



Appeal Decision

Site visit made on 2 July 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/P1045/W/23/3330158

Land to side Millers Green, Wirksworth, Derbyshire DE4 4BL

- 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 consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Orchard View Homes Ltd against Derbyshire Dales District Council.
 - The application Ref 22/00634/DCOND sought approval of details pursuant to conditions Nos 2, 3, 4, 5, 6, 7 and 10 of a planning permission Ref: 22/00634/REM granted on 9 November 2022.
 - The development proposed is approval of reserved matters for the erection of 12 no dwelling houses (outline planning consent 19/00455/OUT).
 - The details for which approval is sought are:
 2. Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.
 3. Details of all new external windows and doors shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The submitted details shall include materials, finish, depth of reveal, elevations at scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The development shall be carried out in accordance with the approved details.
 4. Details of the verges shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and so retained.
 5. Details of the proposed solar panels and air source heat pump equipment (including size, manufacturer and model number) shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The equipment shall then be installed in accordance with the approved details prior to occupation of each dwelling.
 6. Drawings showing the detailing and external materials of the porches and dormers shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and so retained.
 7. Prior to erection, details of the ground level, design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in accordance with the approved details prior to the development being first brought into use.
 10. Notwithstanding the submitted plans, a scheme for the implementation and future management of the approved landscaping, including the planting of a new, and retention of existing hedgerows and other biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the dwellings. The landscaping shall thereafter be delivered and managed in accordance with the approved details.
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Decision

1. The appeal is allowed in part and the details submitted pursuant of conditions Nos 2, 3, 4, 5, 6 and 10 attached to planning permission Ref: 22/00634/REM granted on 9 November 2022 and the plans submitted with it are approved.
2. The appeal is dismissed in part and approved of the details submitted in pursuance of condition No 7 attached to planning permission Ref: 22/00634/REM dated 9 November 2022 and the plans submitted with it is refused.

Preliminary Matters

3. The Council granted outline planning permission (Ref: 19/00455/OUT) for the erection of 12 no. dwellinghouses. Following this planning permission was granted for the approval of reserved matters (Ref: 22/00634/REM). The appeal before me concerns the Council's failure to give notice within the prescribed period to approve details required by conditions of the planning permission.
4. Following the submission of the appeal against the non-determination of application Ref: 22/00634/DCOND the Council issued a decision notice. However, given that this was issued after the appeal was submitted, I have had regard to this decision notice, but it has not been determinative in my assessment of the information submitted to agree details reserved by the conditions.
5. Furthermore, the Council state that a second application was made to agree details reserved by the conditions and the Council have since issued a decision confirming that details have been agreed for conditions 2, 4, 5, 6 and 10¹. However, given that the appeal was made with regard to a separate application to agree those details reserved by the conditions, I have still considered whether I have the information necessary to agree the details for each of the conditions before me.

Main Issue

6. The main issue relevant to this appeal is whether the information submitted pursuant of conditions 2, 3, 4, 5, 6, 7 and 10 would be adequate to agree the details reserved by the conditions.

Reasons

Condition 7

7. The reason given for the condition is in the interest of visual amenity and the character and appearance of the area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (LP), adopted 2017. Policy PD1 of the LP, amongst other matters, requires development to contribute positively to an area's character, history, and identity in terms of scale, height, density, layout, appearance, materials and the relationship to adjacent buildings and landscape features.
8. Drawing No AW0120-PL-001 identified the type, location, and height of some of the proposed fencing and walls within the development. The information submitted with this appeal does not identify the ground level of the fencing,

¹ 22/00634/DCOND/1

although it does show the design, external appearance, and decorative finish of them.

9. Along Millers Green and elsewhere nearby, there are low level Derbyshire stone walls, and the consistent scale, design and the materials used forms a notable feature of the area that positively contributes towards the areas character and appearance.
10. Derbyshire stone walls are proposed on drawing No AW0120-PL-001 on the boundary of the site with Millers Green around Plots 1, 2, 11 and 12. However, the external appearance and height of the walls is not identified on that drawing nor on the information provided with this appeal. Given that low level stone walls are a notable feature of the area, if the proposed walls were significantly taller and varied considerably in appearance than those nearby, this would harmfully detract from this notable feature of the area and thus conflict with Policy PD1. Without this information there is not adequate information to agree the details reserved by the condition.
11. Additionally, drawing No AW0120-PL-001 shows that close board fencing is proposed to the rear of Plots 2 and 11 which would be located next to the internal highway. Whilst trellising is proposed above the close board fence, the design of this fencing directly next to the pavement would appear overbearing to those using the highway. Furthermore, given its enclosed design it would enclose the frontage of Plot 10. Compared to the siting of the fencing elsewhere shown on drawing No AW0120-PL-001, this would appear out of character with the openness of the frontages of the properties elsewhere within the development site and thus conflict with Policy PD1.
12. The design of the low-level picket fencing and open weld mesh fence located around the site would retain this openness towards the frontage of the properties and would preserve this positive characteristic of the development.
13. The information before me indicates that the fencing would be unacceptably harmful to the visual amenity of the character and appearance of the area contrary to the reasons given for the condition. Based on the information before me there is not adequate information to agree the details reserved by condition 7.

Condition 2

14. The reason given for the condition is to ensure a satisfactory external appearance of the development in accordance with Policy PD1 of the LP.
15. The external materials used in the nearby dwellings is generally render and stone with some brick properties further from the site. Additionally, grey roof tiles are a commonly used material on nearby dwellings. These buildings have features such as stone cills, lintels and chimneys and the consistent use of materials in the area makes a positive contribution to the character and appearance of it.
16. The external walls would use Reclaimed Gritstone 150 millimetre(mm) coursed split faced of random lengths with headers and cills in the same stone and render K rend Silicone K1 in polar white as well as Marley Ashmore Smooth Grey roof tiles. These materials would be similar to other development nearby and thus the development would retain these features that positively contribute to the character and appearance of the area. Consequently, the proposed

external materials would accord with Policy PD1 insofar as it requires development to contribute positively to an areas character, history, and identity in terms of the materials used and the relationship to adjacent buildings.

17. As such, the materials would be appropriate in this setting and would ensure a satisfactory external appearance of the development in accordance with the reasons given for the condition. Consequently, the information submitted would be adequate to agree the details reserved by condition 2.

Condition 3

18. The reason given for the condition is to protect the external appearance of the building and preserve the character of the area in accordance with Policy PD1 of the LP.
19. The colour and type of materials used for the doors and windows in the nearby area varies. An important feature of the area is the use of stone cills and lintels, and these are proposed as part of the development.
20. Whilst the scale of the plans has not been provided, information has been submitted identifying the materials, finish, depth of reveal and horizontal/vertical frame sections (including sections through glazing bars) for the flush casement UPVC frames. These are proposed to be in anthracite grey, as would the doors.
21. The design and colour of the materials would not affect the important features discussed above and thus these would be protected. Given the variety in the design and materials used nearby, the proposed design and materials of the windows and doors would preserve the character and appearance of the area. Consequently, the scheme would accord with Policy PD1 insofar as it requires development to contribute positively to an areas character, history, and identity in terms of the materials used and the relationship to adjacent buildings.
22. As such, the doors and windows would protect the external appearance of the buildings and preserve the character and appearance of the area in accordance with the reasons given for the condition. As such, adequate information has been submitted to agree the details reserved by condition 3.

Condition 4

23. The reason given for the condition is to protect the external character and appearance of the buildings and to preserve the character of the area in accordance with (sic). No policy was quoted in the decision notice for this condition, however, I have had regard to the requirements of the National Planning Policy Framework.
24. Mortar pointed verges are used on buildings nearby and the consistent use of these is a notable feature of the area. The proposed use of these with the gable nominal 10mm projection for waterproofing would thus retain this notable feature and be appropriate in this context.
25. As such, this would protect the external character and appearance of the buildings and preserve the character of the area in accordance with the reasons given for the condition. Consequently, the information submitted would be

adequate to agree the details reserved by condition 4 and in conformity with the Framework.

Condition 5

26. The reason given for this condition is in the interests of preserving the character and appearance of the buildings and area in accordance with Policy PD1 of the LP.
27. Air source heat pumps can be large units that are utilitarian in appearance and the siting of these in prominent positions can detract from the character and appearance of the development. They could detract from features such as the stone cils and lintels and screen the materials used and the positive contribution these make to the character and appearance of the area.
28. The size, manufacturer and model number of the proposed air source heat pumps has been provided and the scale of these would be appropriate considering the scale of the houses.
29. It is proposed that the air source heat pumps would be sited externally to the side or rear elevations of the buildings. As a result, there would generally only be glimpsed views of them from most viewpoints. Additionally, the siting of them would ensure that important features such as the stone cills, lintels and the external materials of the development would be preserved from most viewpoints.
30. The Joule Kodiak cylinders would be located internally and thus would not affect the external design of the buildings. The integrated solar panels as shown on elevations 3095-P04C, P06E and P08B would be integral within the roofslopes and as such, they would sit comfortably within them. Additionally, given the number of panels proposed they would not dominate the appearance of the roofslopes.
31. Overall, these details would accord with Policy PD1 of the LP insofar as it requires development to contribute positively to an areas character, history, and identity in terms of the materials used and the relationship to adjacent buildings.
32. As a result, these would preserve the character and appearance of the buildings and area in accordance with the reasons given for the condition. Consequently, the information submitted would be adequate to agree the details reserved by condition 5.

Condition 6

33. The reason given for the condition is to protect the external character and appearance of the buildings and to preserve the character of the area in accordance with Policy PD1 of the LP.
34. Nearby there are dwellings with relatively simple canopies above doors and these are a notable feature of those dwellings that positively contributes to the character and appearance of the area.
35. Drawing No 25 identifies the canopy and dormer details and these are similar in design to others nearby and as such, these would be consistent with this notable feature of the area. Consequently, these details would accord with Policy PD1 insofar as it requires development to contribute positively to an

areas character, history, and identity in terms of the materials used and the relationship to adjacent buildings.

36. As a result, this would protect the external character and appearance of the buildings and preserve the character of the area in accordance with the reasons given for the condition. Consequently, adequate information has been submitted to agree the details reserved by condition 6.

Condition 10

37. The reason given for this condition is to ensure a satisfactory standard of landscaping and in the interest of enhancing biodiversity in accordance with Policies S1, S3, PD3 and PD5 of the LP.
38. Policies S1 and S3 seek to deliver this through conserving the natural environment whilst ensuring the development is of a scale, density, layout, and design that is compatible with the character, appearance, and amenity of the part of the settlement in which it is located. Policy PD3 seeks to secure the more effective management of land in the Plan area and its surroundings whilst PD5 seeks to protect, enhance, and restore the landscape character of the plan area.
39. Within the wider area, there are grassed verges, hedges and trees, and these landscaped areas positively contribute towards the character and appearance of the area.
40. The appeal site is currently open land covered by low level shrubs and vegetation and areas of hardcore. The development as shown on Drawing No AW0120-PL-002 would deliver additional planting and landscaping around the frontage of the site along Millers Green as well as landscaping around the site to enhance the landscape character of the development and the wider area. Furthermore, the scale, density, and layout of this landscaping which includes hedges and trees would be similar to other landscaped areas locally.
41. Additionally, measures for the ongoing management and maintenance of the hedgerows, trees and landscaped areas are proposed on the submitted drawing. This would involve works such as ensuring that at the end of each twelve-month period a number of operations are undertaken to maintain the appearance and health of hedges, lawn areas and trees. This also includes replacing any plant features within the first 5 years to be those of the same size and specification. The drawing also identifies the location of new trees and hedges to be planted and other biodiversity enhancements and this would conserve the natural environment. Overall, the details provided secures a more effective management of the land.
42. These details would ensure a satisfactory standard of landscaping in the interest of enhancing biodiversity in accordance with the reasons given for the condition and thus would accord with Policies S1, S3, PD3 and PD5 of the LP. Accordingly, adequate information has been submitted to agree the details reserved by condition 10.

Conclusion

43. Therefore, for the reasons given above, I conclude that the appeal should be allowed in part and the details approved insofar as they are in pursuance of

conditions Nos 2, 3, 4, 5, 6 and 10; and the appeal dismissed in part and the details refused insofar as they are in pursuance of condition No 7.

G Sibley

INSPECTOR