
Appeal Decision

Site visit made on 15 November 2016

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 15 December 2016

Appeal Ref: APP/U1105/W/16/3156018

West Hayes Cottages, West Hill Road, West Hill EX11 1UZ

- 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 Gardner against the decision of East Devon District Council.
 - The application Ref 16/1205/OUT, dated 20 May 2016, was refused by notice dated 2 August 2016.
 - The development proposed is for the erection of a single dwelling, with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling with associated parking at West Hayes Cottages, West Hill Road, West Hill EX11 1UZ in accordance with the terms of the application Ref 16/1205/OUT, dated 20 May 2016, subject to the conditions set out in the schedule to this decision.

Procedural Matter

2. The proposal is for outline planning permission, with approval sought at this stage for access and layout only as shown on the submitted Proposed Site Plan. Accordingly, I have determined the proposal on this basis, with appearance, scale and landscaping matters being reserved for future consideration.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the location of the proposed development in relation to social, community and other facilities.

Reasons

Policy Context

4. Part of the Council's reason for refusal is its concern that the appeal site lies beyond the built-up area boundary (BUAB) for West Hill. As such, the scheme is regarded as being contrary to East Devon Local Plan 2013 – 2031 (the Local Plan) Strategy 7. This policy seeks to restrict development beyond BUABs
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other than where it is in accordance with a specific Local or Neighbourhood Plan policy explicitly permitting such development where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

5. It is evident, however, that the BUAB for West Hill expired when the Local Plan was adopted. Although the Council may be continuing to use the BUAB for development control purposes, it has no weight of policy. Rather, it is evident that BUABs will, in fact, be defined in a future East Devon Villages Plan DPD.
6. The former BUABs may continue to serve a purpose in terms of providing an indication about where development may be most appropriately located. In this instance, however, given the site-specific context that I set out below, it is difficult to see how there can be any conflict between the appeal scheme and Local Plan Strategy 7. There is no adopted BUAB in existence for West Hill, which means that the appeal site cannot be outside it. Significantly, the site's surroundings have changed fundamentally since the formerly adopted BUAB was put in place some years ago, such that the physical form of the village has expanded around the appeal site.
7. In any case, the intention of Strategy 7 is to ensure that development doesn't encroach harmfully into the countryside, undermining landscape character and resulting in visual intrusion. For the reasons set out below, I do not consider that appeal scheme would cause harm in this regard. It would, therefore, be in general accordance with Strategy 7 even were I to give this policy more than little weight for the purposes of this appeal.

Character and appearance

8. The appeal site comprises part of the rear garden plot of West Hayes, a substantial detached dwelling set in extensive grounds on the edge of West Hill. Recent approvals, including on appeal, have led to a significant amount of development taking place on the land surrounding West Hayes, some of which is very near completion. The nature and extent of this new development, which virtually encircles the main dwelling, has effectively extended the threshold of the residential settlement further into the outlying countryside. To the north of the site, beyond a mature boundary hedge, is a large open paddock and a wider landscape setting defined by woods and agricultural land. This boundary represents a definite visual break, marking the point where the character of the area changes from suburban into the semi-rural landscape setting of the village.
9. The appeal site itself relates to a roughly square parcel of open green field sandwiched between a nearly completed detached dwelling and a copse of mature trees. The site is behind the rear range of a detached garage, entirely screened from public view by the new housing or boundary vegetation. The character of the context has altered to such a degree that there is no longer any meaningful relationship between the appeal site and the open countryside. In fact, in the location proposed, the appeal scheme would be read as an extension of the new housing that leads up to it. The appeal proposal would therefore have a strong connection with the development around it, and as a result appear physically integrated within the existing settlement.

10. I conclude therefore that the proposed development would not detract from the character and appearance of the surrounding area. It would accord with Policy D1 of the Local Plan, insofar as it seeks to ensure that new development does not adversely affect the urban form or landscape characteristics of an area.

Suitability of the location

11. West Hill is a large settlement that evidently provides many of the essential services and facilities required to satisfy everyday needs. There is no suggestion from the Council that it is not, in principle, an appropriate location for new residential development. I do not consider that the appeal site could reasonably be regarded as isolated or remote from it, as suggested in the Officer's report. Indeed, the existence of a continuous, lit footway through a neighbouring residential housing estate indicates that the village facilities, as well as sustainable modes of transport, could be accessed reasonably by modes other than the private car. I therefore concur with a previous Inspector's findings¹, and consider that the development would be sufficiently well related to the village facilities to promote a strong and vibrant community.
12. I conclude that the location of the proposed development would be suitable in relation to social, community and other facilities. The development would therefore meet the objectives of Strategy 5B and Policy TC2 of the Local Plan, which promotes development in sustainable locations, where it would allow for efficient, safe and accessible means of transport to minimise the need to travel by car.

Other matters

13. The appellant has submitted a unilateral undertaking (UU) with the application, which provides for obligations in relation to the East Devon Pebbled Heaths Special Protection Area (SPA) and off-site play space. However, since the application was submitted the Council has adopted a CIL charging schedule for the area. The Council has since clarified that the contributions collected through CIL will mitigate any impacts of the development upon the SPA. Turning to the obligation relating to off-site play space, there is no evidence before me to suggest that this is reasonable or necessary or that the figure proposed is proportionate. As such, I have disregarded both obligations for the purposes of my decision and they have had no bearing upon it.

Conditions

14. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. I have specified the approved plan for the avoidance of doubt. Conditions concerning the materials to be used and relating to tree protection are necessary to ensure that the appearance of the development is satisfactory, notably given its mature woodland setting. I've had regard to the additional planning conditions that have been suggested by the Council. Given the small scale of the proposed development and that landscaping is covered by reserved matters, I do not consider that additional conditions to control aspects of landscaping, parking and manoeuvring facilities to be necessary at this stage.

¹ APP/U1105/A/13/2197121

Conclusion

15. For the reasons given above, I am satisfied that the appeal proposal would meet the requirements of the Development Plan when taken as a whole. The proposal would also satisfy the principles of the National Planning Policy Framework insofar as they seek to ensure development recognises the character and beauty of the countryside. Thus, having considered all matters raised, I conclude that the appeal should be allowed.

H Porter

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, and scale (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: EWD:311/102 Rev C Proposed Site Plan.
- 5) No development shall take place until samples of all external facing materials of the building hereby permitted have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedges (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved schemes.