
Appeal Decision

Site visit made on 6 December 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 21st December 2016

Appeal Ref: APP/U1105/W/16/3157845

The Elms, London Road, Whimble, Exeter, Devon EX5 2PH

- 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 S Wimms against the decision of East Devon District Council.
 - The application Ref 16/0022/OUT, dated 21 December 2015, was refused by notice dated 22 March 2016.
 - The development proposed is the erection of 4 dwellings (with all matters reserved).
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 4 dwellings (with all matters reserved) at The Elms, London Road, Whimble, Exeter, Devon EX5 2PH in accordance with the terms of the application, Ref 16/0022/OUT, dated 21 December 2015, subject to the conditions below.

Preliminary Matter

2. Drawings showing the proposed layout (D046/15/211A) and sections of the dwellings (D046/15/212 & 213) in relation to surrounding dwellings have been submitted but these are merely indicative because all matters are reserved.

Main Issue

3. The main issue is whether the proposed development would be acceptable in this particular location in the context of the recently adopted East Devon Local Plan 2013-2031 (LP) and other material considerations.

Reasons

4. Strategy 6 of the LP states that development within Built-up Area Boundaries (BUABs) will be permitted subject to certain criteria. The site does not lie with a BUAB. LP Strategy 7 states that all areas outside of BUABs are defined as countryside within which development will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development. There is no such policy in respect of this proposal, and so it would conflict with LP Strategies 6 and 7.
 5. However, the site directly abuts Phase 1 of the Cranbrook development as set out on the West End Inset Map. The site and those adjacent to it including the group of existing dwellings along London Road to the east, the new Southbrook Meadow residential development, Exeter Caravan Centre and other dwellings to the west are within a pocket of 'white' land on this Map.
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6. There are also other such pockets of existing development nearby, further west along London Road and the cluster of buildings at Higher Southbrook to the north accessed from Southbrook Lane. It is unclear why these existing pockets of development are not included within Cranbrook's BUAB, especially since other areas such as the buildings at Lower and Middle Cobden to the north east are included in the Cranbrook Expansion Area.
7. Be that as it may the pockets of 'white' land on the north side of London Road are all surrounded by the Cranbrook allocations which will, once built out, form a swathe of continuous development.
8. Indeed the spur road known as Stones Gallop off Southbrook Meadow will give access to the Cranbrook development in this location, which will directly abut the site's northern boundary.
9. The Parish Council suggests that the proposed development should be accessed from the Cranbrook development. But there is no highway safety objection to the four new dwellings being accessed from London Road subject to conditions and the Council has raised no other objections other than the proposal being contrary to LP Strategies 6 and 7.
10. I agree that full weight should be given to these policies in the newly adopted LP. But the proposed development would effectively merely form part of the new built up area of Cranbrook because it would be located in the large garden of a house within this pocket of development surrounded by the new allocated development. It would not therefore harm the local landscape, amenity and environmental qualities within which it would be located.
11. The Council cites a recent appeal decision where it was held that conflict with LP Strategy 7 was sufficient ground to dismiss that appeal¹. But that appeal was in the village of Colyton, some distance from this site and therefore subject to different planning considerations and a different geographic context, foremost the absence of an adjacent major development allocation.
12. For these reasons I consider that the proposed development would be acceptable in this particular location and would not undermine the Council's position in restricting unplanned development in the countryside.

Conditions

13. The Council has not provided a definitive list of conditions but I see from consultation responses that a number of highway related conditions are proposed as well as an archaeological safeguarding condition and I agree that all these are necessary, in the interests of highway safety and because the site lies in an area of archaeological potential adjacent to a known Roman road. A condition listing the approved location plan is necessary in order to provide certainty.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

Nick Fagan

INSPECTOR

¹ APP/U1105/W/16/3153630

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, 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 location plan: D046/15/200.
- 5) Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram D046/15/211A where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 90 metres in both directions.
- 6) In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
- 7) No part of the development hereby approved shall be brought into its intended use until the, access, parking facilities, visibility splays, turning area, parking space garage/hardstanding, access drive and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.
- 8) No part of the development hereby approved shall be commenced until: i) The access road has been laid out, drained and constructed up to base course level for the first 10 metres back from its junction with the public highway; ii) The ironwork has been set to base course level and the visibility splays required by this permission laid out; ii) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.
- 9) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

End of Conditions