

Application Number

P/2014/0704

Site Address

Land Adj No. 7 (playground) Glebeland
Way
Torquay
Devon
TQ2 7RP

Case Officer

Mr Robert Pierce

Ward

Shiphay With The Willows

Description

Construction of one split level 4-bedroom detached house with associated parking

Updated Officer report December 2014**Executive Summary/Key Outcomes**

The Development Management Committee received a report on this proposal in September 2014. The application was deferred for further negotiations in respect of the proceeds of the sale of the land being used to upgrade play facilities in the immediate vicinity.

Subsequent to the recommendation of a meeting of the Council on 1st May 2014, the Mayor decided that certain land owned by the Council, including the land that is the subject of this application, was no longer required for service delivery and was suitable for disposal.

The application has been submitted on behalf of the Council for outline consent for the construction of a detached dwelling. Access is to be considered as part of this application but the remaining matters of appearance, landscaping, layout and scale are to be addressed at reserved matters stage.

The application site is within the Veille Park Estate and is one of two play areas in relatively close proximity (the other being Exe Hill Play Area). The application site is still used as a play area by a low number of residents, and it is serviceable even though it is steeply sloping. It is not well overlooked and is in a poor location.

The principle of a detached dwelling in this location is considered to be acceptable with the building height and design to be determined at reserved

matters stage. It is considered that a suitably designed and scaled property, along with sufficient additional landscaping, would result in a dwelling which would sit quite comfortably within a relatively large plot and would be in keeping with the character of the surrounding residential area which comprises a mix of detached, semi-detached and terraced properties.

A section 106 agreement is required to secure necessary contributions in accordance with the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) and its Update 3, and the adopted Council Report 'Third Party Contributions towards the South Devon Link Road'.

Recommendation

Subject to the completion of the S106 legal agreement outline planning permission be granted with conditions as set out at the end of the report.

Statutory Determination Period

The eight week target date for the application is 16th September 2014. The application has exceeded the target date because it has been deferred by the Development Management Committee for further information.

Site Details

The application site is a steeply sloping irregularly shaped area of land (0.383 hectares) and is currently in use as a children's play area. There are two pieces of children's play equipment on the site. The site fronts onto Glebeland Way and slopes down to a central level plateau with a further slope down to a footpath which runs along the rear of properties on Fowey Avenue. There are two public sewers which run through one side of the site which restrict development to the North West half of it. A tree, which is located off site, has a root spread into the site and limits the developable area of the site.

Detailed Proposals

The application is submitted in outline with all matters reserved apart from access for construction of a detached dwelling with parking. The submitted plans indicate that there would be an access from the Glebeland Way frontage and a feasibility scheme indicates that one dwelling can be accommodated, to the northern part of the site, without impediment to the servicing of the sewers. The drawings also indicate that the gradient of the access is 1in10.

Summary Of Consultation Responses

Highways No objection subject to achieving an access drive no steeper than 1 in 8

Strategic Transport SPD contribution of £2710 to support provision and enhancement of public transport infrastructure.

Drainage Engineer Details of infiltration tests to ascertain whether the site is suitable for soakaways otherwise confirmation will be required that SWW will accept surface water from the development onto their system.

Arboricultural Officer Scheme acceptable subject to landscaping and tree protection conditions.

Natural Environment Officer Glebeland Way playground is a site which is not overlooked by local housing and is therefore generally considered a poor location for a playground. The play area is not surplus to requirements; it is still used by a very low number of residents and it serviceable. The proceeds of sale from the disposal of this site would be beneficial to the capital improvement of another playground facility - Exe Hill Playground - which is situated within 480m of Glebeland Way. This would allow for the replacement of existing equipment and further expansion of the equipment available, increasing the provision of and play value of play facilities for younger children in Shiphay.

South West Water Observations awaited

Summary Of Representations

Nine letters of representation have been received that raise the following points :

- Loss of the children's playground.
- Increase in parking problems
- Loss of a thoroughfare
- Overlooking into adjoining properties
- Loss of Light

A copy of these have been sent electronically for Members consideration.

Relevant Planning History

Pre Application Discussion - Principle of residential considered acceptable

Key Issues/Material Considerations

The main issues are the principle of residential development in this location, accessibility, the impact of the proposal on the amenity of adjoining occupiers and the loss of the playground.

As the application is in outline with appearance, layout, landscaping and scale to be considered at reserved matters stage, the form of development does not need to be addressed at this time.

Principle and Planning Policy

The principle of constructing a dwelling on the site would be consistent with Policies H2 and H9 in the Torbay Local Plan 1995-2011. The predominant existing use of the immediate area is residential. There is a mix of housing types within Veille Park and a detached dwelling, set back from the road frontage, would not be out of character.

The site is constrained by the existence of public sewers which run through it and therefore only one half of it can be developed in the form of a detached dwelling. This has provided the opportunity to make provision for a larger than average area for parking and garden/amenity space.

Accessibility

The feasibility plan demonstrates that three off street parking spaces can be provided and that the access will have an acceptable gradient of 1:10.

Amenity -

In relation to amenity, the closest neighbour is No 7 Glebeland Way which is set approximately 2 metres off the boundary. In order to allow for a Service Zone for the public sewers, the proposed dwelling has to be set at approximately 600mm off the north western boundary. The distance between the properties is considered to be acceptable and the stairwell windows to the proposed side elevation on the indicative drawings could be obscure glazed to prevent overlooking into a first floor window on the side of No 7 Glebeland Way. The inclusion of an indicative terraced area over the lower ground floor projection could result in overlooking and its inclusion would have to be carefully considered at the detailed design stage. Concern has been raised by residents on Fowey Avenue that the proposed dwelling would overlook the rear of their properties and would result in a loss of light. The distance between the proposed dwelling and the rear of the properties on Fowey Avenue is in excess of 20 metres which is considered to be an acceptable distance in terms of protecting amenity.

There is also a public footpath between the curtilages. Notwithstanding the distance between properties, screen planting along the rear boundary of the site is recommended and should be required by condition.

Loss of the Playground

Most of the representations received are concerned about the loss to the community of the playground. As a condition of the Government's 'Play Builder' scheme the Council has analysed its play spaces and as a result the Glebeland Way Playground received one of the lowest scores. In summary this was because the playground is not well overlooked, its access is poor and the size and topography is not commensurate for play.

Policies R 5 and R6 of the adopted Local Plan are relevant.

Policy R5 permits changes of use or development involving the loss of public open space if it can be demonstrated that the existing provision is redundant and no longer required for school or community use and has no visual amenity, landscape importance or informal amenity value.

Policy R6 requires that development involving loss of urban play parks will only be permitted where, firstly, they are inappropriately located in relation to residential areas, where they impact on residential amenity, safety or demand for the facility; or, secondly, development would on balance achieve a more effective provision of recreation or leisure facilities elsewhere within the locality.

The Mayor, on the recommendation of a meeting of the full Council has determined that the play area is no longer required for service delivery. The site is, according to the Natural Environment officer, in a poor location and is poorly overlooked. Use of the play area does not have an impact on residential amenity, but the poor level of overlooking has safety implications for those using the play area. There demand for the facility at Glebeland Way appears to be low. Hence the proposed development is acceptable in principle.

Members have asked officers to investigate the possibility of using funding from the sale of the site to improve Exe Hill playground. Such additional funding could be secured either by use of the proceeds of sale or through a S106 agreement (which would be paid by the eventual owner of the land, but would reduce the Council's capital receipt commensurately).

Advice from Legal and Finance officers is that the recommendation of the Council to the Mayor on 1st May 2014 was that this and other areas of land were no longer required for service delivery (redundant). The recommendation did not specify that this area of land should be disposed of in order to achieve a more effective provision of play facilities at Exe Hill. It is the Council's Corporate Policy to 'pool' capital receipts and ensure that pool is used to fund priority projects. Improvements to Exe Hill Playground are not identified as a priority project. For this reason proceeds of sale cannot be used for Exe Hill Playground.

Additional funding, above that set out below, for improvements to Exe Hill Playground cannot be secured through a S106 agreement because the Community Infrastructure Levy Regulations 2010 only allow planning authorities to require a S106 obligation if the obligation is, amongst other things, necessary to make the development acceptable in planning terms.

In this case, the proposals are acceptable in planning terms. Any requirement for extra money towards park improvements would fail the Community Infrastructure Levy test and not be lawful.

However, S106 'Greenspace and Recreation' contributions relating to the development will be lawful because they mitigate the impact that this development, of an additional family home, will have on the demand for play parks in the area. This contribution will be specifically used for Exe Hill Play Area only.

S106/CIL -

Section 106 contributions in accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" would be required for the following;

Sustainable Transport	£2,385.00
Waste Management	£ 50.00
Lifelong Learning	£ 85.00
Greenspace and Recreation at Exe Hill Play Area)	£2,045.00 (specifically targeted)
South Devon Link Road	£ 975.00
Admin Charge	£ 277.00

Total Payment £5,817 or early payment of £5,526

These contributions are based on the indicative size of the dwelling being less than 120 sq metres.

Conclusions

In conclusion, the principle of the proposed development is acceptable and, subject to the proposed S106 agreement and conditions, is in line with national and local planning policy and relevant material considerations.

The Council had declared that the existing playground is no longer required for service delivery. Its siting is not commensurate for good quality, safe children's play and its re-use is therefore appropriate.

The proposed residential use would be consistent with the predominant residential character of the area and would provide a detached family home within a large plot.

Condition(s)/Reason(s)

01. Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:(i) layout;(ii) scale (including the datum level at which the dwelling are to be constructed in relation to an agreed fixed point or O.S. datum);(iii) appearance (including schedule of materials for all external hard-surfaced areas); and(iv) landscaping (including boundary treatment and all means of enclosure).The reserved matters shall be carried out as approved.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

02. The development shall not be occupied until the vehicle parking areas shown on the details to be submitted and approved under Condition 1 above have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with saved Policy T25 of the Adopted Torbay Local Plan 1995-2011.

03. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- (a) the parking of vehicles of site operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials used in constructing the development
- (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (e) wheel washing facilities
- (f) measures to control the emission of dust and dirt during construction
- (g) a scheme for recycling/disposing of waste resulting from demolition and construction works(h)measures to minimise noise nuisance to neighbours from plant and machinery. The approved Statement shall be adhered to throughout the construction period.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users.

04. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence is to be provided demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above

demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land: (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The dwelling shall not be occupied until the approved surface water drainage system has been completed as approved and the said approved drainage system shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies EPS and EP11 of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

05. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner, in earlier planting seasons where practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the amenities of the area, and to accord with saved Policy BE2 of the Adopted Torbay Local Plan 1995-2011.

06. Prior to commencement of development, tree protective fencing in accordance with B.S.5837:2012 Trees in relation to design, demolition and construction shall be installed around the offsite Ash Tree identified in the South West corner of the site on drawing no.1403.101. There should be no change to the soil levels within the defined area to protect root zones.

Reason: In the interests of the amenities of the area and to accord with saved Policy BE2 of the Adopted Torbay Local Plan 1995-2011.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any order revoking and re-enacting that order, no development of the types described in Schedule 2, Parts 1 and 2 shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area in accordance with saved Policies BES, BE1, H9 and H15 of the Adopted Torbay Local Plan 1995-2011.

Informative(s)

01. The applicant is advised that the landscaping scheme to be submitted as a reserved matter should include the provision of 1 tree to be planted to the front of the site.

02. The applicant is advised that written confirmation that SWW will accept surface water from the development onto their system is required if the site is not suitable for soakaways.

Relevant Policies

R5 Protection of public open spaces
BES Built environment strategy
HS Housing Strategy
H2 New housing on unidentified sites
BE1 Design of new development
BE2 Landscaping and design
EP11 Flood control
NPPF National Planning Policy Framework
H9 Layout, and design and community aspects