
Appeal Decision

Site visit made on 3 February 2014

by Gareth Symons BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 February 2014

Appeal Ref: APP/Q1153/A/13/2204172

Land off Woolacombe Road, Bere Alston, Yelverton, Devon.

- 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 Mark Wilson (Bibio Ltd) against the decision of West Devon Borough Council.
 - The application Ref: 00262/2013, dated 8 March 2013, was refused by notice dated 9 July 2013.
 - The development proposed is the construction of 17 affordable houses along with an access road.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 17 affordable houses along with an access road on land off Woolacombe Road, Bere Alston, Yelverton, Devon in accordance with the terms of the application, Ref: 00262/2013, dated 8 March 2013, subject to the conditions specified in the 'Conditions Schedule' at the end of this decision.

Application for Costs

2. An application for costs made by Mr Mark Wilson (Bibio Ltd) against West Devon Borough Council is the subject of a separate Decision.

Main Issues

3. The main issues are the effects of the proposed development on the character and appearance of the area, bearing in mind the appeal site's location in the Tamar Valley Area of Outstanding Natural Beauty (AONB), and on the living conditions of neighbours with particular regard to privacy and outlook. Furthermore, if any harm arises whether this is outweighed by any other material considerations such as the need for affordable housing.

Reasons

Character and Appearance

4. The appeal site is the west part of a level field tucked up against the built development boundary of Bere Alston. There are residential properties to the west off The Down, south along Woolacombe Road and to the north there is a single bungalow on the corner of the crossroads junction with the B3257. Slightly further away to the east is a bowling club. Where the site abuts road boundaries there are mature field hedges.

5. The new houses would relate well to the built up edge of the village and given the context of surrounding development they would not materially project out into the countryside. The outer edges of the development would be visible when approaching the village along the B3257 in particular but this would be little different to seeing the upper parts of the existing properties over the tops of the roadside hedges. The houses would be set in from the site boundaries. Garden areas would be next to the roads and there would be a generous area of public open space in the northwest corner of the site. The hedges would also be retained except for the new access point. However, as this would be off The Down along an inner edge of the site this would not open up views of the houses to the wider landscape. These soft edges to the development with additional planting would buffer views of the houses and ease the buildings into their edge of countryside setting.
6. The nearby residential properties are a mixture of styles and age and there is no uniformity to their layout. There is thus no prevailing pattern or design to which the new development should necessarily comply. The new houses would have simple forms and utilise render, slate and timber windows which are characteristics of traditional cottage architecture. The houses would be arranged in pairs with one row of four. Their variable arrangement around the access road and gaps between the houses mean that the development would have a visual permeability far from being an alien urban block of development tacked onto the village.
7. This modest scheme of well designed and laid out houses would successfully blend in with the local topography and sit comfortably on the edge of the village without intruding into the upper valley setting of Bere Alston. The appeal proposal would not harm the scenic quality and natural beauty of the AONB. Accordingly it would comply with the AONB and landscape character protection aims of policies SP1 and SP17 from the West Devon Core Strategy (CS) and policy NE10 from the West Devon Local Plan Review (LP). I also find no conflicts with the landscape conservation aims of the National Planning Policy Framework ('the Framework').

Living Conditions

8. The separation distance between the new houses and the nearest existing properties mean that there would be no material overlooking between opposing windows. Furthermore intervening planting would largely obscure views between ground floor windows and of existing front gardens. The front gardens to the existing houses are not wholly private anyway given that they are next to a public road. Views from new first floor windows would also be generally intermittent because they would serve bedrooms or bathrooms.
9. The set back of the new houses and their site levels roughly similar to those of surrounding properties also means that the development would not be overbearing on neighbours outlook. Views would change but there is no right to views under the planning system. Access to and appreciation of the wider landscape would remain available from the public right of way that runs through the appeal site.
10. I find no material harm to the living conditions of neighbours by way of loss of privacy or outlook. The appeal scheme thus accords with the normal planning requirements of policy H37 from the LP.

Affordable Housing

11. The site lies beyond the settlement boundary of Bere Alston. However, LP policy H37 states that “planning permission will be granted for development adjoining the defined settlements limits of villages to provide affordable housing to meet local needs where the Borough Council is satisfied that those needs cannot be met in any other way”. The number of units proposed should also not exceed the identified local need.
12. The need for affordable housing in the Bere Ferrers parish is confirmed as being approximately 20 homes in the next 1-5 years. Of these 17 are needed within 3 years. The data for these figures was provided by a Housing Needs Survey conducted by the Community Council for Devon whose report was published in January 2013. In February 2013 the Devon Home Choice Register had identified 80 people living in the Bere Peninsula who were in housing need. The Council’s Affordable Housing and Strategy Enabling Officer has confirmed that this figure has now risen to 122. Other figures have been quoted by objectors. However, the Council has not challenged the evidence referred to by the appellant and the need for affordable housing in the village is not disputed in the reasons for refusal of the application.
13. The appeal proposal would meet an identified need for affordable housing in a sustainable location on the edge of a local centre so defined because of its level of services. Other possible sites have been referred to where affordable houses might be built, such as closer into the village centre. However, from the evidence before me this is the only ‘live’ site that could actually deliver the number of houses needed. The scheme is a full application submitted by a specialist company which seeks to achieve and deliver affordable houses in partnership with Registered Providers. There is a party in place to take the site over once the houses have been built and a completed agreement under s106 of the Town and Country Planning Act 1990 signed and executed as a deed by the Council secures the provision of affordable housing.
14. There is an objectively assessed need for affordable housing now. There does not seem to be much prospect of meeting that need now elsewhere or at any reasonable stage in the future unless it is on this site. The proposal would thus boost significantly the supply of affordable houses and without harming the landscape qualities of the AONB. This background weighs heavily in favour of allowing the appeal scheme.

Other Matters

15. There is concern about highway safety. However, the Local Highway Authority (LHA) responsible for assessing such matters has not objected to the development. This has been questioned by local objectors and there is apparently a complaint lodged with the Local Government Ombudsman about the LHA stance. However, nothing before me, including the traffic details and photographs submitted by Bere Ferrers Parish Council, persuades me from finding that the appeal scheme would not risk highway safety.
16. It is noted that there is an emerging parish plan. However, I have no specific details about this to assess the significance of it in relation to this scheme. The plan also appears to be in the relatively early stages of preparation. For these reasons the parish plan carries very little weight. It is said that a previous planning Inspector as part of the LP process indicated that the site was not

suitable for development. I have thought little more than this reference and that was ten years ago when the affordable housing situation may not have been as pressing. Furthermore, an appeal decision has been referred to on this site from 1973. Although the reasons why the appeal was dismissed have been provided by the Parish Council, there are no details about the scale or layout of that proposal or whether it was for affordable housing. I cannot draw any meaningful comparisons with the appeal scheme before me. Consequently the views of other Inspectors have very little weight.

17. There may be concerns about the levels of infrastructure in the village to cope with this housing scheme and any others. However, there are no objections by, for example, the Local Education Authority to suggest that existing services and infrastructure could not cope with any additional demands. A s106 agreement to cover the provision of the public open space has though been submitted. This is necessary to secure this element of the scheme.
18. I have read and carefully considered the views of objectors on these and other matters including nature conservation. I recognise that a decision taken contrary to the views of local people would not be what they wanted me to do. However, local opposition by itself is not a reason for withholding planning permission and nothing else raised outweighs my finding that this site should come forward for development.

Conditions

19. The conditions suggested by the Council and agreed with the appellant have been slightly amended to take account of advice on conditions. Condition 2 is appropriate in the interests of proper planning and for the avoidance of doubt. Conditions 3 to 5 are necessary in the interests of safeguarding the character and appearance of the area. Condition 6 is needed for drainage reasons and conditions 7 and 8 are required to ensure that use of the footpath is not impeded for all users. Condition 9 is appropriate in the interest of highway safety. Condition 10 is necessary for wildlife reasons.

Conclusion

20. It is concluded that the appeal should succeed.

Gareth Symons

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall only be carried out in strict accordance with the following approved drawings: Site Layout MA1805-002 Rev L; MA1805-001 Rev A; Unit Elevations MA1805-009 Rev B; Site Sections and Street Elevations MA1805-010 Rev B; Unit Types MA1805-008; S106 Public Open Space 1805 012 Rev A; Soft Landscaping 1805 013 Rev A.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification) no development shall take place within Classes A, D and E of Part 1 of Schedule 2 of the Order.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Soft landscape works shall be carried out as approved in the first planting season following first occupation of any of the houses, or the completion of the development hereby approved, whichever is the sooner. All hard and soft landscape works shall be carried out in full accordance with the approved details. Any trees or plants that are required to be planted, which within five years from the completion of the development die are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.
- 5) No development shall take place until details of all external materials, including samples of slate, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No house hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been previously submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (see footnote 2 to the 'Technical Guidance to the National Planning Policy Framework') and the results of that assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (ii) include a timetable for its implementation; and
 - (iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any

other arrangements to secure the operation of the scheme throughout its lifetime.

- 7) No development shall take place until the public footpath crossing the site and shown on the approved plans has been clearly marked out on site to a width of 2m. The footpath shall be kept unobstructed and available at all times during construction works unless otherwise agreed by the local planning authority.
- 8) Notwithstanding the details shown on drawing MA1805-002 Rev L of a stile, no development shall take place until details of a gate across the public footpath where it crosses the eastern boundary of the site have been submitted to and approved in writing by the local planning authority. The gate shall be provided in accordance with the approved details prior to any of the houses hereby permitted being occupied and it shall be kept as such thereafter.
- 9) None of the houses hereby permitted shall be occupied until the parking and turning areas shown on drawing MA1805-002 Rev L have been provided unless an alternative timetable is agreed with the local planning authority. The parking and turning areas shall be kept clear of obstructions and available for their intended purposes thereafter.
- 10) No development shall take place until a scheme of ecological mitigation and enhancement has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before any of the houses are first occupied unless an alternative timetable is agreed with the local planning authority and it shall be retained as such thereafter.