
Appeal Decision

Hearing held on 15 October 2015

Site visit made on 15 October 2015

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 12 November 2015

Appeal Ref: APP/X1165/W/15/3006520

Gleneagles Hotel, Asheldon Road, Torquay, TQ1 2QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Churchill Retirement Living against the decision of Torbay Council.
 - The application Ref P/2014/1062/MPA, dated 20 October 2014, was refused by notice dated 10 February 2015.
 - The development proposed is demolition and redevelopment to form 36 retirement apartments for the elderly including communal facilities, access, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's second reason for refusal relates to the absence of a legal agreement to secure necessary planning obligations. At the Hearing a signed and dated Section 106 agreement was provided that makes provision for affordable housing and a waste management contribution. The Council confirmed that the Section 106 agreement has now overcome their second reason for refusal and a contribution towards the South Devon Link Road was no longer being sought. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework) for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). Therefore, I have not considered such matters further in my decision.

Main Issue

3. The main issue of the appeal is the effect of the proposal on the character and appearance of the area, including whether the proposal would preserve or enhance the setting of the Lincombes Conservation Area.

Reasons

4. The appeal site is located on Asheldon Road and currently accommodates the now closed Gleneagles Hotel. The existing building has a relatively contemporary appearance that spans a significant distance across the appeal site and is 3 storeys in height. The immediate area is largely residential. I

observed on the site visit that whilst there is some variation in the general area, the locality is largely characterised by villas of modest footprints set within spacious grounds. There has also been more modern development in the immediate context of the appeal site. The site is not situated within the Lincombes Conservation Area, but lies on its boundary and therefore forms part of its setting.

5. The proposal would result in the demolition of the existing hotel and its replacement with a three storey building of relatively similar proportions, although the proposed building would span further across the site and would be slightly greater in height. The Council set out at the Hearing that they considered the height of the building in isolation to be acceptable and that the architectural appearance and proposed materials was not in dispute. The Council's principle concern relates to the increased footprint and overall mass of the building, when considered against the historic pattern of development in the area.
6. The appeal site has a planning history, which includes a previous appeal (APP/X1165/A/04/1150294, dated 22 November 2004). This included a relatively similar proposal in terms of the scale and footprint of the building. The previous Inspector in terms of character and appearance concluded that any harm caused by the mass, siting and design of the proposed apartments and the effects on the Lincombes Conservation Area would not have been so significant as to justify the dismissal of the appeal. However, I am mindful that this decision was made in 2004. Since this time, there have been changes to relevant planning policy and guidance. Most notably, the Framework has been published. The Framework identifies that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 of the Framework importantly seeks to ensure that development which fails to take the opportunities available for improving the character and quality of an area and the way it functions should be refused.
7. Since the previous appeal the Council has also adopted an Urban Design Guide Supplementary Planning Document (2007) (the Design SPD), which is a material consideration of significant weight. The Design SPD sets out at A.1 that *'Development should promote local character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development, landscape and culture. Development should respond sensitively to the site and its setting, creating a place that is valued and pleasing to the eye'*.
8. Further, at the Hearing the Council confirmed that the Inspector's Report for the emerging Local Plan (the eLP) had been published, which subject to modifications was considered to be sound. The Council has referred to Policies DE1 and HE1 (referred to as Policy SS8.1 in Hearing Document No 5 below) of the eLP, which I consider can now be afforded significant weight. In summary, these policies require development to be well designed, respecting and enhancing Torbay's special qualities and seeks to ensure that development conserves or enhances the distinctive character and appearance of Torbay's Conservation Areas'.
9. I acknowledge that Policies BES, BE1 and BE5 of the Torbay Local Plan (2004) (the LP) are still currently saved, form part of the current development plan

and were relevant to the previous appeal. However, these were adopted some 11 years ago and whilst I consider there that there is a large degree of consistency with the Framework, there is evidently now a greater focus on taking opportunities to improve the character and quality of an area.

10. Given all of the above, I consider that there is a materially different planning policy context in terms of design than that which the previous Inspector considered the previous development. Consequently, I am of the view that this limits the weight that can be afforded to the previous Inspector's findings.
11. As set out above, the existing building spans a significant distance across the appeal site and is evidently bulkier in appearance than the surrounding development. Given the predominant pattern of development in the area of villas set within spacious curtilages, I agree with the Council that the existing building is in itself incongruous to its local context. Further to this, I consider that the more recent developments in the immediate area such as Asheldon House opposite the appeal site and the dwellings within Colwyn Court that have been referred to by the appellant do not contribute positively to the character and appearance of the area. Given this, I share the view of the Council that the existing building and the other recent developments in the area, should not set a precedent for further incongruous development.
12. The proposal would result in a building that would span further across the site than the existing building and would be slightly greater in height. Whilst being stepped down at each end, the proposed building would have a very bulky appearance when viewed from Asheldon Road and would appear as a continuous wall of built development across the appeal site. The scheme would appear as a much more intensive form of development than any of its neighbours. This would be in contrast to the predominant pattern of development and would not complement the spacious appearance of the area that has been created by the historic pattern of development.
13. In addition, the proposal would not allow for any meaningful glimpses through the appeal site, which would aid the integration of the proposal in the spacious nature of the wider area. The proposal would also extend further to the south east than the existing building, which would also remove the limited existing views through the site over the swimming pool area.
14. The Framework establishes at Paragraph 62 that local planning authorities should have local design review arrangements in place to provide assessment and support to ensure high standards of design and emphasises the importance of having regard to the recommendations from the design review panel. The Council did seek the views of a design review panel, who share my concerns. I consider that this adds weight to my findings. The design panel review did also consider alternative design solutions, which have been referred to by the parties. However, I have no detailed plans before me of such alternatives and I am mindful that I must consider the proposal on its individual merits. Although in general terms, I would agree that a building of smaller footprint and greater height to allow more open space around the building would be more appropriate to the local context of the appeal site.
15. I observed on the site visit that there are terraced properties in the wider Conservation Area, which in combination create visually continuous development of a similar scale to that proposed, as well as some larger historic buildings. However, such examples are relatively limited and are located some

distance away from the appeal site in wider parts of the Conservation Area and do not form part of the immediate context of the site.

16. As a result of the above findings, I consider that the proposal by virtue of its footprint and bulk would cause harm to the character and appearance of the area. I acknowledge the detailed description of the design evolution provided by the appellant within both their evidence and Design and Access Statement. I also accept the results of the public consultation exercise undertaken on the proposed design and alternative designs. However, this does not alter my findings or address my concerns.
17. As a result of the appeal site's location adjacent to this part of the Lincombes Conservation Area, I consider that the scheme would not preserve its setting¹. I accept that views of the appeal site from the Conservation Area are to a large degree fairly limited due to boundary structures and planting. However, I observed that when approaching the appeal site from the northwest, travelling down Asheldon Road the appeal site is evident and would be in contrast to the pattern of development that one experiences when approaching from this direction. Further, the appellant has accepted that the appeal site forms part of the setting of the Conservation Area. I can therefore not agree with the findings of the Built Heritage Statement that supports the application.
18. Given the above, I am of the view that the harm caused by the proposal would result in less than substantial harm, which is a view shared by the Council. The Framework sets out at Paragraph 134 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I acknowledge all of the social and economic benefits that have been set out by the appellant within their evidence, including the provision of much needed new retirement housing in accordance with Paragraph 47 of the Framework. However, I am mindful that an alternative development, which did not cause harm to the character and appearance of the area would deliver the same or very similar benefits. I consider that this limits the weight that can be afforded to such benefits and therefore, the public benefits of the scheme do not outweigh the harm to the setting of the Conservation Area or for the avoidance of doubt would not outweigh the harm that would be caused to the character and appearance of the area.
19. I understand the Council's concern with regard to the internal layout of the development. However, the Council has not sought to set out that the proposal would deliver unacceptable living conditions to future occupants. Having considered the floorplans and the other communal areas that would be utilised by any future occupants of the apartments, I consider that the proposal would offer suitable living conditions.
20. In conclusion, I consider that the proposal represents poor design and would cause harm to the character and appearance of the area, which would subsequently not preserve the setting of the Lincombes Conservation Area. This harm is not outweighed by the benefits of the scheme. The proposal also fails to take the opportunity available to improve the character and quality of the area. Consequently, I consider that the scheme runs contrary to Policies BES, BE1, BE5 of the LP and Policies DE1 and HE1/SS8.1 of the eLP. Further,

¹ Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

the proposal does not comply with the Council's Design SPD or Section 7 and Paragraphs 126, 131 and 134 of the Framework.

Other matters

21. Interested parties have raised a number of other concerns. However, I am dismissing the appeal on other grounds and such matters do not alter my overall conclusion. Consequently, such considerations have not had a significant bearing on my decision.
22. I acknowledge that the Framework sets out that there is a presumption in favour of sustainable development. However, given the identified environmental harm, which is not outweighed by benefits in the social or economic dimensions, I consider that the proposal does not constitute sustainable development.

Conclusion

23. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

Jonathan Manning

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Shelbourn DIPArch (Hons) RIBA	Planning Issues Ltd
Simon McFarlane BA (Hons) DIPTCP MRTPI	Planning Issues Ltd
Andrew Burgess BA (Hons) MRTPI FRSA	Planning Issues Ltd
Jason Clemons BA (Hons) MA MSc MRTPI IHBC	CgMs Consulting (Head of Historic Buildings)

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Diamond BA (Hons) MA MRTPI	Torbay Council
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INTERESTED PARTIES

Wendy Hancock	Local Resident
Shirley Doran	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Signed and dated Section 106 Agreement, submitted by the appellant.
2. Suggested planning conditions, submitted by the Council.
3. Third party contributions towards the South Devon Link Road, provided by the Council.
4. Bundle of papers relating to the Council's new Local Plan, provided by the Council.
5. Track changes version of the submission Local Plan containing replacement main modifications and replacement additional (minor) modifications, dated June 2015, provided by the Council.

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