
Appeal Decision

Site visit made on 13 March 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 23 March 2017

Appeal Ref: APP/W1145/W/16/3165078

Land adjacent to Linton Roost, Welcombe, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Huxtable against the decision of Torridge District Council.
 - The application Ref 1/0934/2016/FUL, dated 20 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is the erection of a single storey two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The address within the banner heading above is that used within the Council's decision notice as only grid references were given in the application form.
3. This proposal follows unsuccessful application Ref 1/0281/2014/FUL. For the avoidance of doubt, I have determined the proposal before me on its particular merits.
4. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises saved policies of the Torridge District Local Plan adopted originally in September 2004 (the 'Local Plan').
5. Policies of the emerging North Devon and Torridge Local Plan 2011-2031 have also been brought to my attention (the 'emerging plan'). I have referred to them, and to other material considerations, as necessary.

Main issue

6. The main issues are whether or not the appeal site is an appropriate location for the development proposed with reference to local and national planning policy, and the effect of the proposal on the North Devon Coast Area of Outstanding Natural Beauty (the 'AONB').
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Reasons

Location

7. The appeal site is part of an agricultural field which adjoins a number of surrounding fields. It is variously bounded by traditional embankments, hedgerows and trees, aside from where an existing entrance is present. The appeal site is not within a settlement boundary set by the Local Plan.¹
8. I understand that many members of the community are supportive of the proposal. I also acknowledge that policy ST07 'Spatial development strategy for northern Devon's rural area' of the emerging plan enables appropriate development within the Parish of Welcombe. Nonetheless the appeal site is not presently within any development boundary proposed via the emerging plan,² and I understand that no neighbourhood plan is being prepared for the area.
9. Vehicular access to the site is via a narrow, winding, single-track rural carriageway without dedicated footways or lighting which is characteristic of carriageways in the area. The topography slopes down through the appeal site from this carriageway towards the coast. The appeal site is therefore relatively prominent within the undulating landscape and, on account of its present nature, is in my view clearly visually part of the countryside.³
10. A small cluster of properties comprising Linton falls nearby. Welcombe is at a relatively short distance from the appeal site towards the south, beyond the intervening fields which lie in this direction. However neither Linton nor Welcombe are readily identifiable as distinct settlements on the ground. Rather properties in these locations and the wider area are generally scattered in small clusters across the landscape.⁴ Therefore although there are occasional properties nearby the appeal site it does not appear part of, or adjacent to, an established settlement.
11. It appeared to me that many existing properties originated through the re-use, subdivision or intensification of historic residential or agricultural buildings. Therefore the pattern of development in the area has likely been guided only to limited extent by current planning practice, and therefore does not of itself justify unacceptably located development in the present.
12. Consequently with reference to its character and environs the appeal site cannot reasonably be described as 'located in an existing settlement', as is required for proposals to be supported via policy DVT2 'Development at rural settlements' of the Local Plan.

¹ As clarified by the Council via correspondence dated 16 March 2017.

² With reference to Map 71 of the emerging plan and policy WDA 'Welcombe/ Darracott Spatial Strategy' thereof which presently seeks to require that development brought forward in this context must integrate appropriately with the 'character of the village(s), including its relationship with the countryside'.

³ The appellants refer to the appeal site as 'sitting in the countryside' at paragraph 2.8 of their appeal statement.

⁴ As reiterated in paragraph 13.879 of the emerging plan which sets out that there is no 'well defined village centre' within the Parish of Welcombe.

13. The erection of a new dwellings of the type proposed here is not supported by policy DVT2C of the Local Plan.⁵ Whilst I consider the benefits of the proposal subsequently, I cannot support the appellants' contention that the proposal is compliant with policy DVT2C by virtue of the benefit that it would entail to supporting economic activity (as is referenced in explanatory rather than directive terms in paragraph 3.51B of the Local Plan). Policy DVT2C unambiguously specifies the types of development allowed in the countryside, which do not include the type of housing proposed here.⁶
14. Whilst the Local Plan is of some vintage, its age is not in itself determinative of its currency.⁷ The National Planning Policy Framework (the 'Framework') is generally supportive of boosting housing provision and supporting thriving rural communities, however it also sets out that planning should take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.
15. Although Linton is apparently without community services, Welcombe has a church, public house and a community shop. There are further services and facilities present within the surrounding area.⁸ However on account of the nature of the site and its surroundings as described above, services and facilities catering for day-to-day needs are scattered around the wider area at some distance from the appeal site.
16. In my view walking or cycling to such would be unappealing given the nature of rural carriageways in the area described above, notwithstanding that it may be possible to do so and that many properties in the area are thus located. There is furthermore no evidence before me to indicate that the area benefits from regular public transport provision. The occupants of the dwelling proposed are therefore likely to be highly reliant on the use of private vehicles, resulting in clear environmental harm as a consequence.⁹
17. In this regard the proposal consequently conflicts with the approach in saved policies DVT18 'Impact of development on traffic' and DVT19 'Access and parking' of the Local Plan, which establish that consideration should be given to the location of development with regard to encouraging public rather than private modes of transport. Whilst recognising that opportunities to maximise sustainable transport solutions will vary from rural to urban areas, the Framework nevertheless establishes that planning should actively manage patterns of growth to make the fullest possible use of public transport.
18. For the above reasons, I conclude that the appeal site is not an appropriate location for the development proposed. The proposal is therefore not supported by policy DVT2 and conflicts with the relevant provisions of policies DVT2C,

⁵ Supporting paragraph 3.40 to policy DVT2 of the Local Plan sets out that 'land away from settlements are treated as open countryside and subject to policy DVT2C'.

⁶ Criterion (2) of policy DVT2C enables only the conversion of existing buildings, uses which are linked to agriculture or to the countryside, the alteration of existing buildings, and the provision of small scale rural business developments.

⁷ As established via paragraph 215 of the National Planning Policy Framework (the 'Framework').

⁸ As referred to in paragraph 13.879 of the emerging plan.

⁹ I would note that the proximity of the appeal site services and facilities in this case is clearly different to that in relation to appeal Ref APP/W1145/W/16/3147166 which has been brought to my attention and therefore direct parallels between that appeal and this proposal cannot be drawn.

DVT18 and DVT19 of the Local Plan and with relevant elements of the Framework.

AONB

19. Criterion 1 of saved policy ENV6 'Designated Landscape Areas' of the Local Plan establishes that development within the AONB will only be permitted where it will not harm landscape and scenic beauty. More generally, saved policy DVT6 'Local distinctiveness' and DVT7 'Design considerations' of the Local Plan, briefly stated, establish that development should integrate appropriately with the character of its surroundings (which must necessarily entail a consideration of both the natural and built environment).
20. Areas of Outstanding Natural Beauty are designated for the purposes of conserving and enhancing natural beauty, and Section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to these purposes in this decision. Paragraph 115 of the National Planning Policy Framework (the 'Framework') sets out that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in these respects.
21. The proposal is for a modest single storey dwelling of understated design and the provision of a driveway and garage. I accept that existing boundary features of the site would be largely unaffected, and that the modest overall scale of the dwelling would limit its visual prominence.
22. However, as established previously, the appeal site is clearly visually part of the countryside. In its present natural state it therefore reflects and reinforces the natural beauty of the AONB. Moreover on account of the topography of the land the appeal site is relatively prominent in the landscape despite the presence of boundary features, and thus residential development here would be apparent from a number of surrounding public vantage points.
23. The AONB is protected on account of its natural character, and by virtue of introducing built development where none is currently present the proposal would result in harm to that character.¹⁰ I therefore conclude that the proposal would conflict with the relevant provision of saved policies ENV6, DVT6 and DVT7 of the Local Plan and with relevant elements of the Framework. Given the scale of the proposal, as boundary features would be largely preserved, and as from certain vantage points the dwelling would be viewed in conjunction with other properties nearby, in my view the harm arising in this respect can fairly be described as limited.¹¹

Planning balance

¹⁰ Based on the limited information before me it appears that the development proposed here is materially different from that which the Council approved via application 1/0914/2016, which appears to relate to the erection of a replacement stable building (this case being brought to my attention by the Parish Council).

¹¹ Which accords with the appellants' position in this respect as set out in paragraph 2.17 of their appeal statement.

24. The appellants' explain that the proposal has been motivated by their intention to downsize from their current property and remain living nearby, and consequently that such an approach demonstrates a local need for the development. I acknowledge the personal benefits that would arise from the scheme and indeed that the proposal would result in an addition to housing stock and entail further social and economic benefits in supporting employment during construction and as future occupants would make use of the services and facilities in the wider area.
25. Nevertheless the benefits in respect of housing delivery in this instance would be confined to an incremental numerical addition rather than in terms of appropriately located development, and the social and economic benefits arising from one new home would be modest. Whilst the Framework is broadly supportive of boosting significantly the supply of housing, it must be read as a whole.
26. Considered in this context the Framework sets out that the planning system should contribute to the achievement of sustainable development, i.e. seeking economic, social and environmental gains jointly and simultaneously. Therefore the support accorded by the Framework to housing provision is clearly not at the expense of appropriately located development or premised upon accepting adverse environmental effects.
27. The appellants have furthermore explained that the area has a high proportion of second homes, as is reiterated in the submission made by the Parish Council. As a consequence the appellants' have explained that they are amenable to the imposition of a condition requiring that the dwelling proposed is not occupied as a second home in order to help support a thriving rural community.
28. However based on the information before me it does not appear that the imposition of such a condition is specifically supported by policies of the development plan. Moreover such a condition is likely to be unenforceable in practice, given the difficulty inherent in defining whether a property is a primary residence and the evidence that would be needed to demonstrate that the condition had been breached.¹² Even were it possible to craft and impose such a condition this would not overcome the harm that I have identified would arise in respect of the main issues in this case.
29. The appellants have brought to my attention the Council's document entitled 'Statement of Five Year Housing Land Supply' dated 31 March 2015. The Council have not provided any updated evidence to counter the position in this document, namely that they are presently unable to demonstrate a five year land supply. Therefore with reference to paragraph 49 of the Framework, relevant policies for the supply of housing must be considered out of date and the approach in paragraph 14 of the Framework applied.¹³

¹² With reference to the requirements set out in paragraph 206 of the Framework.

¹³ An approach which accords with that of the inspector in appeal Ref APP/W1145/W/16/3147166 which has been brought to my attention by the appellants. I would note, however that there is no indication from that appeal decision that the development proposed was within the AONB and consequently it is not directly comparable with the circumstances that apply in this instance.

30. Considered in this light, I have identified above that clear environmental harm would result as a consequence of the location of the development proposed and that the scheme would furthermore result in limited harm to the natural beauty of the AONB. I have also established that the benefits of the proposal are qualified and of lesser weight than the harm that would result. Consequently, and in line with the approach in paragraph 14 of the Framework, the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits having considered the Framework as a whole.

Other Matter

31. The appellants have brought application Ref 1/0981/2013/OUT to my attention where permission was granted for a dwelling elsewhere within the Council's administrative area. However from the limited information before me in respect of that case it appears that the dwelling proposed in that case was in a location more closely related to the built form of a nearby settlement than is the proposal here. In any event each proposal must be determined on its particular merits.

Conclusion

32. For the above reasons, and having taking all other matters raised into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. The proposal does not represent sustainable development, and I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR