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## Appeal Decision

Site visit made on 16 September 2015

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

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

**Decision date: 1 February 2016**

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**Appeal Ref: APP/X1118/W/15/3035871**  
**Allenstyle, Yelland, Barnstaple, Devon EX31 3ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Rockford Homes Ltd. against the decision of North Devon Council.
  - The application Ref 58294, dated 17 October 2014, was refused by notice dated 17 April 2015.
  - The application sought planning permission for residential development for 53 dwellings (including 16 affordable units) and associated infrastructure without complying with a condition attached to planning permission Ref 56054, dated 26 November 2013.
  - The condition in dispute is No 36 which states that: the reserved matters application shall allow for single storey dwellings to the northern side of the site and properties not exceeding one and a half storeys to the southern side of the site.
  - The reason given for the condition is: to ensure the development does not impact upon the landscape setting of the locality to respect the development form of the existing properties.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline, with all matters reserved for future consideration. Nevertheless, plans, including a Scale and Massing Strategy Plan Ref R215 14 07 and Site Section drawing Ref R215 14 03 B, have been submitted showing the proposed indicative site layout in terms of the proposed positions of the different building heights. I have dealt with the appeal on that basis.
3. I have had regard to a previous appeal decision, Ref APP/X1118/A/13/2193634, included in the submissions. However, I have not received the full details of that proposal to enable me to fully understand the basis upon which the decision was taken in that case. I have in any case determined this appeal on its merits.

### Main Issues

4. The main issues are:

- i) the effect of the proposed development on the character and appearance of the surrounding area having particular regard to the appropriateness of the condition in dispute and any other condition that could reasonably be imposed;
- ii) whether or not the proposal makes appropriate provision for affordable housing and whether it makes adequate provision for any additional need for infrastructure, services and facilities arising from the development.

## **Reasons**

### *Character and appearance*

5. I have had regard to the situation whereby the principle of housing development on this site has been established through planning permission Ref 56054. I have also had regard to the Scale and Massing Strategy plan, Ref R215 14 07. That plan indicatively shows where different heights of housing would be located on the site. Single storey dwellings would be located to the north opposite the existing primarily single storey dwellings beyond to the north. One and a half storey dwellings would then occupy a central belt of the site, surrounded to the east, south and west by two storey with the exception of a fairly narrow section on the southern boundary, at a point aligned with Allenstyle Way, which would be one and half storey.
6. The key consideration in respect of this issue is the effect of increasing the height of a number of proposed dwellings, to include a significant element of two storey units, on the character and appearance of the existing built environment in the vicinity of the site and of the surrounding landscape.
7. In terms of middle and long range views from the lower parts of the valley and from across the estuary to the north, it would be likely that the additional height would still largely appear as a gradual transition from single, to one and a half and then the two storey now proposed. As such, only the roofs of the development would generally pre-dominate from those vistas, as opposed to the full massing of the buildings, as the development would step up the gentle slope of the land. Furthermore, the two storey dwellings would still be seen in the context of a significant backdrop of trees along the southern boundary of the site and the steeply sloping land beyond.
8. The step up in height would not be so gradual at the eastern and western ends of the site. However these would be relatively narrow sections and, in the case of the eastern side of the site would be adjacent to particularly dense and mature woodland which would serve to soften its appearance by providing a dominant backdrop. The occasional juxtaposition of single storey dwellings with two storey ones is also not uncommon in the context of the existing built environment fairly close to the site to the west, in the vicinity of Pottery Lane.
9. In terms of the immediate character and appearance of the dwellings to the north of the site, the predominantly single storey height of these would be respected with a continuation of single storey along the northern side of the site. The generally gradual step up to two storey would then avoid an abrupt and jarring change to the streetscape. Where the step would be less gradual, the transition would not be in direct line of sight when looking south along Allenstyle Road and Allenstyle Way. In this respect, the dwellings to the west

would be set well away from Allenstyle Way, whilst to the east, the indicative road alignment from the southern end of Allenstyle Road is shown to cut away to the east such that the first two storey buildings would be set back from the existing alignment of that road and so would be unlikely to be overly prominent features.

10. From the public footpaths to the south of the site, the additional half storey would be evident but would be unlikely to represent a significant change, particularly given the softening or screening effect of the existing trees and general vegetation along the southern boundary.
11. I have had regard to concern raised by the Council about the dense and close grained nature of the proposed two storey housing. However, there is no substantive evidence before me to indicate that this would be substantially different to a one and a half storey development. In any case, an appropriate detailed design and layout for the proposed development could be secured at the reserved matters stage.
12. I visited a modern residential development at Sampson's Plantation further to the east towards Barnstaple, referred to by local residents amid concerns about a similar nature of development being built on the appeal site. However, the context of its surroundings is different to that of the appeal proposal. Furthermore, I noted that it is different in terms of it being a primarily two and three storey development compared to the lower proposed range on the appeal site. In any case I have determined this appeal on its merits.
13. Therefore, on the basis that a new condition, to ensure that any reserved matters application takes account of the Scale and Massing Strategy Ref R215 14 07, could be imposed to control building height and the transition of heights from north to south across the site, the removal of condition 36 would be acceptable.
14. For the above reasons the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area without compliance with condition 36 of planning permission Ref 56054, subject to a new condition to ensure that the distribution of house types accords with the Scale and Massing Strategy Ref R215 14 07. As such it would accord with saved policy DVS1 of the North Devon Local Plan which states that a development proposal will be permitted where it applies the aspects of development form to achieve the identified design principles. It would also accord with the National Planning Policy Framework (the Framework) which states that planning should always seek to secure high quality design.

*Affordable housing, infrastructure, services and facilities*

15. It is clear from the Council's officer report relating to the original planning application, Ref 56054, that a need was identified for the following provision: on-site affordable housing; on-site public open space facilities, including a youth shelter, and provision for off-site public open space infrastructure; off-site highways works in respect of increasing the capacity at the Roundswell Roundabout, and surfacing works on the approach roads to the site; provision for sustainable transport choices comprising the issuing of pedal cycle and sustainable travel vouchers to the first occupier of each dwelling; and an education contribution to mitigate for the shortfall of primary school spaces.

16. Policy HSG6 of the Local Plan requires provision for a choice and mix of dwelling types and sizes to meet the housing needs of the local community whilst Policy HSG7 sets out the need for at least 1200 affordable homes within the plan period. Policy REC5 requires appropriate provision for public open space. Policy DVS1A sets out the requirement for residential developments to incorporate appropriate sustainable principles including sustainable transport choices. Policy TRA6 requires the functioning of the road network or the safety of highway users not to be harmed. Furthermore the Framework also sets out that planning should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs. These policies provide a robust basis for seeking the provisions listed above in policy terms.
17. The Council has confirmed in its officer report relating to the planning application concerning this appeal, Ref 58294, that the provisions would remain relevant. Based on the evidence before me it is evident that there would be a need for those provisions. Furthermore, it appears that the need for them arises from the proposed development and satisfies the three tests set out in Paragraph 204 of the Framework.
18. The appellant has indicated the intention to provide a Planning Obligation in the form of a Deed of Variation to that relating to planning application Ref 56054. However, I have not received any such Planning Obligation. Therefore, in the absence of any secure arrangements, in the form of a completed planning obligation, to secure the above provisions, the proposed development would fail to make appropriate provision for affordable housing or adequate provision for any additional need for infrastructure, services and facilities arising from the development. This would be contrary to Policies HSG6, HSG7, REC5, DVS1A, and TRA6 of the Local Plan and to the Framework.

*Other matters*

19. I have had regard to concerns raised by local residents about harm to their living conditions in respect of outlook, privacy, light and impact on existing solar panels. These concerns would be likely to be unfounded on the basis that the development, as with the extant permission, would still be of a single storey nature at the northern edge of the site nearest to the existing properties. In any case, such detailed design matters would be appropriately considered at the reserved matters stage.
20. Concerns have also been raised about an increase in families and increased problems in respect of flooding, drainage and sewerage and in terms of impacts on other facilities and services including education, doctors surgeries, roads, traffic and parking, as well as on employment and traffic, and about the creation of a ghetto culture, and additional noise. Concern is also raised about any necessary diversion of the public right of way running across the site. However, I have received insufficient substantive evidence for considering that the introduction of a proportion of two storey dwellings on the site would necessarily have a materially greater effect in these respects than would be the case with the extant permission.
21. Furthermore, in respect of concerns about not sufficiently providing for the demand for elderly accommodation in the form of bungalows, again there is insufficient substantive evidence to support that claim, particularly as a significant proportion of the proposed dwellings would still be single storey.

## **Conclusion**

22. I have found that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area. However, this would not outweigh the harm that would be caused in terms of its failure to make appropriate provision for affordable housing and adequate provision for any additional need for infrastructure, services and facilities arising from the development.
23. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR

Richborough Estates