

Appeal Decision

Site visit made on 7 February 2017

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 19 April 2017

Appeal Ref: APP/Q1153/W/16/3160586

Land adj. Court Barton Mews, Lamerton

- 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 & Mrs D Manning against the decision of West Devon Borough Council.
 - The application Ref 1082/16/OPA, dated 7 April 2016, was refused by notice dated 7 June 2016.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is made in outline with all matters other than access reserved for subsequent approval.

Main Issue

3. The main issue is whether the proposal would be in a suitable location for housing having regard to local settlement policies, the effect on the countryside, the effect on nearby heritage assets and the proximity to facilities and likely reliance on the car.

Reasons

4. The appeal site comprises part of a field on the edge of the village of Laverton, a somewhat dispersed settlement, with development strung along a number of roads, with a more consolidate core of development to the north-west of the primary school, which lies not far to the south-west of the site.
 5. West Devon Core Strategy (CS) Policy SP1 promotes sustainable development, and sets out a number of criteria, one of which is to protect the countryside. CS Policy SP5 provides for limited development in Local Centres and villages, but says that development in the countryside will be strictly controlled and that housing will only be permitted where there is a clear agricultural, horticultural or forestry need. No such need is relied on in this case. Saved Policies NE10 and H31 of the West Devon Borough Local Plan Review 2005 (LPR) also set out a restrictive approach to residential development in the countryside.
 6. Although Mr Manning has strong family connections with the village, it is not argued that there is an essential occupational need for him to live in the village. The proposal therefore conflicts with the policies I have referred to.
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7. These policies all pre-date the publication of the National Planning Policy Framework (the Framework), which sets out a more nuanced approach to development within rural areas, and to this extent the restrictive policies referred to above are not wholly consistent with it. However, the Framework recognises the intrinsic character and beauty of the countryside as part of one of its core planning principles, and it also aims to manage actively patterns of growth to make the fullest possible use of public transport, walking and cycling. The policies are directed towards these aims. Whilst the LPR may be of some age, the CS is more recent. The Inspector in the Butcher Park Hill appeal (Ref: APP/Q1153/W/15/3138936 referred to me by the appellants) found that Policy H31 (amongst others) would, in the absence of a 5 year supply of housing land and the "tilted balance" required by paragraph 14, weigh heavily against the proposal. I see no reason to take a different view, and other considerations, including the policies in the Framework, are insufficient to justify not determining the appeal in accordance with the development plan.
8. Turning to the impact on character and appearance, the site is separated from the built-up parts of the village by a road which wraps around the eastern and southern parts of the site. Although there is a small barn on part of the site, I do not agree that the site forms a transitional area to the countryside. The road creates a clearly defined edge to the village, and the site and the land adjacent to it have an obviously wholly agricultural character. Whilst there is built development on the eastern side of the road, the proposed dwelling would sit somewhat incongruously in part of large field, albeit that the site is separated from the larger field by fencing, and would appear as an isolated building, poorly related to other built development. It would be a clear encroachment into the undeveloped countryside, and would conflict with the objective of protecting the intrinsic character and beauty of the countryside.
9. On the opposite side of the road are stone-built former agricultural buildings which have been converted to dwellings. They relate well to the other converted barns to the southwest and the large neighbouring barn, and together they reinforce the agricultural character of the village fringe. It is arguable whether they should be considered to be non-designated heritage assets, but even if they were, their significance would not be great.
10. Although the application is in outline and the design of the dwelling is not before me, I consider that it is likely that any dwelling, cut off from the neighbouring buildings by the road and having a more residential character, would appear at odds with the farming character of the buildings in the vicinity, and this would add to the harm I have found with respect to the wider countryside.
11. I note that permission was granted for 4 dwellings (Ref: 01278/2014) elsewhere in the village, designated as countryside. The extract of the officer report referred to me does not explain how CS Policy SP5 was addressed, or whether the proposal was considered in the light of paragraph 49 of the Framework. There are differences between the two sites, in that the permitted site abuts an existing ribbon of residential development whereas this site is more isolated and clearly encroaches into the open countryside. The previous approval is not a sufficient reason not to apply the development plan policies in this case.

12. I therefore find that the proposal would conflict with the countryside protection policies referred to above, and with CS Policy SP17, which, amongst other things, seeks to conserve the quality and character of the natural environment.
13. The centre of the site lies about 100m away from the Church of St Peter, a Grade II* listed building. Paragraph 122 of the Framework says that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The information accompanying the application does not fulfil this task; however, the Council did not ask the appellants to submit further information, and thus no criticism can be fairly levelled at them for not doing so.
14. Irrespective of that, I consider that on the basis of what I saw on my visit and the information provided in the submissions, I can assess the impact of the proposal on the listed building and its setting. The church dates from the 14th or 15th century, although it was rebuilt after a fire in 1877. The listing refers to a wealth of detailed architectural features of the church, which make a substantial contribution to its significance. However, most of these cannot be seen from the appeal site or the approaches to it, because of the lower position of the church and the presence of substantial intervening buildings.
15. The church has a substantial square 3 stage tower topped with crocketed pinnacles on the corners, which, because of its height, is a prominent visual feature in the locality. Church towers were designed to be seen, and the closeness of the site to the church and the historic core of the village leads me to the view that the site lies within its setting.
16. Although the church is on higher ground than much of the village, the land to the north-west of the church continues to rise, so that the appeal site is located in an area where the church and its tower do not have a prominent visual impact. The presence of large intervening buildings limits views of the tower and the places from which it can be appreciated. When seen from the road, although the tower and the dwelling would be seen in the same vista, because of the combination of the church's lower position in relation to the appeal site, its distance away and the presence of intervening roofs and the road, I consider that a suitably designed dwelling or a modest size would not compete with the building. I am thus satisfied that the proposal would leave the setting of the church unharmed.
17. Turning to accessibility to services, the village has a primary school, church, village hall, playing field and public house. The village is also served by a bus service, but it is an infrequent one, running on only three days a week, with one service a day. I walked along the footpath and nearby roads on my visit, and I accept that occupiers of the proposed dwelling could walk to these facilities and the nearest bus stop with relative ease and safety.
18. Sustainability is a relative concept, and in rural areas containing settlements with no or few facilities, others containing some facilities may fare considerably better. The appellants have pointed out that the Council, in preparation for the emerging Local Plan, has previously described the village as having a good range of services, and that Lamerton is earmarked for further, albeit limited, development. Furthermore, the Council found no sustainability objection in connection with the proposal for 4 dwellings under application 01278/2014, the site of which I saw on my visit. That site is more distant from many of the limited facilities that exist than would be the case here.

19. In other cases I might find that the limited range of services and availability of modes of travel other than by car would result in a heavy reliance on travel by car. However, in the light of the circumstances I have referred to above, and in particular to the Council's evident approach to sustainability in Lamerton, I consider that the occupiers of the proposed dwelling would have satisfactory access to services and facilities, and that there would be no material conflict with LPR Policy T5.
20. In bringing these strands together, whilst I find that no material harm would be caused to heritage assets and that there would be adequate accessibility to services and facilities, the proposal would conflict with the Council's housing strategy and cause harm to the character and appearance of the surrounding area, in conflict with the development plan policies to which I have referred. This leads me to conclude on the main issue that the proposal would not be in a suitable location for housing.

Other matters

21. The appellants argue that, having regard to paragraph 49 of the Framework, the Council's policies affecting the supply of housing land are out of date as a result of the inability to demonstrate a 5 year supply of housing land. In respect of an appeal near Tavistock last year Ref: APP/Q1153/W/15/3138936 , the Council conceded that it could not show such a supply, and the Inspector duly found that the Council's housing policies which are also relied on in this case, were out of date. However, the Council now says that its latest figures show that there is a 5 year supply of land, and in the "worst case scenario" (assessed against a 20% buffer and the more onerous Core Strategy housing target compared to that of the emerging Joint Local Plan), there is a 5.4 years supply.
22. The appellants correctly point out that this contention has not been tested either at examination or at appeal. However, the various appeal decisions referred to are "snapshots in time" and as further permissions are granted and sites become available, the position can change fairly rapidly. No evidence has been submitted to refute the Council's position, and in such circumstances I have no sound basis to find that there is not a 5 year supply of housing land. I therefore consider that the Council's policies referred to above are up-to-date.
23. Whilst being able to demonstrate a 5 year supply of housing is not a bar to permitting further housing, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply. Rather, paragraph 12 of the Framework indicates that where proposals conflict with the development plan they should be refused, unless material circumstances indicate otherwise. I find that there are no material considerations sufficient to outweigh the harm that I have found.
24. I saw the site from the upper windows of The Granary, a nearby dwelling to the south of the appeal site. However, a suitably designed dwelling would ensure that neither outlook nor privacy would be materially harmed. I have also had regard to local concerns about flooding and highway safety adjacent the primary school (which I visited at the end of the school day) but these do not add materially to my concerns.
25. A number of local residents and councillors have written to support the proposal. I have taken these into account along with the appellants' personal

circumstances where they have longstanding connections with the village, and where their child attends the local primary school, but are unable to afford to buy a house on the open market. I am of course sympathetic to this predicament, but it is not a matter which alters the balance of considerations.

Conclusion

26. For the reasons given above I conclude that the proposal would conflict with the development plan as a whole and that the appeal should be dismissed.

JP Roberts

INSPECTOR