

Appeal Decision

Site visit made on 22 November 2016

by David Walker MA MRTPI

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

Decision date: 13th December 2016

Appeal Ref: APP/Y1110/W/16/3155552

Pocombe Orchard, Tedburn Road, Exeter EX2 9SX

- 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 Paul Warren against the decision of Exeter City Council.
 - The application Ref 16/0562/01, dated 4 May 2016, was refused by notice dated 8 July 2016.
 - The development proposed is one dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - i) whether the proposal would result in a new dwelling that would be vulnerable to the effects of flooding;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) the effect of the proposal on wildlife and nature conservation.

Reasons

Background

3. The appeal site is a small part of a low lying field situated between Tedburn Road and a scattering of large houses leading off from Pocombe Bridge. It is surrounded by trees and hedgerows and features a sizeable garage/workshop building at the northern end, with access, which would be adjacent to the proposed dwelling. The application to the Council was made in outline with all matters reserved and I have determined the appeal on this basis.
4. My attention has been brought to previous decisions on the site including a refusal of permission in 1998¹. However the Council concedes that it cannot currently demonstrate a five-year supply of deliverable housing sites as required at paragraph 49 of the National Planning Policy Framework (the Framework). In these circumstances the presumption in favour of sustainable development set out at paragraph 14 of the Framework is triggered, as indicated by the appellant in recent planning decisions in the area at Home Farm, Pinhoe and Exeter Rd, Topsham.

¹ Planning application Ref: 98/0905/01

Effects of flooding

5. There is no dispute between the parties that the appeal site falls within Flood Zone 3 of the Environment Agency's flood maps. It is the Government's policy at paragraph 100 of the Framework that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at the highest risk. Under the Framework, development is only appropriate in areas at risk of flooding following the application of the Sequential Test and, if required, the Exception Test.
6. The Council submits that other sites are available that are free from flood risk. However, I have no details of these before me. On this basis I have no evidence of the availability of alternative sites in order to discount the suitability of the proposal under the Sequential Test. In these circumstances I find the application of the Exception Test to be justified.
7. While the proposal would be located within the area of the appellant's land at the lowest risk of flooding, the submitted flood risk assessment (FRA) does not provide details of projected flood levels and depths, beyond local observations. Such information is a requirement of an FRA to meet the Exception Test as set out at paragraph ID: 7-030 of the Planning Practice Guidance (PPG). The submitted FRA does not therefore lead logically to an assessment of the design flood, with an allowance for climate change, as required at paragraph ID: 7-026 of the PPG.
8. I acknowledge that an additional dwelling would provide sustainability benefits to the community. However, the Framework states at paragraph 102 that the site-specific FRA must demonstrate that the development will be safe for its lifetime. Therefore, even with the mitigation of the building fabric proposed by the appellant I cannot be certain that the proposal would be appropriately flood resilient and resistant in the light of its Flood Zone 3 location.
9. Whether or not the Sequential Test is passed, therefore, I am not satisfied that the information contained within the FRA is sufficient in relation to the requirements of the Exception Test. On the basis of the available evidence I find the proposal would be vulnerable to the effects of flooding. As a result it would conflict with the sequential test and exception test requirements of Policy CP12 of the Exeter Core Strategy 2012, and with Policy EN4 of the Exeter Local Plan First Review 2005 (the LP) to avoid development at risk of flooding.
10. Turning to the presumption in favour of sustainable development. The fourth bullet point of paragraph 14 of the Framework precludes development where specific policies in the Framework indicate that it should be resisted. The footnote to the fourth bullet point of paragraph 14 specifically identifies locations at a risk of flooding. Therefore, while the proposal would be at an accessible location and close to the existing houses along Tedburn Road, the inability to satisfy the Exception Test indicates that it would not amount to a sustainable development for the purposes of the Framework.

Character and appearance

11. The appeal site lies within the Alphington-Whitestone Cross Valley Park designated under Policy L1 of the LP for its 'splendid rural valleys', amongst other things. The dwelling would be sited close to an existing building and have a backdrop of tall trees and established hedgerows. However, it would

appear isolated in relation to the existing linear pattern of development on the opposite side of Tedburn Road. As a result it would be incongruous in its rural valley setting.

12. Although I have not been provided with any agreed assessment of the value of the appeal site to the designated area it evidently has a rural character that would be lost in part by the introduction of a new dwelling. The likely requirement for the reduction or removal of frontage hedgerows to achieve suitable access visibility would further domesticate the rural characteristics of the site.
13. I acknowledge that the proposal is in outline and that the detailed design of the dwelling is reserved for future consideration. However, in the light of my findings in relation to paragraph 14 of the Framework, I do not find that the adverse impacts of the pattern of development I have identified would be significantly and demonstrably outweighed by other benefits. On this issue therefore the proposal would conflict with Policy LS1 of the LP that seeks to protect the landscape setting of the City.

Wildlife and nature conservation

14. Policy LS4 of the LP referred to the reasons for refusal seeks to avoid harm to sites of: nature conservation importance, local interest for nature conservation, of regional geological/geomorphological importance; or landscape features which are of importance for wild fauna or flora, or wildlife corridors. No information relating to the significance of the appeal site to the policy has been provided in appeal submissions.
15. Moreover, the appellant's own evidence indicates that there is little of nature conservation interest at the appeal site. Although anecdotal, no site specific surveys have been provided to the appeal to prove otherwise. On the limited information before me therefore, and with reference to paragraph 118 of the Framework, I am unable to find that the proposal would result in significant harm to wildlife and nature conservation interests.
16. As a result I do not find conflict with the requirements of Policy LS4 of the LP. My findings under this issue, however, do not outweigh the significant harm I have identified under the other main issues of flooding and character and appearance.

Conclusion

17. For the reasons given above, and with regard to the development plan read as a whole and to the Framework, I conclude that the appeal should be dismissed.

David Walker

INSPECTOR