
Appeal Decision

Site visit made on 27 September 2016

by B Bowker Mplan MRTPI

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

Decision date: 21 October 2016

Appeal Ref: APP/U1105/W/16/3153630

Peace Memorial Playing Fields, Colyton, Devon EX24 6PU

- 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 DBD Developments against the decision of East Devon District Council.
 - The application Ref 15/1777/OUT, dated 31 July 2015, was refused by notice dated 4 February 2016.
 - The development proposed development of 5 detached dwellings on land adjacent to Peace Memorial Playing Fields Colyton.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by East Devon District Council against DBD Developments. This application is the subject of a separate Decision.
3. Following the Court of Appeal's judgment of 11 May 2016¹, the Council have confirmed they no longer seek a contribution towards affordable housing. As such, this decision will focus on the main issues below.

Main Issues

4. The main issues are:
 - Whether the proposal would provide an appropriate location for housing in accordance with development plan and national policies; and,
 - The effect of the proposal on the character and appearance of the surrounding area, having regard to the East Devon Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site comprises an open grassed area that has a road frontage on Colyton Road and development to its south, west and north. A range of facilities and services at Colyton can be reached from the site on foot. However, for planning purposes the site is located outside the Built-Up Area Boundary of Colyton and consequently occupies a countryside location, the implications for which are outlined in Strategy 7 of the New East Devon Local Plan (NEDLP).

¹*West Berkshire District Council and Reading Borough Council v Department for Communities and Local Government* [2015] EWHC 2222 (Admin).

6. Strategy 7 states development in the countryside will only be permitted if it is in accordance with a specific Local or Neighbourhood Plan (NP) and would not harm the landscape, amenity and environmental qualities. Strategy 27 notes Colyton is a settlement that will have a Built Up Area Boundary designated by the East Devon Villages Development Plan Document (EDVDPD).
7. The appellants expressed concern regarding the number of dwellings allocated for Villages and Rural Areas in the NEDLP at the recent appeal² at the site. The appellants also consider that once dwellings that meet Exeter's need are excluded, and the reduced number of Small Towns and Villages are accounted for, the Council would not be able to demonstrate a five year housing land supply. In addition, an extract from the 2008 Colyton Parish Plan is brought to my attention to demonstrate local housing need.
8. However, as the NEDLP was only recently found sound by the Examining Inspector and with no substantive evidence to the contrary, I have no reason to doubt the Council's development strategy or ability to demonstrate a five year housing land supply. I also note the Inspector's findings in the recent appeal decision in relation to this matter. Therefore, in the context of paragraph 49 of the National Planning Policy Framework (the Framework), NEDLP policies relevant to the supply of housing are considered up to date and attract full weight.
9. During the recent appeal at the site, the NP and EDVDPD were at an early stage and not adopted. In addition, the presence of the site in the consultation draft of the EDVDPD was also highlighted to the previous Inspector as was the unlikelihood of a revision to the settlement boundary to include the site by the Council. Based on the evidence before me, the status of the EDVDPD and NP remains unchanged. Consequently, the limited weight afforded to both documents remains.
10. It is put to me that the proposal would not have a significant material effect on the emerging EDVDPD and NP. However, with an adopted and up to date development plan in place, the concern of pre-empting the EDVDPD and NP is not one of prematurity. Rather, it is whether there are other material considerations that justify releasing the site for development prior to the adoption of the EDVDPD and NP, and in effect, make a decision not in accordance with the development plan.
11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 12 of the Framework are clear that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, as no other compelling material considerations are before me, the proposal must be determined in accordance with the development plan.
12. Therefore, I conclude that the proposal would not provide an appropriate location for housing as required by development plan and national policies. Consequently, the proposal is contrary to Strategy 7 of the NEDLP which seeks to resist development in the countryside unless it is in accordance with a specific Local or NP.

² APP/U1105/W/15/3137990.

Character and appearance

13. During my site visit, I saw that the site has development to its rear and sides and would have a similar plot depth with Devonia, Fairmead and Rosewood to the north. Views of the site from the east would include surrounding development, in particular properties elevated above the site at Gribblemead.
14. The loss of views towards the AONB from Coly Road would be limited, as would views from Gribble Mead on the basis of its elevated position. Taken into account the surrounding development, I consider the proposal would comprise infill development. In support of my reasoning on this matter, I note the Inspector's conclusions on the larger appeal proposal and that the Council's Landscape Architect considers any potential adverse effect could be mitigated at the reserved matters stage.
15. Therefore, I conclude that the proposal would not have a harmful effect on the character and appearance of the surrounding area, having regard to the AONB. Consequently, the proposal meets the requirements of paragraph 115 of the Framework and NEDLP Policy D1 which are of most relevance to this matter. Combined these policies seek to ensure development does not adversely affect landscape character and conserve the scenic quality of the AONB.

Other matters

16. I acknowledge that the proposal occupies a sustainable location in terms of its access to services and facilities, and that no harm is identified in relation to the second main issue. In addition, the Framework seeks to boost significantly the supply of housing. However, these modest benefits and considerations are outweighed by the proposal's conflict with NEDLP Strategy 7, to which I attach significant weight.
17. In reaching this conclusion I have taken into account the appeal decision at Exton. However, the Exton case involved the conversion of an existing dwelling and therefore is not comparable with the appeal proposal.
18. Reference is also made to changes proposed to the Framework. However, the proposed changed form part of a consultation document that has not been adopted. This limits the weight I can afford this matter.

Conclusion

19. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR