



Appeal Decision

Site visit made on 3 January 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/W1145/W/23/3325646

Land to rear of and north-west of 77 Clifton Street, Bideford, Devon EX39 4EX

- 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 Mr Michael Patt against the decision of Torridge District Council.
 - The application Ref 1/0774/2022/OUT, dated 21 July 2022, was refused by notice dated 11 January 2023.
 - The development proposed is described on the application form as, "New dwelling on vacant land".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal follows an outline application, where the only matters to be considered are access, appearance, layout, and scale. Landscaping is a matter reserved for later consideration.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.

Main Issues

4. The main issues are:
 - whether the proposed development would provide satisfactory living conditions for the future occupiers of the proposed new dwelling, with particular regard to private amenity space; and
 - whether the proposed development would provide a safe and suitable access to the proposed new dwelling.

Reasons

Living conditions

5. The appeal site comprises a rectangular area of former garden land located to the rear of and north-west of 77 Clifton Street (No 77) in a predominantly residential area in Bideford. The site slopes downwards from south to north, with an approximately 1.6 metres difference between the northern and the southern boundaries.

6. A portion of the northern part of the site is intended to provide a garden for the proposed new dwelling. This rear garden area alone would exceed the minimum size of 55 square metres, quoted from Exeter City Council's Residential Design Guide SPD. Nevertheless, it would be a sunken space, which would undermine the pleasantness of its use.
7. A tall fence, which is higher than head height, is present along the eastern boundary of the site. This fence is shown as being retained on the submitted plans. This fence would considerably reduce the amount of daylight received to the rear garden area. Due to the sunken nature of this area, this fence would also serve to create an undue experience of enclosure for its users.
8. Hence, these factors would make the rear garden area less than pleasant to use for the future occupiers of the proposed new dwelling. A fence is also proposed along the western boundary of the site, which although lower than the fence along the opposite boundary, would further reduce the amount of daylight received to the proposed rear garden area for the new dwelling, as well as exacerbating the experience of enclosure, referred to above.
9. The fences intended to be retained / erected to either side of the plot could be proposed to be lowered as part of the landscaping details to be submitted at reserved matters stage, but it has not been demonstrated that this would not result in a loss of privacy in relation to the use of the proposed rear garden area by the future occupiers of the proposed new dwelling, due to the potential for overlooking from nearby properties and spaces, including Glenfield to the immediate west of the site.
10. Furthermore, although the Appendix Drawing submitted by the appellant demonstrates that harmful overlooking to the proposed rear garden area from the windows present at No 77 and from a potential dwelling adjoining No 77 would not occur, windows in an elevated position facing towards the site are present at the property known as Keele, situated immediately to the north of the site. These windows would result in the proposed rear garden area for the new dwelling being overlooked at fairly close quarters, meaning that the future occupiers of the proposed new dwelling would not consider the rear garden area to be a private space. The planting proposed along the southern boundary wall would not interrupt the line of sight from the windows at Keele towards the proposed rear garden area.
11. Taken in combination, I consider that the above-mentioned factors would mean that the future occupiers of proposed new dwelling would not benefit from a sufficiently pleasant rear garden area. The proposed southern garden area would provide only a limited contribution to alleviating this concern, as it would be small in size, irregular in shape, and would be interrupted by the proposed footpath.
12. It follows that, whilst the total size of the private amenity space proposed for the site would be broadly commensurate with that commonly found serving nearby similarly-sized dwellings, in terms of its quality it would not meet the requirements of paragraph 135 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for future users.
13. Reference has been made to nearby properties with smaller plot sizes than the appeal site, where it has been stated that the potential effects of overlooking

and overshadowing are significantly worse. However, few details have been provided to substantiate these assertions, and as no plans have been provided showing the detailed layout of those developments the extent to which those developments are comparable with the appeal proposal in terms of the quality of the private amenity spaces provided is unclear. My findings therefore remain unchanged.

14. I therefore find that the proposed development would not provide satisfactory living conditions for the future occupiers of the proposed new dwelling, with particular regard to private amenity space. It would conflict with part (b) of Policy DM01 of the North Devon and Torrridge Local Plan 2011-2031 (adopted 2018) (Local Plan) which provides that, amongst other things, development will be supported where the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses. In relation to this main issue, the proposed development would also conflict with paragraph 135 f) of the Framework, referred to above.
15. Part (1)(i) of Policy DM04 of the Local Plan, referred to by the Council in their decision notice, relates to neighbouring occupiers and therefore is not directly relevant to this main issue. Nevertheless, the above-mentioned policies are more than sufficient for me to come to a view on this main issue.

Access

16. The proposed development includes an access from Clifton Street to the proposed new dwelling, via a footpath which is shown on the submitted plans as being positioned in-between 2 dwellings.
17. The appellant has clarified that a gated entrance to the footpath would be provided and that security lighting and cameras would also be installed. Consequently, the access would be private, and not available for use by members of the public. A measure of surveillance would be provided through the use of security cameras.
18. Hence, whilst I have carefully considered the observations made by the Designing Out Crime Officer, the proposed development would not meaningfully increase the level of permeability in the vicinity and therefore I consider that the proposed development would not likely result in an increase in crime and anti-social behaviour over-and-above the present situation.
19. The appellant has stated that the proposed access would be approximately 1.25 metres wide, and this figure has not been disputed by the Council. Whilst due to its length and fairly narrow width, the access would be less than ideal, it would nevertheless likely be wide enough for bicycles and recycling bins to be moved to and from the proposed new dwelling and the road. If the proposed development were found to be acceptable overall, a planning condition could potentially be imposed requiring the provision of a ramp for wheelchair access where steps would otherwise be present.
20. I therefore find that the proposed development would provide a safe and suitable access to the proposed new dwelling. In relation to this main issue, no conflict would arise with Policies DM01, DM04, DM05, and ST04 of the Local Plan, which collectively provide that, amongst other things, development proposals should provide public and private spaces that are well-designed, safe, and designed to minimise anti-social and criminal behaviour.

21. For the reasons given above, in relation to this main issue no conflict would arise with paragraph 135 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters and Planning Balance

22. The finding on the second main issue above, with respect to access, is a neutral matter, which does not weigh in favour of the proposed development, as is the fact that pre-application advice was previously sought from the Council regarding the site.
23. The proposed development would support the Government's objective of significantly boosting the supply of homes, and would provide a limited contribution to the local housing stock, in an existing residential area where, according to the appellant, few opportunities for individuals to purchase and live in their own home exist. Similarly, the proposed development could appeal to individuals seeking low-cost retirement housing, a community group which is mentioned in paragraph 63 of the Framework in the context of plan-making.
24. The above-mentioned benefits of the proposed development are however constrained by the minimal quantum of housing proposed, of one new dwelling only, resulting in no more than moderate weight being given these benefits in support of the proposed development.
25. The proposed development would not provide satisfactory living conditions for the future occupiers of the proposed new dwelling, which given its importance to the creation of high quality places, is a matter which is given significant weight in opposition to the proposed development.
26. Overall, as a matter of planning judgement I find that the benefits of the proposed development do not, either individually or collectively, outweigh the harm identified on the first main issue above, nor the conflict with the development plan identified.

Conclusion

27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR