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## Appeal Decision

Site visit made on 10 November 2015

**by Nick Fagan BSc (Hons) DipTP MRTPI**

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

**Decision date: 14/12/2015**

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**Appeal Ref: APP/Q1153/W/15/3131710**

**Field to the west of Brook Farm, Brook Lane, Tavistock, Devon PL19 9DP**

- 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 Southern Properties against the decision of West Devon Borough Council.
  - The application Ref 00233/2015-OUTLINE, dated 17 February 2015, was refused by notice dated 23 June 2015.
  - The development proposed is 23 No dwelling units comprising 8 affordable/local needs units and 15 No open market units with associated access road, parking and external works.
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### Decision

1. The appeal is allowed and outline planning permission is granted for 23 No dwelling units comprising 8 affordable/local needs units and 15 No open market units with associated access road, parking and external works at Field to the west of Brook Farm, Brook Lane, Tavistock, Devon PL19 9DP in accordance with the terms of the application, Ref 00233/2015-OUTLINE, dated 17 February 2015, subject to the conditions in the Schedule below.

### Application for costs

2. An application for costs was made by Southern Properties against West Devon Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The initial outline application was to consider matters of access, layout and scale but due to the Council's reservations about how the access may affect a TPO protected chestnut tree near the Brook farm boundary access and layout are now also reserved matters. Hence only scale is being determined as part of this outline application.
4. A S106 planning obligation was received during the course of the appeal. I address the details of this below.

### Main Issues

5. The main issues are whether the site would be in a suitably accessible location and the effect of the proposed housing development on the highway safety of Brook Lane.

## Reasons

### *Location*

6. The site abuts the southern edge of Tavistock's settlement boundary, Tavistock being one of the main town's in the Borough. About ½km up Brook Lane to the north are three large supermarkets (Morrisons, Lidl and a recently opened Tesco) as well as various employment units in local industrial estates. There is a bus stop within Morrison's car park and a bus stop just north of the roundabout providing access to other bus routes, which is no more than 750m away from the site. The site is within easy and generally safe walking distance of more than one primary school and the secondary school and a National Cycle Route crosses Brook Lane and the River Tavy near Morrisons.
7. The site has been identified under draft Policy OP16 of the emerging West Devon Local Plan ('Our Plan') for approximately 20 dwellings. The appellant claims significant weight should be given to this whereas the Council point out that it has been necessary to reconsult on this Plan and that there are also outstanding objections to such an allocation. Although I acknowledge this draft allocation I accord it little weight because of the limited stage that Our Plan has reached and the outstanding objections.
8. Nonetheless, I also note that Policy 23 of the adopted Core Strategy DPD 2006-2026 (CS) allocates two substantial areas of land for mixed use development on either side of the river: approximately 750 dwellings predominantly within area SP23A to the west of the Tavy, and approximately 13 hectares of employment land predominantly within area SP23B between Brook lane and the main Plymouth Road. These areas, shown on the Core Strategy proposals map, are clearly intended to form the main areas of Greenfield development considered necessary to fulfil the town's requirements in the next 10 years or so and I note that planning permission for 750 dwellings on site SP23A was recently resolved to be granted outline permission.
9. I also note that the track that runs eastwards from Brook Lane just north of the site would pass through site SP23B, which is allocated for mixed use mainly employment development. It would seem inevitable that any future such development would provide alternative links to the Plymouth Road, at least for walkers or cyclists. Part 3 of CS Policy 23 sets out a number of development aims and principles for areas SP23A and SP23B including to integrate new development within the landscape, minimising and mitigating landscape impacts, having regard to the Tamar Valley Area of Outstanding Natural Beauty, and being well integrated with new and existing services and facilities in the town. This site would also fulfil these requirements because, as the Council acknowledges, it is low lying and self contained and would have no impact on the AONB. It is very close to local facilities as I explain above.
10. I conclude that, although the site currently lies just outside the settlement boundary and the proposed development would therefore be contrary to 'saved' Policy H31 of the West Devon Borough Local Plan Review (LPR), it is in a very accessible location for all necessary day-to-day main facilities and is also only a short bus ride or moderate length walk to the town centre. It would be likely to be very close to other planned allocated development in the vicinity and hence would become part of the expanded southern part of the town.

11. CS Policy SP1 is a list of considerations that the Council sees as defining sustainable development. The proposed development meets the requirements of this policy for the above reasons, particularly subsections e, g and i and the reserved matters would be sufficient to ensure that the other considerations of this Policy are met. The proposal would meet Policy SP5 because the site abuts the edge of Tavistock and therefore complies with the Council's spatial strategy.
12. It would also meet the objectives of Policy SP8 because it would contain 35% affordable housing and a range of house sizes, including smaller houses, and thus achieve an inclusive community. The Council points out that Policy SP9 requires 40% of dwellings on developments on sites of over 10 dwellings. However, the Council clearly accepted in its Committee Report that because of the other financial contributions sought through the planning obligations that it considered a 35% level of on-site affordable housing to be reasonable and justified in terms of the scheme's viability.
13. As indicated above, because the site is within walkable distance of all facilities including public transport links it would fulfil the requirements of CS Policy SP14 and LPR Policy T5 which require development to be in locations accessible to public transport, although I deal specifically with the highway safety aspects of the proposal below.

#### *Highway Safety*

14. Brook Lane has the character of an urban road at its northern end, with lights, footways, curbs and appropriate crossing places. However, this character changes further south. The bridge over the Tiddy Brook is only sufficient for one way traffic and south of the West Devon Business Park there is no footway and lighting. South of the Tiddy Brook the east side of the road is constrained by a high Devon bank with mature tree cover, and the road bends, rises and is also narrower than at its northern end; its character is best described as rural. South of the site it becomes even narrower as it rises up a hill.
15. Detailed comments have been provided by the County Highway Authority. The Authority acknowledges that the lane to the south of West Devon Business Park is not ideal with respect to carriageway width and footway provision and it does not comply with contemporary design criteria. However, the Authority states that there is no evidence of any personal injury collisions along the whole of Brook Lane and site inspections including within peak flow hours have revealed very light usage of the section of the lane to the south of Tiddy Brook. Although local residents on Brook Lane dispute this I am satisfied that the Highway Authority has properly investigated the usage of the lane and I agree with its conclusions in this respect.
16. The Highway Authority also considers that the additional traffic that would be generated by the proposed development (a total of 147 additional vehicle trips per day) could be accommodated despite the drawbacks of Brook Lane. I have no reason to disagree with it, particularly because this is such a short stretch of road and the additional traffic generation would not be substantial.
17. CS Policy SP20 states, amongst other things, that developments should provide safe and user friendly environments and encourage access through sustainable forms of transport. Objecting residents consider the section of Brook Lane south of the West Devon Business Park to be dangerous for pedestrians

because of the constraints set out above, particularly for children walking to school. Although I can understand such concerns I note that the S106 agreement includes an obligation requiring the provision of a financial contribution of £5,000 towards necessary Traffic Regulation Orders (TROs) which the County Council as Highway Authority could use to enforce waiting restrictions and/or lowering the speed limit and the costs of any related signage.

18. I consider that such measures would be sufficient to mitigate any significant dangers to pedestrians using Brook Lane, including school children. As I state above, I also consider that the future development of site SP23B would also be likely to obviate the need for primary school children attending the schools on the east side of Plymouth Road to walk the whole length of Brook Lane in the future and so this would also be likely to reduce any such danger to pedestrian children providing, as is likely, that the Council ensures safe pedestrian links through the new proposed development.
19. For these reasons I conclude that the proposed development would not be likely to cause increased danger for vehicular or pedestrian users of Brook Lane. It would therefore comply with LPR Policies T2 and T9, which respectively require development not to prejudice pedestrian and/or cyclist safety and convenience, and not to have a detrimental impact on the functioning of the highway network. It would also meet the objectives of paragraph 32 of the National Planning Policy Framework (NPPF), which states development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe.

#### **Other Matters**

20. The S106 dated 18 November 2015 is an agreement between the landowner, local planning authority (LPA), County Highway Authority and mortgagee. It requires the owner/developer to provide a series of necessary infrastructure via a series of obligations. First, to provide eight affordable houses on the site via a scheme to be agreed with the LPA. Secondly, to provide an education contribution of £69,979 towards the costs of providing additional educational facilities towards a new single form primary school in south west Tavistock. Thirdly, to provide the above mentioned £5,000 for the necessary TROs on Brook Lane. Fourthly, to provide £35,040 as a contribution to the nearby playing pitches at Crowndale. And, lastly, to provide a sum of £20,310 as a contribution to the improvement of off-site play area(s) within walking distance of the site. These obligations/contributions are appropriately index linked and satisfactorily linked to the phasing of the development.
21. The proposed residential development generates a requirement for all these obligations, principally through CS Policies SP4 and SP9. They are necessary to make the development acceptable in planning terms; directly related to the development; and fairly related in scale and kind to the development all in accordance with Regulation 122 of the *Community Infrastructure Levy Regulations 2010*.
22. I have taken into account the objections made by local residents and the Ward Councillors but for the reasons given above I consider the proposed development would be sustainable with regard to the approach set out in the NPPF.

## Conditions

23. The Council has suggested that 16 conditions are required in its appeal statement and 5 different (highway) ones in its original report recommending approval of the proposal. Given that this is an outline application with all matters reserved except for scale, many of the matters in the Council's suggested conditions will be dealt with at reserved matter stage or alternately by the submission of a new full planning application.
24. Although scale is not a reserved matter the only details provided of the scale of the development is a section through the site showing house plots 3, 12, 10, Brook farmhouse and the outline of the dwellings to the north in Philpott Lane (drawing number 1319 [PL-]02). This is sufficient to indicate that these dwellings will be two storeys in height and shows the relative heights of these particular houses in relation to surrounding dwellings. However, further details will be required of the heights of all the other new dwellings at reserved matters stage as well.
25. Conditions related to the construction of the estate roads and the access are not necessary at this stage because matters of access and layout are reserved. Drainage, landscaping, tree retention, 'secured by design', refuse storage and cycle storage can also all be dealt with as part of the detailed reserved matters application and so conditions relating to these issues are unnecessary at this stage. There is no suggestion that the site contains any archaeological remains and so I cannot see why such a condition is necessary. Lifetime Homes standards can no longer be required in the recent changes to Planning Practice Guidance (PPG) but a condition specifying 10% of energy used on the development to be generated from renewable sources would still meet the PPG, and so I have included such a condition in accordance with CS policy and in the interests of sustainability.
26. However, besides the standard outline conditions a number of other conditions are necessary. The site is located in close proximity to the East Wheal Crebor historic mine works and may therefore suffer from contamination arising from such works. Appropriate conditions are therefore necessary to address such possible contamination. A construction method statement should be agreed with the Council before development commences in order to minimise disturbance to neighbours from the construction works. A condition listing the approved drawings is required for the avoidance of doubt as to what has been approved. I also consider a condition to ensure superfast broadband is provided to the new dwellings to be reasonable to support sustainable living and working patterns.

## Conclusion

27. For the reasons given above I conclude that the proposed residential development would constitute sustainable development and the appeal should therefore be allowed, subject to the conditions in the Schedule below.

*Nick Fagan*

INSPECTOR

### Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale of the new dwellings not shown on drawing number 1319 [PL-]02 (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved drawings: 1319 [PL-]01D & 1319 [PL-]02.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) programme of works (including measures for traffic management)
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from construction works
- 6) Prior to commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority, to include the following elements:
  - 1) A preliminary risk assessment/desk study identifying all previous uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site.
  - 2) A site investigation scheme based on (1) above to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
  - 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- 7) Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a long term monitoring and maintenance plan for monitoring of pollution linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.
- 8) Prior to the commencement of each phase, details of how fibre optic broadband connections to at least "superfast" (greater than 24Mbps) shall be facilitated to ensure that all Internet Service providers (ISPs) are able to deliver their services to all premises within the development shall have been provided to and approved in writing by the Local Planning Authority. Such infrastructure as identified within these approved details shall be provided in phase with the development.
- 9) At least 10% of energy used in the development shall be generated from decentralised and renewable or low carbon sources.

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End of Conditions

Richborough Estates