



Appeal Decision

Site visit made on 15 April 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2025

Appeal Ref: APP/P1133/W/24/3356175

Street Record, The Pinnacle, Newton Abbot, Devon TQ12 6GG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Vinay Relan, Relans Development Ltd against the decision of Teignbridge District Council.
 - The application Ref is 23/01950/FUL.
 - The development proposed is construction of 2 dwellings with associated access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. During the course of the appeal an updated version of The National Planning Policy Framework (the Framework) was published on the 12 December 2024. In light of this, the main parties were given the opportunity to comment on any implications for the appeal. I have taken the responses into account.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.
 - the effect of the proposal on trees and whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to outdoor space; and,
 - the effect of the proposal on the character and appearance of the area with particular regard to the vehicular access serving Plot 1.

Reasons

Background

5. The appeal site is a parcel of land situated to the rear of gardens to Plots 14-18 The Pinnacle. Plots 14-18 comprise two-storey dwellings with rooms in the roofs. These plots form part of a wider residential estate and I have been informed that

the appeal site was previously consented as private rear outdoor space serving these plots.

6. The southern appeal site boundary comprises planting and trees adjacent to Old Totnes Road with the trees protected by the District of Teignbridge (Brunel Lodge) Tree Preservation Order 2012 (TPO).
7. The appeal proposal seeks consent for two detached dwellings set below existing ground level. The dwellings would be of a similar scale and design to the adjoining dwellings.

Living conditions of neighbouring occupiers

8. Proposed Plot 1 would benefit from a large and deep area of rear amenity space such that it would be a considerable distance from the bottom of the rear garden space associated with the adjacent existing dwellings. It would also be positioned a reasonable distance from the rear elevations and rear boundaries with Plots 17 and 18 The Pinnacle, beyond an intervening driveway and parking. As a result, the positioning of Plot 1 would not significantly harm the living conditions of neighbouring occupiers with regard to outlook or privacy.
9. Nonetheless, and while the front elevation of Plot 2 would have a similar relationship with the rear of Plots 16 and 17 The Pinnacle, its side elevation would be in very close proximity to the rear boundary and rear elevation of Plot 15. Due to the close position, depth and height of proposed Plot 2, it would run alongside a considerable extent of the rear outdoor space to Plot 15 and would appear oppressive in outlook from the rear of the existing dwelling and from its garden.
10. Plot 2 would be positioned fairly close to the rear outdoor space to Plot 14 to the rear of the site. However, given that Plot 2 would be angled away from the rear elevation of Plot 14, given the levels differences between Plot 2 and the garden to Plot 14 with intervening boundary fencing, there would be no harmful levels of overlooking of the rear garden area to Plot 14 from the upper floors of Plot 2.
11. While I acknowledge the lack of windows in the Side Elevation (North) to Plot 2, and relatively low density of development, these matters do not overcome the harm caused from its scale and close relationship to Plot 15.
12. It follows from the above that whilst the proposal would not harm the living conditions of neighbouring occupiers with regard to privacy, it would harm the living conditions of neighbouring occupiers with particular regard to outlook. As such, it is contrary to policies S1 and S2 of the Teignbridge Local Plan 2013-2033 May 2014 (LP). Amongst other things, these require proposals to take account of the impact on residential amenity of existing and committed dwellings, particularly privacy and outlook and be of a high quality design integrating with, and where possible, enhancing the character of the adjoining built environment.

Living conditions of future occupiers and trees

13. Although Plot 1 would benefit from sizable side and rear outdoor space in excess of the majority of plots to The Pinnacle, a significant extent of this space would be under or immediately adjacent to the canopies of TPO trees within the southern site boundary.

14. While I acknowledge that the canopies of these trees and associated boundary planting would not overshadow all of the side and rear outdoor space at any one time, the trees are positioned roughly to the southern boundary. As a result, given their size and position, and given the orientation of the dwelling to the west of the garden restricting direct sunlight to parts of the rear outdoor space later in the day, the layout would cause a significant amount of overshadowing of the main usable outdoor space. This would be harmful to the living conditions of future occupiers.
15. Given this and given that a considerable percentage of the rear outdoor space would be under the canopy of the large oak tree, there would be pressure to significantly cut back, or even fell the tree in the future to gain sunlight into the rear outdoor space. This would be the case despite the presence of other trees within gardens to other plots within The Pinnacle as I must consider the proposal on its merits.
16. I have had regard to the shading from trees being beneficial in very hot weather, but the number of such occasions are limited and on less hot days it is not unreasonable for the occupiers to want to make use of sunny outdoor space.
17. I note that the Arboricultural Impact Assessment¹ states that the oak tree requires crown reduction works as part of good husbandry. While this may reduce the extent of shadowing in the short-term, a considerable part of the rear outdoor space would remain shaded, and it would not remove the potential pressure for the tree to be significantly cut back or felled in the future.
18. In light of the prominence and visual benefit of the trees and associated planting softening the visual effect of the development on the wider area, particularly when viewed from Old Totnes Road, the removal of these prominent trees would be harmful to the character and appearance of the area.
19. In conclusion, the proposal would harm the living conditions of future occupiers of the proposed development, with particular regard to outdoor space and would have a resultant harmful effect on trees. As such, it is contrary to LP policies S1 and EN12. Amongst other things, these require proposals to take account of the impact on residential amenity of existing and committed dwellings and on the maintenance or enhancement of the character and appearance of street scenes and trees.

Vehicular access

20. At the time of my site visit the appeal site was accessible through a small gap in the southern boundary treatment. I have been advised that this access was provided temporarily to serve the construction of the dwellings at The Pinnacle.
21. As part of the creation of this access, two limbs to a sycamore tree and one magnolia were removed along with associated understorey. This has resulted in a small gap in the planted boundary.
22. Other than at its main entrance, the majority of boundaries to The Pinnacle development form a natural green edge and sylvan setting to the housing development. As such, the dwellings, and most of the appeal site, are generally well screened from Old Totnes Road with only glimpsed views available. In addition, the trees and planting create a verdant setting to this part of Old Totnes Road.

¹ Dated 14th March 2023 by Doug Pratt Tree Consultancy

23. The proposal would retain the existing access for use by the occupiers of Plot 1. No further loss of trees is proposed with additional landscaping offered if needed to reinforce the existing planting.
24. While the entrance would open up views of the appeal site and other dwellings at The Pinnacle from Old Totnes Road, such views would be limited by the small size of the entrance and retention of the existing boundary trees and landscaping. Any activity from the entrance associated with a single dwelling would be minimal.
25. Although the proposal would create a permanent gap in the natural green edge, the opening is relatively small, and its retention would not necessitate the removal of any further trees. Given this and given that the entrance would be viewed in association with the built form of the cemetery with only glimpsed views of the development possible through the entrance, subject to suitable detailing for the access, the entrance would not significantly interrupt the natural green edge to the wider development or significantly undermine the sylvan setting of the site and verdant nature of this part of Old Totnes Road.
26. It follows from the above that the proposal would not have a harmful effect on the character and appearance of the area with particular regard to the vehicular access serving Plot 1. As such, the proposal complies with LP policies EN12, S1 and S2 and policy NANDP2 of the Newton Abbott Neighbourhood Development Plan 2016-2033 June 2016. Amongst other things, these require proposals to maintain or enhance the character, appearance and historic interest of affected landscape and trees, integrate with and, where possible, enhance the character of the natural environment, contribute to the protection and enhancement of trees and hedgerows, and be of a high standard reflecting local character and context and create a strong sense of place.

Other Considerations

27. There is no dispute between the parties that the principle of development in this sustainable location is acceptable and would make an efficient use of the land meeting energy and carbon targets. I have no reason to disagree. While these matters weigh in favour of the proposal, the benefits are limited by its small scale.
28. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP, with the associated conflict resulting in harm to the living conditions of occupants of an adjacent property, future occupiers of a proposed dwelling and to trees. For these reasons, the development conflicts with the development plan as a whole.
29. The Council have advised that they can demonstrate a five year supply of deliverable housing sites. Although the appellants advise that they have not undertaken a detailed critique of the Council's position, they have drawn my attention to work from others² estimating that the Council have just under four years of supply.
30. Even if the Council were unable to demonstrate a five year supply of deliverable housing sites and paragraph 11d) ii. of the Framework were to be engaged, and taking into account that the proposal would add to the supply of housing in a

² Greenslade Taylor Hunt February 2025 (GTH Planning Policy Overview Feb 2025)

location well served by services and facilities providing economic benefits during construction and from activity occupiers, given the small scale of the proposal and the harm identified to living conditions and trees, I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to policies for protecting living conditions and trees. This is because paragraphs 129, 135 and 139 of the Framework require that developments are well-designed, provide a good layout and high standard of amenity and as I have found above that the proposal would not achieve this resulting in significant harm in this regard.

31. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.

Conclusion

32. Although I have found no harm from the creation of the vehicular access proposed to serve Plot 1 or to the privacy of neighbouring occupiers, I have found harm to the living conditions of neighbouring and future occupiers with regard to outlook and to protected trees. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
33. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR