



Appeal Decision

Site visit made on 4 June 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/X1118/W/25/3363071

Plot adjacent 77-78 Westaway Heights, Barnstable, Devon, EX31 1NR

- 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 N Nanda (Toyah Property Ventures Ltd) against the decision of North Devon Council.
 - The application Ref is 79280.
 - The development proposed is erection of end of terrace block with 2 no. flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An 'Access Required Site Visit' was arranged but unfortunately there was no one present from the Appellants at the time of my site visit. However, an email was subsequently sent to the Appellant confirming that I was satisfied that I had seen everything I needed to determine the appeal.

Main Issues

3. The main issues are: (a) the effect of the proposed development on the character, appearance and amenities of the area, and (b) whether sufficient information has been provided in relation to proposed parking and refuse provision.

Reasons

Character, appearance and amenities

4. The appeal site is located on the Westaway Heights estate, a modern development of houses and flats that was granted planning permission in 2003. It comprises an area of landscaped open (amenity) space and a communal parking area. The site extends from the western elevation of 78 Westaway Heights (No.78) to the common boundary of the rear gardens to 20 and 21 Barlow Road. The landscaped space forms part of a larger area of open space extending north which includes a formal play ground. The site also extends south to include a communal parking area that lies to the west of the side elevation to 58 Westaway Heights (No.58).
5. The appeal proposal involves constructing a two storey block at the end of No.78 to provide two, 2-bed flats, one on each floor. The proposed site layout includes two car parking spaces at the rear (south) of the new units with the remaining space, to

the west, shown as 'communal garden' with additional landscaping including a strip along the front (north) elevation to the new units.

6. It would appear from the evidence relating to the history of the development that the northern part of the appeal site formed an integral part of the original design of the estate and the open space that serves it. As I observed on site, it continues to perform that important function and appears to be well maintained, comprising an attractive grassed area with well-established trees. Combined with the formal play ground they form a centrally located area of open space that is a focal point for the estate, is easily accessible to residents and also benefits from natural surveillance. Bearing in mind the high density layout of the estate, the whole area of open space makes a positive contribution to its planned layout and landscaped setting.
7. Whether approaching this part of the appeal site from the south or north, it is clear that this large area of grass and trees is physically and visually an important part of the open space to the north. The evidence, particularly from interested parties, is that the appeal site is well used by residents for different recreational and amenity activities and is seen as a significant benefit. As well as those values, this part of the appeal site makes a positive contribution, in my view, to the sense of openness and spaciousness around the estate.
8. The loss of this open space would, therefore, have a significant impact on the open and verdant setting of the estate and result in harm to one of the key qualities and characteristics of the planned development. The appeal proposal would not retain, enhance or integrate with the landscaped features of the area and the loss of trees and a large area of grassland would not enhance or maintain its biodiversity value.
9. I agree with the Council that the proposal would lead to a narrow strip of 'communal garden' being retained, between the western elevation of the new building and the boundary wall to the rear gardens in Barlow Road. This area would have far less visual and physical links with the wider area of open space and would appear as an area that has been 'left over'. It would have less natural surveillance and combined with the above factors, it would create an area more likely to experience anti-social behaviour. The latter likelihood would increase with the additional landscaping in this area, as shown on the proposed site layout, which could further screen or hide parts of the retained space.
10. Overall, the loss of such a large area of open space that serves the residents of the estate would harm their amenities and at the same time reduce access to green space and opportunities for recreation. The problems of anti-social behaviour appear to be accepted by the Appellant given their suggestion to install CCTV and extra surveillance. I understand there is no current CCTV and no evidence that the existing public use of this part of the appeal site has led to any anti-social issues.
11. In addition, it is unclear whether the 'communal garden' would be for future occupiers and/or existing residents and who and by what mechanism the retained space would be managed and maintained. The proposed landscaping strip to the north of the new units also appears impractical as this would obstruct the main entrance into the new flats. Also, there is an existing footway that runs along the western elevation of No.78 allowing access to the rear parking and bin stores. This would be removed and the proposed site layout does not include a replacement, and thus existing residents would have to walk through the 'communal garden', assuming its not retained for private use. So would the new occupiers as there is

no access from the flats at the rear. As I also interpret the proposed layout, there would be nothing to prevent people walking directly up to and past the rear windows of the new ground floor flat.

12. Policies ST04, ST14, DM01, DM04, DM08 and DM08A of the North Devon and Torridge Local Plan 2011 – 2031 (NDTLP) seek, amongst other matters, to: protect and enhance local distinctiveness, the natural environment, biodiversity and green infrastructure; secure good design through retaining and integrating existing landscape features within new development; provide public and private spaces that are well designed, safe, attractive and complement the built form; and support new development where it would not result in harm to existing residents amenities. These policies are consistent with paragraphs 8, 135 and 187 of the National Planning Policy Framework (NPPF). The appeal proposal would conflict with a number of these policy requirements and thus have a significant adverse impact on local amenities, access to open space and recreation and to the character and appearance of the area.
13. Accordingly, I find that the appeal proposal would be harmful to residents amenities, reduce access to green space and opportunities for recreation and would result in harm to the character and appearance of the area contrary to policies ST04, ST14, DM01, DM04, DM08 and DM08A of the NDTLP as well as the corresponding policies of the NPPF.

Parking and refuse provision

14. The proposed site layout shows two new car parking spaces, albeit the proposed site plan is unclear from where they would be accessed. If it's from the existing parking courtyard to the rear of No.78 and its neighbours (to the east), then the plan does not demonstrate how it would be possible to access and maneuver in and out of the new spaces or whether this would be compromised by the existing spaces or result in their loss. If the intention is to access the new spaces from the separate parking courtyard to the west of No.58, that forms the southern part of the appeal site, then the same questions and constraints apply. Also, there is an attractive brick wall on the northern boundary of this parking courtyard, similar to other walls on the estate, but no indication is given as to whether this would remain or be re-sited. As the Council also point out, to allow for access and the need to maneuver into and out of the new spaces, from the south, could mean that more of the 'communal garden' would be lost.
15. The submitted plan also fails to demonstrate whether or how the existing communal bin stores would be retained and provision secured to serve the new units. The communal bin stores appear to work well as an integral part of the estate design. As I also confirmed earlier, the removal of the footway along the side of No.78 appears to remove access for that occupier and their neighbours to the rear parking courtyard and communal bins.
16. The Appellant contends that these details are uncontentious, that the plans do not show any loss of spaces and that there is no intention to remove any communal bin stores. Unfortunately and as I explained above, the submitted plans do not show this or an appropriate or acceptable layout in either respect. The Appellant also suggests that these are matters that could be secured by condition. I accept that they often can be, but in this case that approach is not appropriate given the lack of detail, the concerns raised and the site constraints arising from the amount of

parking and bin storage that already exists within a tight layout. All of this constrains and compromises proposed parking and bin storage provision.

17. As I also observed on site, parking appears to be at a premium on the estate, with signs throughout referring to the fact that parking is for residents only. There is evidence that the estate is often congested with interested parties referring to the problems of staff parking on the estate who work at the nearby North Devon District Hospital (to the east of the site). Any loss of parking as a result of the proposed development would, therefore, exacerbate those problems.
18. Accordingly, I find that the submitted plans have failed to demonstrate that the appeal proposal can be delivered without any harm to highway safety, in particular, whether adequate parking provision and bin storage facilities could be provided to serve existing and proposed residents. As such, the appeal proposal is contrary to policies ST10, DM03, DM05 and DM06 of the NDTLP and paragraph 109 of the NPPF. These policies require, amongst other matters, for new development to: provide safe, secure and well-designed access and parking; protect and enhance public rights of way and footways; secure an appropriate scale of parking; provide for required waste and recycling facilities; and ensure that parking and other measures are integral to the design and contribute to making high quality places.

Planning balance and conclusions

19. The NPPF states that existing development plan policies should not be considered out of date simply because they were adopted prior to its publication. Each policy should be assessed and due weight given to it based on its general conformity with the NPPF. In this respect policies ST04, ST10, ST14, DM01, DM03, DM04, DM05, DM06, DM08 and DM08A of the NDTLP are consistent with and remain in general conformity with the NPPF policies. The latter include: protecting and enhancing the natural and built environment; improving biodiversity; promoting development that delivers well-designed, sustainable and popular places; where streets, parking and manoeuvring are integral to the design; developments that function well and add to the overall quality of the area and are sympathetic to character and its landscape setting; and secure a high standard of amenity for existing and future users.
20. Even so, the evidence indicates that the Council are unable to demonstrate a five year housing land supply. As such, paragraph 11 d) ii of the NPPF is engaged and requires planning permission to be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*
21. The appeal proposal would boost housing supply and generate employment during construction within a sustainable location. Whilst these benefits are supported by other policies in the development plan and NPPF, I would only accord them moderate weight. The contribution to housing supply is small and the proposal is for market housing and is not seeking to address an identified affordable need. Any employment would be short term. On the other hand, as I have found, the proposal would be harmful to residents amenities in reducing access to green space and opportunities for recreation, impact on biodiversity and result in harm to the character and appearance of the area. It also fails to demonstrate that the new

units can be delivered without any harm to highway safety or that parking provision and bin storage facilities could be provided to serve existing and future residents. Combined, these adverse impacts are significant and lead to conflict with a number of development plan policies which remain up to date as they are consistent with those in the NPPF and thus should be accorded significant weight.

22. In my view, the harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme when assessed against the policies in the NPPF, taken as a whole. Consequently, the presumption in favour of sustainable development envisaged in the NPPF does not apply in this instance. The NPPF is not a material consideration in this instance that indicates a decision other than in accordance with the development plan.
23. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR