
Appeal Decision

Site visit made on 21 March 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 25 April 2017

Appeal Ref: APP/W1145/W/16/3162890
Eastfield, East Street, Sheepwash EX21 5NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Church against the decision of Torridge District Council.
 - The application Ref 1/0878/2016/OUT, dated 31 August 2016, was refused by notice dated 13 October 2016.
 - The development proposed is described in the application form as 'residential development of two dwellings with vehicular access'.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application is made in outline with details of appearance, landscaping, layout and scale reserved (the 'reserved matters'). As such, other than in so far as they relate to access which is not a reserved matter, the plans supporting the application are illustrative of the development proposed.¹

Main issue

3. The main issue is whether or not the appeal site is an appropriate location for residential development, with particular regard to the effect of the development proposed on the character and appearance of the area.

Policy context

4. The development plan comprises saved policies of the Torridge District Local, adopted originally in September 2004 (the 'Local Plan'). The emerging North Devon and Torridge Local Plan 2011-2031 has yet to be adopted, and the Council seek to rely on the provisions of the extant development plan.
5. Subject to various criteria saved policy DVT2 'Development at rural settlements' of the Local Plan supports appropriate development outside of local centres which is 'located in existing settlements' and in keeping with the character of its surroundings. There is no settlement boundary for Sheepwash

¹ Plans EMA/2016/0092/0002 and EMA/2016/0092/0001.

set via the Local Plan, and therefore whether the appeal site is in the existing settlement is a matter of judgement.²

6. Policy DVT2C 'Development in the open countryside' of the Local Plan requires that development in the open countryside should not detract from the character and appearance of the area. Briefly stated policies DVT6 'Local distinctiveness', DVT7 'Design considerations' and HSC3 'Housing and residential estates layouts' of the Local Plan all seek to ensure that the location and design of development mean that it integrates appropriately with the nature of the surrounding environment, whether built or natural.
7. The National Planning Policy Framework (the 'Framework') similarly sets out that planning should take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside, and that it is proper to reinforce local distinctiveness.³ It also clarifies that age is not in itself determinative of the continued currency of development plan policies.⁴
8. The Council's officer report associated with the application explains that the Council is presently unable to demonstrate a 5 year land supply of deliverable housing sites. I will return to this matter. However at this juncture I would note that I have determined the appeal in accordance with the development plan unless material considerations indicate otherwise.⁵

Reasons

Location

9. Sheepwash originated as a nucleated village centred on a crossroads. There are many buildings of a traditional rural vernacular around the centre of the village, which is designated as the Sheepwash Conservation Area (the 'CA'). Some modern development extending in linear fashion away from the centre of the village has taken place, as is the case of the property named Eastfield and its neighbours Moyliscar and the Beeches. Despite the presence of some modern development, most properties are arranged facing carriageways.
10. The inspector in appeal Ref APP/W1145/A/2180783 described the immediate surroundings of Eastfield as comprising bungalows of little architectural interest set within relatively spacious plots. These observations accord with mine, with the spacing between properties at the fringes of the village resulting in an open and rural character.⁶ Aside from the vehicular access to the dwellings proposed which runs between Eastfield and Beeches, the appeal site abuts rather than falls within the CA.⁷

² Whilst the appeal site is outside of the development boundary defined in Map 63 of the emerging plan, I cannot accord the emerging plan full weight on account of the stage of preparation that it has presently reached.

³ At paragraphs 17 and 60.

⁴ At paragraph 215.

⁵ Pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004.

⁶ I would note that direct parallels between appeal Ref APP/W1145/A/2180783 and the proposal before me cannot be drawn given that in the previous appeal one dwelling between the flank elevations of Eastfield and Beeches was proposed, whereas here two dwellings are proposed to the rear of Eastfield.

⁷ I understand that a vehicular access was permitted here via permission Ref 0425/2014.

11. The majority of the appeal site is part of a field at a north-easterly reach of the village, located at some distance behind the properties Eastfield and Old Eastfield. Other than a dilapidated Nissen hut, the appeal site is devoid of development, and there are no existing features demarcating its eastern or northern boundaries.
12. The field in which the appeal site falls is bounded by established hedgerows, beyond which are other fields and a dense wooded area. The topography slopes down from East Street through the appeal site to the distant landscape beyond, which is strongly rural in character and much of which appeared to be put to agricultural use.
13. The Joint Landscape Character Assessment for North Devon and Torridge Districts adopted in February 2011 (the 'LCA') explains that the surrounding countryside is characterised by an undulating topography, a traditional field pattern of primarily arable land with patches of woodland, with nucleated historic hamlets and a scattering of agricultural buildings. In my view the rural setting of Sheepwash is an integral part of its current character and aids an understanding the historic development of the settlement.⁸ In its present state the appeal site therefore reflects and reinforces the characteristics of the landscape identified within the LCA.
14. I accept that only glimpsed views of the dwellings proposed would be possible between the side elevations of Eastfield and Beeches. Nevertheless I was able to see the Nissen hut from various vantage points along East Street, including from within the Conservation Area. The appellant acknowledges in his statement of case that there are more distant vantage points from which the dwellings would be visible, albeit at some distance.
15. Residential development here would therefore be apparent from certain vantage points (notwithstanding that appearance, landscaping, layout and scale are reserved for future applications). By being set some distance behind existing properties and in part of a well-defined agricultural field which connects with the surrounding countryside, they would appear disconnected from the existing pattern of development of the village.⁹
16. Whilst I accept that some infill development has occurred elsewhere within the village,¹⁰ such development primarily appeared to me to be more closely related to the existing nucleated form of the settlement, rather than extending into the open countryside without established site boundaries as is the case here. There is also limited information before me in respect of the planning considerations that applied in those instances.
17. Whilst each proposal must be determined on its particular merits, it is legitimate to note that at present the eastern and northern boundary of the appeal site are not defined, the appeal site rather blurs into the surrounding countryside. Were development to be permitted here, it may lead to pressure for similar development elsewhere, which could cumulatively further extend the settlement into the countryside to the detriment of its existing character.

⁸ Notwithstanding that the surrounding countryside is subject to no relevant protective designations.

⁹ If not isolated, with reference to the approach in paragraph 55 of the Framework.

¹⁰ Including at or near properties named High View, Shannon and Tree View, which I viewed during my site visit.

18. Although I acknowledge that there is limited space within the existing built form of Sheepwash to accommodate additional development, there is clearly some capacity given the examples of infill development that the appellant has brought to my attention. Indeed the absence of significant opportunities for infilling does not serve to justify unacceptable development.
19. For the above reasons the appeal site cannot reasonably be described as being located within the existing settlement or the dwellings proposed as reflective of the prevailing pattern of development in this location. The proposal is therefore not supported by policy DVT2 of the Local Plan. By resulting in a clear domestication of the countryside which is integral to the character and history of the settlement, the proposal would also conflict with the relevant provisions of policies DVT2C, DVT6, DVT7 and HSC3 of the Local Plan and with relevant elements of the Framework.
20. For the above reasons I therefore conclude that the appeal site is not an appropriate location for residential development, with particular reference to the character and appearance of its surroundings.

Planning balance

21. Paragraph 49 of the National Planning Policy Framework (the 'Framework') sets out that where a five year land supply cannot be demonstrated, as is the case here, housing application should be considered in the context of the presumption in favour of sustainable development.
22. Paragraph 14 of the Framework sets out that where relevant policies of the development plan are out-of-date permission should be granted unless; any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in the Framework indicate that development should be restricted.
23. Whilst the Framework seeks to boost significantly the supply of housing and to support thriving rural communities, it establishes that the purpose of planning is to enable sustainable development, i.e. seeking economic, social and environmental gains jointly and simultaneously. In this context the proposal would, if implemented, result in two new homes within the Council's administrative area and entail further social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities.
24. However the benefits arising from two new homes would inevitably be modest. Moreover the encouragement given within the Framework to delivering housing is not at the expense of ensuring that all housing is appropriately located and acceptable with reference to the character and appearance of the area. In this context I cannot accord more than very limited weight to the benefits of the proposal, and consequently the harm arising in my view would significantly and demonstrably outweigh such benefits.
25. In this context the appellant has brought my attention to the judgment handed down in *Suffolk Coastal District Council v Hopkins Homes Ltd & Anor* (the

'Suffolk judgement').¹¹ Whilst the Suffolk judgement adopts an expansive approach to what is a relevant policy for the supply of housing, it nevertheless explains that the weight accorded to policies is a matter of planning judgement.

26. I accept that on account of the absence of a demonstrable five year land supply that the policies of the Local Plan cited above must be considered out-of-date. However with regard to the relevant provisions of the Framework and the particular context of the appeal site as explained in my observations throughout this decision, the relevant provisions of these policies have continued currency in this appeal and can therefore be accorded substantial weight. I would further note that the position arrived at in paragraph 24 stands in isolation of determining the weight that may be accorded to out of date policies.

Other Matters

27. The Parish Council have asked me to consider whether to grant permission for the proposal in application Ref 1/1142/2016/OUT in preference to the scheme before me. I cannot do so as the appeal is against the refusal of permission for application Ref 1/0878/2016/OUT. I would furthermore note that there are material differences between the two proposals, notably that only one dwelling is proposed via application Ref 1/1142/2016/OUT and in a different location to the indicative position of the dwellings proposed via this appeal.
28. I have noted the concerns of nearby residents in respect of the loss of agricultural land that would result from this proposal, as well as in respect of its design and potential impact on the outlook and privacy of occupants of dwellings nearby. However these matters do not form part of the Council's case at appeal, the loss of agricultural land would be fractional, and many issues fall principally for consideration in applications for reserved matters. The proposal before me would therefore not be intrinsically unacceptable in these respects. However this is effectively neutral in the planning balance, and, accordingly neither these matters, nor any others, are of such significance so as to outweigh my findings or alter my reasoning as set out above.

Conclusion

29. 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 conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

¹¹ [2016] EWCA Civ 168.