conditions, but the absence of harm is a neutral factor.
21. Weighing against the proposal is the finding that the site is an unsuitable location for new residential development when having regard to the access to sustainable modes of transport and highway safety, and in turn, the conclusion that the proposal would conflict with the development plan. Given that the planning policies that the proposal would conflict with are consistent with the Framework, I afford significant weight to the adverse impacts of the scheme.
22. Consequently, I find that the adverse impacts of the scheme arising from the unsuitable location of the site for residential development would outweigh the scheme's benefits.

Conclusion

23. For the reasons given above, the proposal would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal is dismissed.

K Reeves

INSPECTOR