
Appeal Decision

Site visit made on 4 October 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 28th October 2016

Appeal Ref: APP/Q1153/W/16/3151032
Church Road, Highampton, Devon EX21 5LS

- 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 Mrs J Walter against the decision of West Devon Borough Council.
 - The application Ref 2723/15/OPA, dated 16 November 2015, was refused by notice dated 22 March 2016.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for subsequent approval. The application form indicates that the proposed development would be for three houses, however, the Design and Access Statement refers to one dwelling as does the appeal documentation. The Council considered the application on the basis that it was for a single dwelling. I have, therefore, also considered the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the location would provide acceptable access to everyday facilities, by a range of modes of transport.
 - Whether a financial contribution towards the provision of affordable housing is necessary to make the development acceptable in planning terms.

Reasons

Location of the development

4. The appeal site is a rectangular plot of land to the north east of the property known as Tree Tops in the village of Highampton. The site lies just outside the settlement limit as defined in the Local Plan¹. Policy H31 of the Local Plan seeks to restrict residential development outside the defined limits of settlements unless certain criteria are met, none of which apply in this case.

¹ West Devon Borough Council Local Plan Review (March 2005) with Core Strategy Amendments (April 2011)

5. The Local Plan was adopted some time ago, although it was reviewed alongside the publication of the Core Strategy in April 2011. Paragraph 211 of the Framework states that policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. However, Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
6. Policy SP5 of the Core Strategy² seeks to locate new homes in places that are well served by essential services, facilities and sustainable transport links whilst also sustaining rural communities by enabling appropriate opportunities for development. Policy SP5 of the Core Strategy and Policy H31 of the Local Plan both aim to restrict development in the countryside to that which has a clear essential agricultural, horticultural or forestry need.
7. Although the use of settlement development limits is not mentioned in the Framework, their use is not necessarily inconsistent with its aims. The Framework seeks to promote sustainable development in rural areas through locating housing where it will enhance or maintain the vitality of rural communities. It also advises that isolated new homes in the countryside should be avoided. The use of settlement development limits is consistent with these aims as it seeks to enable a planned and co-ordinated approach to development in rural areas, whilst also protecting the countryside. The settlement limits therefore serve a valid purpose and consequently, I give Policies H31 and SP5 significant weight.
8. In reaching this view, I have had regard to the delegated report supplied by the appellant (Application Ref 01300/2014) which references Policy H31. The application in this case was for the re-use of a building, which was considered to be non-designated heritage asset, located within walking distance of a town centre. As such, the balance of considerations that informed that decision is not comparable to the appeal proposal.
9. The appellant has drawn my attention to an appeal³ relating to a proposal for three houses in North Tawton. The site circumstances in this case were different because North Tawton is described by the appellant as "one of the major towns in the Borough" in contrast to Highampton which is a village, where services are limited. A further appeal and planning applications are referenced, however, I am unable to comment on these as the details are not before me.
10. Whilst there are services in the village of Highampton, including a public house, a primary school, a village hall, a shop and a church, these are limited and would not be sufficient to meet the everyday needs of future occupants. It is highly likely that future occupants would be reliant on the use of a car for access to other facilities such as employment or leisure opportunities, main food shopping or a doctor's surgery. I believe that there is some public transport connection but I have no details of this in terms of its frequency and destinations.

² West Devon Borough Council Local Development Framework: Core Strategy Development Plan Document 2006-2026 (adopted April 2011)

³ APP/Q1153/A/13/2196454 dated 19 September 2013

11. As the site is just outside the settlement boundary, it is not considered to be isolated in terms of its relationship with other built development. Nevertheless, it would be isolated with regard to access to everyday facilities.
12. The occupants of the proposed development may use the limited services available in the village, however, there is no evidence that there would be a significant boost to the vitality of local services in the settlement or nearby villages. Future residents are equally as likely to travel to towns to access all the necessary services in one place.
13. The appellant refers to the Local Plan allocation, H18, as evidence that the site is sustainably located. This site extends to 0.4 hectares and is located at the rear of houses fronting Church Road, close to the appeal site. The housing allocation seeks to enable an appropriate form of housing in the settlement whilst also securing benefits in the form of contributions towards community facilities. The site was allocated through the Local Plan process as part of a planned strategic approach to housing provision in the Borough and is within the defined settlement limit. Proposals for development of this site would not be in conflict with the Local Plan and would not be comparable to the appeal proposal.
14. I conclude on this issue that the location would not provide acceptable access to everyday facilities, by a range of modes of transport. Therefore, it would not meet the aims of Policy H31 of the Local Plan and Policy SP5 of the Core Strategy, or the principles of the Framework. I appreciate that the appeal proposal would have limited economic and social benefits, however, this would not outweigh the conflict with the development plan.

Financial Contribution

15. Policy SP9 of the Core Strategy requires a financial contribution towards the provision of affordable housing in West Devon. Since the application was determined there has been a Court of Appeal judgment which has a bearing on the appeal⁴. The effects of this judgement are that the policies in the Secretary of State's Written Ministerial Statement of 28 November 2014 (WMS) as to the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development, must once again be treated as a material consideration in development management decisions. The Planning Practice Guidance (PPG) has been amended accordingly. I have therefore given significant weight to the policies in the WMS as Government policy alongside the Framework.
16. The WMS seeks to remove the burden of financial contributions from small scale development. The PPG advises that contributions should not be sought from developments of 10-units or less. The appeal proposal therefore falls below this threshold. Whilst I accept there is a need for affordable housing in the Borough, there is no substantive evidence to demonstrate how the contribution from the appeal proposal would meet this need and to what extent other large sites would contribute. Whilst a contribution is required under Policy SP9 of the Core Strategy, I find that the national policy contained in the WMS outweighs that policy in this instance. Consequently, I conclude that a financial

⁴ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

contribution towards the provision of affordable housing is not necessary to make the development acceptable in planning terms.

Conclusion

17. For the reasons given above, the proposal would be in conflict with the development plan policies to which I have given substantial weight. The benefits of the development would not outweigh the conflict. Consequently, I conclude that the appeal should be dismissed.

Debbie Moore

Inspector