
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: 5 May 2017

Appeal Ref: APP/X1118/W/16/3161458

Agricultural building at Stoneylands, Road From Prospect Corner to Rooty Cross, Newton Tracey EX31 3PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alan David against the decision of North Devon District Council.
 - The application Ref 61464, dated 15 June 2016, was refused by notice dated 28 September 2016.
 - The development proposed is 4 affordable dwellings and 3 full market homes.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the site is in a suitable location for residential development having regard to the effect on the character and appearance of the area and whether occupiers of the proposed dwellings would have satisfactory access to services and facilities;
 - ii) whether the proposal can be considered to be an "exception scheme" to enable affordable housing to meet the needs of the area;
 - iii) the effect of the proposal on highway safety, and
 - iv) the implications of the proposal for flood risk.

Reasons

Whether the site is suitably located

3. The site lies on the eastern side of the B3232 road which runs between Barnstaple and Great Torrington. Stoneylands is a small hamlet comprising a handful of dwellings grouped on the opposite side of the road from the appeal site.
 4. The hamlet has no services other than a bus stop. Whilst the stop may not be a formally designated one, it is one that is recognised by the bus operator, and there is no evidence that it does not serve passengers who would wish to travel to or from Stoneylands. I have been told nothing about the bus service other than it serves Barnstaple, where there are a range of employment
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opportunities, services, shops and facilities, and that there are 8 or 9 services a day. I am told that there is no service on Sunday or in the evenings, and I therefore consider that the bus service would provide only a moderate degree of accessibility to occupiers of the proposed dwellings.

5. The road leading north and south from the hamlet is unsuitable for walking, lacking footpaths and lighting, and in my view, the narrowness of the road, its heavy use by large commercial vehicles and its winding and occasionally hilly nature would be likely to deter all but the keenest or hardest of cyclists.
6. I therefore consider that the site would be isolated in terms of its access to employment, shops, services and facilities and that occupiers of the proposed dwellings would have heavy reliance on travel by car. The ability to be able to travel by modes other than the car is likely to be especially important to occupiers of the proposed affordable housing, whose incomes, by definition, would be lower than that of the occupiers of the open market dwellings.
7. The site lies outside of any designated settlement boundary, and is in the countryside where saved Policy ENV1 of the North Devon Local Plan (LP) (adopted July 2006) provides that development will only be permitted where a rural location is required, amongst other criteria. Saved Policy HSG8 deals with affordable housing in rural areas and provides a limited exception to this restrictive approach, and I shall refer to this in more detail below.
8. These policies are not wholly in accordance with the National Planning Policy Framework (the Framework), which provides a more flexible approach towards development in rural areas. However, paragraph 55 of the Framework says that housing should be located where it will enhance or maintain the vitality of rural communities, and that isolated homes in the countryside should be avoided. Although the site is not physically isolated, for the reasons I have explained above, it is isolated from services and facilities and therefore conflicts with the Framework's approach, as well as with the Council's policies.
9. Turning to the impact on the character and appearance of the area, the northern part of the site is currently occupied by stables and a yard (which occupy the northern part of the site) and by part of a grassed field which rises towards the south. The existing buildings are low key, and being very similar to agricultural buildings, have a clear rural flavour. The proposal would result in the provision of 2 pairs of 2 bedroom semi-detached houses and 3 detached dwellings of 4 or 5 bedrooms. Each of the buildings would be two-storeys high with a hipped roof, positioned in a lane on the east side of an access road running almost the full length of the site.
10. The introduction of a road and 5 large buildings would change that rural appearance of the site, providing a more obviously urban form on a side of the road which is currently devoid of residential development in the vicinity of the site. This is especially true of the southern part of the site, which is currently an open field. The appellant suggests that the proposal would amount to "rounding off" but having regard to the very small string of houses on one side of the road, the proposal would not provide an obvious completion of an otherwise built-up area, but would extend the hamlet across a clear physical boundary into a partly undeveloped area. I am also mindful that the appellant wishes to build replacement stables nearby, which, although not part of this proposal, would add to the amount of built development in the area.

11. I acknowledge that trees and the change in levels of the site relative to the road would assist in screening part of the development, but they would not hide it, and could not be relied upon to do so in perpetuity.
12. The appellant has indicated that the size of the houses could be reduced, but this is a full application and I have to determine the appeal on the basis of the plans before me. In any event, a reduction in the size of the dwellings would only go a limited way towards mitigating the harm that I have found.
13. Regardless of whether the site can be regarded as brownfield land, the proposal would damage the rural character of the area, and would conflict with LP Policy ENV1, and also with Policy DVS1, which deals with design, and includes character as one of the design principles which development should apply appropriately.
14. I therefore conclude on the first main issue that the proposal would not be in a suitable location for new residential development having regard to the effect on the character and appearance of the area and whether occupiers of the proposed dwellings would have satisfactory access to services and facilities, and that it would conflict with the policies referred to above.
15. The Council accepts that it is unable to demonstrate a 5 year supply of housing land, in which circumstances paragraph 49 of the Framework indicates that policies affecting the supply of housing land should be considered to be out of date. The policies I have referred to above all affect the supply of housing land, and must therefore be considered to be out of date. I shall return to this below.

Affordable housing exception site

16. Saved Policy HSG8 makes provision for limited exceptions to the restriction on new housing in the countryside for affordable housing. However, it is a criterion of the policy that the site is within or immediately adjoining the main built up area of an identified village or rural settlement to which other policies in the LP apply. The site does not lie within such a settlement, and therefore the proposal conflicts with the policy.
17. The appellant has referred to the emerging Local Plan as indicating that affordable housing exception sites may be appropriate in settlements with one service, and points to the existing bus service as complying with that policy. The Council says that Stoneylands has no services, but does not explain or point to any policy wording or explanatory text to show why the bus service would not comply with the policy. The policy carries only limited weight due to its draft status and because I have no information as to whether there are unresolved objections to it.
18. Moreover, the proposal is not for 100% affordable housing, as 3 units, the larger of the dwellings, amounting to 43% of the total development would be open market housing. The Framework says that small numbers of market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding. The Council asked for evidence of a viability assessment to determine whether or to what extent open market housing would be appropriate to enable the affordable housing to take place, but no such assessment has been submitted with the appeal. Accordingly, I consider that the proposed open market

housing would bring the proposal outside of the remit of Policy HSG8 and the advice in the Framework.

19. I am also concerned that the proposal may not meet a local need; the Council says that there are 19 people in the parish in housing need, but the demand is for social-rented housing, whereas only 2 of the 4 units proposed would be for social rent. The Council sought an updated housing needs survey to ensure that the proposal would meet the actual demand in the area, but there is no evidence that this was carried out. The size of the socially-rented units would be below that which two local Registered Social Landlords (RSLs) would accept, and this too adds to my concerns.
20. The sites at Eastcombe and Newton Abbot referred to by the appellant have some similarities to the proposal, but the location and need arguments in those cases were different, and can be distinguished for this reason.
21. The appellant says that the tenure can be negotiated, but the paucity of information about demand or the interest of a RSL, allied with the absence of a planning obligation to secure the appropriate provision and retention of the affordable housing adds to my concerns that the proposal is unsuitable as an exception site for affordable housing, and would conflict with saved Policy HSG8 and with the provisions of the Framework.

Highway safety

22. The access to the site lies close to a junction with a minor road and the B3232. Traffic entering or leaving the site would need to negotiate that junction, which lies in a dip in the road, and is subject to the national speed limit. In the absence of any speed survey, the Highway Authority estimates the 85th percentile speed to be 50 mph, which, on the basis of my observations, I consider to be a reasonable estimate.
23. There is insufficient carriageway width to provide a separate right-turn lane into the minor road on the northbound carriageway. Although I saw that the B3232 is fairly busy, I doubt that any right-turning vehicles would have to wait long before a gap in the flow occurred to allow the waiting vehicle to cross. Even so, without evidence as to traffic speeds, it is likely that drivers may speed up when approaching the bottom of the dip, where the access to the site lies, and that right-turning vehicles waiting in the carriageway would pose a hazard.
24. I recognise that as Barnstaple is the nearest town, which lies only a few miles to the north, it is likely that most of the vehicle movements to or from the appeal site would be in that direction. Even so, in the absence of evidence, such as traffic survey data relating to turning movements into the existing residential development at Stoneylands, I am not convinced that the proposal would not create additional danger or inconvenience to road users.
25. Turning to visibility, the Highway Authority says that at the junction of the B3232 with the minor road from which the site has access, in the northerly direction there is a visibility splay of only 94m. It argues that in the absence of a speed survey, and with an estimated 85th percentile speed of 50 mph, a splay of 160m is needed.
26. Traffic travelling south towards the appeal site would be emerging from a 30 mph zone at a point where there is a downwards hill towards the appeal site

junction and an incline beyond it. I consider it likely that drivers would accelerate out of the 30 mph to gain sufficient speed to enable the incline to be negotiated with ease. I think it likely that speeds on the southbound stretch of the road are likely to be high and that in the absence of a speed survey, it is necessary to demonstrate that sufficient visibility can be obtained. The proposal fails to do this.

27. The appellant suggests that the 30 mph speed limit could be moved from its present position closer towards the appeal site. However, I have not been told of any firm proposals to do so, or whether this would be achievable, or what mechanism there might be in place to fund it. I therefore give little weight to this suggestion.
28. Residents comment that Stoneylands Bridge is a part of the B3232 where there is sufficient visibility for vehicles to overtake and is an accident blackspot. Whilst I have not been referred to any accident data, I recognise that overtaking may be an additional risk and this adds to my concerns about the importance for approaching traffic to see and be seen. The appellant suggests that further information about highways matters could be provided if it were known whether permission would be forthcoming, but in the absence of such details, I consider that the proposal would prejudice highway safety.
29. The appellant has referred me to other developments approved at Eastacombe and at Newton Tracey which the appellant says are more dangerous, but without full details of those cases, I am unable to make any meaningful comparison. However, I note that in both cases the Highway Authority had no objection and thus I have assessed the proposal on its own merits.
30. The Highway Authority is also concerned that the layout, construction, drainage and lighting of the access is not of an adoptable standard. The submitted plans indicate that it is intended that the road would only be adopted to a point past the four semi-detached houses and the three houses to the rear of the site would be served by a private road. Whilst I recognise that the proposal lacks sufficient detail, I see no reason why these matters could not be resolved by the imposition of a condition if the appeal were to have been allowed. I refer to the drainage arrangements separately below.
31. I therefore conclude on this issue that, whilst the internal road could be dealt with by conditions, the absence of a right turn lane and adequate visibility would result in material harm to highway safety and conflict with LP Policy TRA6 which deals with general highway considerations.

Flood risk

32. The site borders a watercourse to the east, and the access area has been identified as being at risk of flooding. Local residents refer to surface water flooding and local roads being flooded. Whilst I note that the existing concrete yard would be removed, the proposal would also involve building on greenfield land and the use of soakaways near to a watercourse. There is no evidence to show whether the proposed houses would be at risk of flooding, or whether it would lead to an increased risk of flooding elsewhere, including onto the public highway where there may be highway safety implications. Saved LP Policy DVS7 aims to ensure that sustainable drainage systems are used where site conditions allow and there is a need to control and manage surface water run-off.

33. Whilst I understand the appellant's reluctance to commission a detailed flood risk assessment at this stage, the Framework makes it clear that planning has a vital role to play in ensuring that flood risk is appropriately addressed. The absence of information on this point leads me to conclude that the proposal fails to provide sufficient information on flood risk and conflicts with LP Policy DVS6 which deals with flooding and water quality.

Planning balance

34. I have referred above to the Council's policies affecting housing as being out of date by virtue of paragraph 49 of the Framework. In turn paragraph 14 says that in such circumstances permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.
35. Although I acknowledge that the proposal would provide a benefit in providing 7 additional dwellings, and that there would be economic benefits flowing from the construction and occupation of the dwellings, the unsuitability of the location, the harm to highway safety and the risk from flooding combine to significantly outweigh the benefits of the proposal.

Conclusion

36. I find that the proposal would conflict with the development plan as a whole and thus, for the reasons given above, I conclude that the appeal should be dismissed.

JP Roberts

INSPECTOR