



Appeal Decision

Site visit made on 12 August 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/K1128/W/20/3250847

**Land Adjacent to Parsonage Farm, Parsonage Road, Newton Ferrers
PL8 1AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Pearce Fine Homes against South Hams District Council.
 - The application Ref 2758/19/ARM, dated 21 August 2019, sought approval of details pursuant to condition No 2 of a planning permission Ref 3139/16/OPA granted on 22 February 2018.
 - The development proposed is the erection of 12 dwellings to include 6 affordable units for the over 55s.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the appearance, landscaping, layout and scale details, submitted pursuant to condition No 2 attached to planning permission Ref 3139/16/OPA granted on 22 February 2018, are approved in accordance with the application dated 21 August 2019 and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Pearce Fine Homes against South Hams District Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The outline application for the development only sought detailed permission for means of access. Condition 2 of the resultant permission required the submission of details of reserved matters for approval. Condition 3 required development to proceed in accordance with the detailed drawings of the means of access that had been submitted. Subsequently a Non-Material Minor Amendment (NMA) of the outline permission was approved¹, altering the access location. A condition of that approval required development to be carried out in accordance with the approved drawing. The means of access to the development has, therefore, already been approved.
4. The application subject of this appeal sought approval for the remaining matters reserved by Condition 2. The appeal arises from the Council's failure to make a decision on the application. The Council has submitted a statement

¹ LPA Ref: 3679/18/NMM

setting out how it would have been determined. Based on this statement and all the evidence before me, I consider that the main issues are:

- a) The effect of Plots 7 – 12 on the character and appearance of the area;
- b) Whether the landscaping proposals would successfully assimilate the development into the South Devon Area of Outstanding Natural Beauty (the AONB);
- c) Whether the road design would be suitable; and,
- d) Whether a suitable means of surface water drainage would be provided.

Reasons

Character and appearance

- 5. The appeal site lies on the northern edge of the settlement of Newton Ferrers, to the west of Parsonage Road. It is an agricultural field that slopes gently upwards from the road, and is bordered by the rolling agricultural landscape of the AONB to the northeast, northwest and southeast. However, as it is entirely contained by high hedging and trees, the field is not a prominent feature in the landscape. New housing has recently been built at Peters Field, to the east, so that built development extends further north than the appeal site on the opposite side of the road.
- 6. Outline planning permission for the development exists, so the principle of housing on the site has already been established. Although the outline permission only approved details of the means of access, Condition 3 required the development to strictly accord with the other drawings submitted at outline stage, which included a Block Plan, Sections and Indicative House Elevation. The Council has not suggested that the application is inconsistent with the terms of the outline permission, or that the development would not be authorised by it. In view of the fundamental similarity of the proposed layout to the approved scheme, I have no reason to come to a different view.
- 7. The Council's concern on this main issue relates to the scale of the proposed houses on Plots 7 – 12, which occupy the north-western part of the site. The layout of these houses accords very closely with that approved at outline stage. There is a note on the approved Section through the house at the top of the site, denoting that it would be 1.5 storeys. The building now proposed on that plot, and all the others, would be full two-storey houses. However, the house proposed would only be approximately 40 centimetres higher than the Indicative House in the drawing approved at outline stage. Furthermore, it is proposed that the houses would be cut into the slope of the land to reduce the overall height. The Council does not contest that the ridge level would, therefore, accord with that of the Section approved by the outline permission.
- 8. The Council does not elaborate on its concerns about the scale, and does not provide evidence to support its view that the houses on these plots would become highly visible features in the landscape. In fact, its statement admits that the site is enclosed by existing hedging and tree lines such that the development, albeit proposed as two-storey dwellings, should not appear prominent within the surrounding landscape. In view of the similarity of the approved and proposed layouts, and the fact that the ridge heights now proposed would be no higher than already approved, I have no reason to

conclude that the proposed houses would be any more prominent in the landscape, or from the approach road into the village, than already anticipated at outline stage.

9. For these reasons, I conclude that the development would not be harmful to the character and appearance of the area. It would, therefore, comply with Policy DEV20 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (the Local Plan) and Policy N3P-4 of the Newton and Noss Neighbourhood Plan 2017 to 2034 (the Neighbourhood Plan). These policies seek to ensure that development proposals are in keeping with the site and its surroundings, and contribute positively to both townscape and landscape. The development would also accord with the aims of Section 12 of the National Planning Policy Framework (the Framework) to achieve well-designed places.

Landscaping

10. The drawings referred to in Condition 3 of the outline planning permission included a Landscape Masterplan. The Landscape Details submitted with the application do not depart very far from those proposals, and include significant levels of native tree planting, including oak, field maple and beech, to reinforce the existing substantial hedgerow and tree boundaries. The Council's putative reason for refusal refers to the lack of a Landscape and Ecological Management Plan (LEMP). However, the evidence indicates that a LEMP was approved under the terms of Condition 14 of the outline planning permission on 22 June 2020.
11. The Council's Landscape and Trees Specialist objected to the original proposals that were submitted. However, the scheme was revised during the course of the application, and the comments in his Addendum added on 4 May 2020 state that the addition of tree planting within the boundaries, and amended species, have improved the landscape scheme to a basic level, and it is therefore agreed. In view of these comments, and the existing level of mature screening on all boundaries of the site, there is no evidence to indicate that the planting is inappropriate.
12. For these reasons, I conclude that the landscaping proposals would successfully assimilate the development into the AONB. In this respect, therefore, the development would comply with Policies DEV23 and DEV25 of the Local Plan, and Policy N3P-9 of the Neighbourhood Plan. These policies give the highest degree of protection to the landscape of the AONB, and require schemes to incorporate high quality landscaping that enhances the proposed development. The landscaping proposals would also accord with the aims of Section 15 of the Framework to conserve and enhance the natural environment.

Road design

13. Details of the means of access to the site have already been approved by the outline planning permission and the subsequent NMA. Condition 2 of the outline planning permission requires the development to be carried out in accordance with detailed drawings of the design, layout, levels, gradients, materials, drainage, lighting and method of construction of all new roads and connection with existing roads. Condition 7 of the same permission requires these details to be approved by the Council, in writing, before road construction begins. The appellant has clarified that the appeal does not seek the discharge of

Condition 7. Furthermore, as the road will be adopted, there is other legislation² to ensure that it is suitably constructed and drained.

14. The Council has not raised any concerns about the basic nature or alignment of the estate road. Moreover, no evidence has been submitted to suggest that the Council's concerns regarding the suitability of the engineering details and surface materials for the road cannot be resolved through the future discharge of Condition 7, and through the adoption regime.
15. For these reasons, I conclude that, subject to further details to be approved under Condition 7, the road design would be suitable to serve the development. In this regard, the development would therefore comply with Policy DEV29 of the Local Plan, which seeks to ensure that development proposals provide safe and satisfactory traffic movement and vehicular access to and within the site.

Surface water drainage

16. Condition 2 of the outline planning permission requires the development to be carried out in accordance with detailed drawings showing the arrangements for the disposal of foul and surface water. Condition 17 of the same permission requires details of surface water drainage to be approved by the Council prior to the commencement of development. The appeal does not seek the discharge of Condition 17, and a separate application for that approval has recently been submitted to the Council.
17. In granting outline planning permission for the development, based on an indicative scale and layout that was very similar to that now proposed, the Council must have satisfied itself that the site could be suitably drained. The consultation reply from the Lead Local Flood Authority does not suggest that there would be insurmountable problems in providing a satisfactory solution.
18. For these reasons, I conclude that, subject to further details to be approved under Condition 17, a suitable means of surface water drainage can be provided for the development. In this regard, the proposal would therefore comply with Policy DEV35 of the Local Plan, which seeks to manage the flood risk and water quality impacts of development.

Other Matters

19. Concern has been raised in representations regarding the number of car-parking spaces and their arrangement. The drawings show at least two spaces per house, and only two houses would have these arranged in tandem fashion. The development is therefore unlikely to result in an increase in cars parking on surrounding roads. The positioning of the car-parking spaces to the front of the houses allows for the provision of private rear gardens for these plots, albeit that they will be north-facing. As all of the gardens will have rear access paths, there will be ample scope for cycle parking.
20. The accessibility of the community garden to the occupants of Plots 1 – 6 has been questioned. Whilst there would be a wall along its boundaries, drawing no. 692-09P C shows a timber gate access on its eastern boundary, to allow access from the lower part of the site.

² Highways Act 1980 – Section 38

21. All the houses would face south, which will maximise passive solar gain, and the proposals allow for solar arrays on the southern roof slopes of Plots 7 – 12, which will reduce carbon emissions. Whilst it is argued that this falls short of the outline proposals for passive energy design, including solar panels, the Council has not suggested that the proposals fail to meet development plan policy relating to sustainable construction.
22. It has been argued that the outline proposals were for all the open market houses to be four-bedroomed. The house on Plot 7 will have five bedrooms, but my attention has not been drawn to any development plan policies, or guidance, which indicates that an additional bedroom in one of the houses would result in any planning harm.

Conditions

23. A list of conditions has been suggested by the Council. In considering these, I have had regard to the advice on the use of planning conditions at Paragraph 55 of the Framework, and in the Planning Practice Guidance (the PPG). In particular, the PPG explains that the only conditions which can be imposed when reserved matters are approved, are conditions which directly relate to those reserved matters³. Suggested conditions 5 – 16 were originally imposed when outline permission was granted, so would conflict with the PPG, and will not therefore be imposed. Suggested condition 2, concerning the timing of the provision of roads, footpaths and visibility splays, does not relate to appearance, landscaping, layout or scale, so would also be contrary to the PPG.
24. For the avoidance of doubt, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted drawings. However, I have omitted those drawings relating to road design and drainage, as these may change through the process of discharging conditions 7 and 17 of the outline planning permission.
25. A condition requiring the provision of suitable facilities for the storage of refuse containers is relevant to appearance and layout, and is reasonable in the interests of visual amenity. It is also necessary to ensure that the development meets the requirements of Neighbourhood Plan Policy N3P-4. I have altered the suggested condition, in the interests of clarity and precision, to better reflect the advice in the PPG.
26. A condition requiring the retention and protection of the existing boundary trees is relevant to landscaping. As the submitted Landscape Details do not clearly indicate the existing trees that are to be retained, and how they will be protected during the construction phase, a condition is reasonable and necessary. As harm to the trees could occur during the site preparation phase, it is necessary for this to be a pre-commencement condition. Again, I have altered the suggested condition, in the interests of clarity and precision.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

³ Planning Practice Guidance: Paragraph: 025 Reference ID: 21a-025-20140306

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 694-01P D - Site Plan; 692-02P C - Proposed Levels; 692-04P - Location Plan; 692-08P C - Site Sections; 692-07P C - Landscape Details; 692-09P C - Community Garden; 692-101/2 1 - Plot 1 Floor Plans; 692-101/2 2 - Plot 2 Floor Plans; 692-101/2 3 - Plots 1 & 2 Elevations; 692-103/4 1 - Plot 3 Floor Plans; 692-103/4 2 - Plot 4 Floor Plans; 692-103/4 3 - Plots 3 & 4 Elevations; 692-105/6 1 - Plot 5 Floor Plans; 692-105/6 2; Plot 6 Floor Plans; 692-105/6 3 - Plots 5 & 6 Elevations; 692-701P A - Plot 7 Ground Floor Layout; 692-702P A - Plot 7 First Floor Layout; 692-703P B - Plot 7 Elevations; 692-801P - Plot 8 Ground Floor Layout; 692-802P - Plot 8 First Floor Layout; 692-803P A - Plot 8 Elevations; 692-901P - Plot 9 Ground Floor Layout; 692-902P - Plot 9 First Floor Layout; 692-903P A; Plot 9 Elevations; 692-1001P; Plot 10 Ground Floor Layout; 692-1002P; Plot 10 First Floor Layout; 692-1003P A; Plot 10 Elevations; 692-1101P; Plot 11 Ground Floor Layout; 692-1102P; Plot 11 First Floor Layout; 692-1103P A - Plot 11 Elevations; 692-1201P - Plot 12 Ground Floor Layout; 692-1202P - Plot 12 First Floor Layout; 692-1203P A - Plot 12 Elevations; 19015-001 - Site Location Plan; 19015-300-B - Proposed FFLs & External Works Plan; 692-CS1 - Comparative Sections.
- 2) No site clearance, preparatory work or development shall take place until a scheme identifying the existing trees to be retained, and measures to ensure their protection (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to, and approved in writing by, the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 3) The houses shall not be occupied until details of the facilities to be provided for the storage of refuse and recycling bins within the site have been submitted to, and approved in writing by, the Local Planning Authority. The storage facilities shall be provided in accordance with the approved details prior to occupation of the houses, and permanently retained thereafter.