



Appeal Decision

Site visit made on 6 June 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 29 July 2016

Appeal Ref: APP/P1133/W/16/3146215

Land adjacent to Hill Drive, Secmaton Lane, Dawlish, Devon EX7 0LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss Karen Willey and Mrs Anita Peattie against the decision of Teignbridge District Council.
 - The application Ref 14/01577/MAJ, dated 22 May 2015, was refused by notice dated 30 November 2015.
 - The development proposed is residential development.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development on land adjacent to Hill Drive, Secmaton Lane, Dawlish, Devon EX7 0LW in accordance with the terms of the application, Ref 14/01577/MAJ, dated 22 May 2015, subject to the conditions listed in the Annex to this decision.

Procedural matters

2. The application is in outline with all matters reserved for subsequent approval. The application form indicates that 35 dwellings are proposed, with an indicative access point on Secmaton Lane, near the north-east corner of the site.
 3. Since the appeal was made, the Council has adopted the Dawlish Supplementary Planning Document (SPD): DA2 (North West Secmaton Lane) and DA6 (Green Infrastructure) Development Framework Plan on 21 June 2016. That SPD addresses access arrangements, amongst other things, for the wider strategic site of which the appeal site forms part. Subsequent to that decision, the Council has confirmed that it will offer no evidence in respect of the first reason for refusal.
 4. The appellants submitted a planning obligation under S.106 of the Act, which deals with affordable housing, self-build housing, contributions towards health services, off-site play areas and public open space, libraries and highway works, phasing of development and habitat mitigation. I shall refer to this in more detail below. The Council confirms that the second reason for refusal has been overcome.
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Main Issue

5. Notwithstanding the Council's decision to offer no evidence, local residents and the Dawlish Town Council have strong objections to the proposal. The main issue is therefore the effect of the proposal on highway safety.

Reasons

6. The site lies on the west side of Secmaton Lane, and forms an open sloping field, rising from the road. It is proposed to obtain access to the lane from the north-east corner of the site, at a point some 125m or so to the south of the junction of Secmaton Lane with the A379 Exeter Road.
7. Secmaton Lane is a narrow winding road, with few places where two vehicles can pass. There are a number of dwellings lying on Secmaton Lane and accesses off it, on both sides of the proposed access and thus the prospect of two vehicles meeting is not remote. Residents have told me that the road is well used by pedestrians, and this chimes with what I saw on my visit. There are no proposals to widen the lane as part of the appeal application, although the indicative access plan shows that the visibility would be improved and a passing place provided.
8. The appeal site forms part of a 43 hectare strategic site which is part of that identified in Policy DA2 of the Teignbridge Local Plan (LP) 2013-2033, and is earmarked to provide a mixed use urban extension which, amongst other things, aims to provide at least 860 homes. It is therefore an important site, the delivery of which would accord with the Government's aim to boost significantly the supply of housing.
9. The LP policy requires that the development of the site shall include a comprehensive landscape and design-led masterplan for the strategic site allocation, produced with meaningful and continued input and engagement from stakeholders. The approved SPD referred to above aims to provide the masterplan required by the policy, the supporting text of which also acknowledges that the development of the site will be brought forward in small parcels.
10. The strategy envisages a new road being created through the wider allocation site to link to Exeter Road, but much of the land required to provide this link is not in the appellants' ownership or control. Thus, the proposal makes provision for access onto Secmaton Lane, and the planning obligation would make provision for contributions towards a share of funding for the construction of the bridge over the Shutterton Brook and also for the Area 3 bridge, which are costly elements of the road link scheme.
11. The SPD indicates that Development Area 5 (the appeal site) will have vehicular access onto Secmaton Lane in the short term and that in the longer term, this access should be converted into pedestrian and cycle only when a vehicular access is provided to link with the rest of the DA2 allocation site. The proposal is thus consistent with the SPD, and this weighs heavily in its favour.
12. The Highway Authority provided what I consider to be a balanced judgement on the effect of the proposal on highway safety, acknowledging that the proposal would result in a large increase compared to the number of vehicles currently using Secmaton Lane and may not be considered desirable,

particularly to current users of Secmaton Lane, but, overall, numbers would be "very low".

13. Although there are no officially recorded accidents on Secmaton Lane, I have had regard to the accidents and a near-miss reported by a number of local residents. However, I do not consider that the use of Secmaton Lane, even by construction vehicles, is inherently unsafe. I consider that the narrow width and winding nature of Secmaton Lane is likely to restrict speeds, and that the relatively small percentage increase in the use over and above the existing use, over a relatively short section of the road would not result in a materially increased risk to the safety of road users, including pedestrians and cyclists.
14. In coming to this view, I have taken into account the decision of the Inspector who dismissed an appeal relating to a new dwelling in Secmaton Rise, in 2004¹. However, the circumstances of that case can be distinguished from this, because Secmaton Rise itself has poor visibility, is located much further along Secmaton Lane, and because the access in that case would be permanent.
15. At the same time, I acknowledge that the use of the lane to access the site would add to the inconvenience of users, and thus I agree with the Highway Authority and the Council that the Secmaton Lane access would only be suitable as a short term expedient, and that once the link road is established, the Secmaton Lane access should be used solely for pedestrians and cyclists. I appreciate that construction traffic would be likely to have a more serious impact on the free passage of vehicles and that it would be likely, but not inevitable, that it would need to use the Secmaton Lane access. However, this is not a sufficient reason to dismiss the appeal or to rule out the Secmaton Lane access in the terms that I have discussed above.
16. It is clear that there is an impetus to progress the development of the DA2 site, and I have been told that the Council has approved substantial developments in other parts of the allocation site. This reinforces my view that the proposed Secmaton Lane access would be likely to be a short term measure, which I find to be acceptable. I therefore conclude on this issue that, subject to the highway-related provisions set out in the obligation and the conditions which I discuss below, the proposal would not materially harm highway safety, and it would accord with Policy DA2, and the SPD to which I have referred.

Other matters

17. I have taken into account the other matters raised by local residents, and whilst I sympathise that new development on a strategic site will inevitably bring with it a degree of noise and disturbance, this is not a sufficient reason to dismiss the appeal. Concerns about foul and surface water drainage can be dealt with by condition, and the planning obligation provides a requirement for contributions to watercourse improvements if a sustainable on-site drainage solution is not achievable.

Conditions and obligation

18. The Council has suggested a number of conditions which I have assessed in the light of national guidance. In addition to the standard conditions relating to outline applications, amended to accommodate the possibility of phasing of the development, a condition to require the development to be carried out in

¹ Ref: APP/P1133/A/04/1141226

- accordance with the submitted plans and documents is needed in the interests of certainty.
19. The submission of management plans to address the impact of construction is required in the interests of highway safety, the protection of residents' living conditions, character and appearance and biodiversity. The submission of details of surface and foul water disposal is needed to ensure that the site is satisfactorily drained. Notwithstanding the approved access details, the submission of an access strategy is required in order to give effect to the transitional arrangement for access from Secmaton Lane as discussed above. Conditions setting out landscaping expectations for the submission of reserved matters and controls over external lighting are justified in the interests of character and appearance. The provision of bat and bird boxes is justified in the interests of promoting biodiversity.
 20. The Council also suggests a condition relating to public art, but on the basis of the information before me, I am not persuaded that it is reasonable or necessary.
 21. The submitted planning obligation provides a mechanism for securing affordable housing and self-build housing, both of which are required by Policy DA2 and the Framework SPD, with the latter form also sought by LP Policy WE7. Contributions towards highway works necessary to secure a comprehensive and rational development of the wider allocation site. Contributions towards open space and play facilities, as well as health facilities are also justified. The Council has confirmed that none of the contributions would conflict with the "pooling" restriction set out in Regulation 123(3) of the Community Infrastructure Levy Regulations 2010. Contributions towards drainage measures are also justified on a contingency basis, should an on-site sustainable drainage system be unachievable.
 22. It is common ground that the occupiers of the proposed dwellings would be likely to create increased recreational pressure on the nearby European sites at Dawlish Warren and the Exe estuary, which are designated Special Areas of Conservation. The Council operates a joint approach with other nearby local authorities to mitigate the effect of new residential development, and seek contributions to fund those measures. The appellants have included the requested payments within the scope of the obligation.
 23. However, as the obligation is a unilateral one, there is no means of guaranteeing that the money will be spent on mitigation measures that are directly related to this proposal, and I have not been told precisely what the money would be spent on. Even so, the contribution has been properly secured through a planning obligation, and the joint approach adopted by the Council with others to mitigate the effect of new residential development is an appropriate means of addressing the issue. Under these circumstances it would be unconscionable for the Council as a public body not to spend the money appropriately, and thus I am satisfied that there would be no significant adverse effect on the protected sites, and that a unilateral obligation would be an appropriate mechanism to achieve this.
 24. On the basis of the evidence before me, I consider that the obligation is necessary and meets the tests set out in the Framework and the CIL Regulations 2010, and I attach substantial weight to it.

Conclusion

25. For the reasons given above, I find that the proposal amounts to sustainable development and conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

Richborough Estates

ANNEX

- 1) Details of the access, appearance, landscaping, layout, and scale for each phase of the development, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place on that phase and the development shall be carried out as approved.
- 2) Application for approval of reserved matters for each phase shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development of each phase shall be begun before the expiry of two years from the date of final approval of the reserved matters.
- 4) The works hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:
Received on 22 May 2014
 - Preliminary Contaminated Land Risk AssessmentReceived on 23 May 2014
 - Scoping Assessment and Extended Phase 1 Habitat Survey
 - Road Survey September 2013
 - Site Location Plan
 - Supporting Planning, Design and Access Statement
 - Context Plan
 - Indicative access arrangementsReceived on 30 May 2014
 - Flood Risk AssessmentReceived on 9 June 2014
 - Tree Constraints PlanReceived on 22 July 2015
 - Bat Survey Report
- 5) No phase of the development shall be carried out unless a Construction Management Plan covering the works in that phase has been first submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall specify details of:
 - the hours of construction works (including hours of site deliveries and locations of parking of vehicles of site operatives and visitors);
 - loading and unloading of plant and machinery;
 - facilities for the storage of plant, machinery and materials used in the construction of the development;
 - the erection and maintenance of security hoardings;
 - wheel washing facilities, and
 - measures to control the emission of dust and dirt during construction;The development shall be carried out in accordance with the approved details.
- 6) No phase of the development shall be carried out unless a Construction Environmental Management Plan covering the works in that phase and all affected areas of the site has been first submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall specify details of:
 - Risk assessment of potentially damaging construction activities that may affect identified biodiversity features;

- Identification of measures for protecting biodiversity during construction operations e.g. use of protective barriers and warning signs around or near sensitive features;
- The timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when a specialist ecologist needs to be present on site to oversee works;
- Details of a scheme for the recycling/disposal of waste resulting from the construction works.
- Details of tree and hedge protection measures

No development, site clearance or tree felling in pursuance of the planning permission shall take place on a phase of the development unless in accordance with the respective Construction Environmental Management Plan so approved.

- 7) Surface water drainage shall be provided by means of soakaways within the site for both the construction and operational phases of the development unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. The soakaways shall comply with the requirements of BRE Digest 365.
- 8) No development shall commence on site until details of the works for the disposal of sewerage have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.
- 9) An access strategy shall be submitted with the first reserved matters application seeking approval for access details.

This strategy shall include:

- i) the layout of roads including services and pedestrian/cycle links and the identification of the point in the western boundary where connection will be made to the adjoining Development Area;
- ii) confirmation that land at and up to the site boundary is subject to an Adoption or Dedication Agreement with Devon County Council;
- iii) details of parking;
- iv) proposals for the treatment of the Secmaton Lane access; and
- v) details of the phasing and timing of delivery including construction of the road to the boundary prior to the occupation of the 25th dwelling on site.

The development shall be carried out in accordance with the approved strategy.

- 10) No development shall commence until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.
- 11) Each reserved matters application seeking approval for landscape details shall include full details of hard and soft landscape works, outlining biodiversity objectives and including an implementation and ongoing management plan.

- 12) Details of soft landscape works shall include retention and enhancement of existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; structures (furniture, play equipment, refuse and other storage units; signs and lighting); proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.
- 13) Prior to the installation of any exterior lighting on the buildings or elsewhere on the site full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.
- 14) A scheme for the installation of bat roosts and bird nesting boxes for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp proof course level on that phase taking place. The scheme shall thereafter be implemented in accordance with the approved details.

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