
Appeal Decision

Site visit made on 9 May 2017

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/F9498/W/16/3166310

3 & 5 Park Street, Dunster, Somerset TA24 6SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Michael Currie against Exmoor National Park Authority.
 - The application Ref.6/10/16/105, is dated 21 April 2016.
 - The development proposed is change of use from Doctor's Surgery into two houses.
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Decision

1. The appeal is dismissed and planning permission for change of use from Doctor's Surgery into two houses is refused.

Procedural matters

2. The application form states that the applicants are Mr & Mrs Michael Currie, but other correspondence and documentation submitted with the appeal refer to the appellants as Dr Michael Currie and Dr Anne Currie.
3. Nos.3 and 5 Park Street were originally a pair of attached mid-terrace dwellings. During the 1970s and 1980s they were converted into a doctor's surgery. The surgery has since relocated to purpose-built premises leaving Nos.3 and 5 vacant. The proposal is for two dwellings and negotiations about an obligation stalled. Following the Court of Appeal's reversal of the High Court's judgement about the Written Ministerial Statement dated 28 November 2014 (WMS), the appellants made clear that the application was for open market housing. The Authority considered the application and was minded to refuse planning permission, but authorised the seeking of an amendment in order to deliver an affordable unit and a principal residence dwelling. The appellants initially agreed, but negotiations about an obligation and condition restricting occupation again stalled. The application has since proceeded on the basis that both of the dwellings should be open market dwellings, and the application remains undetermined.
4. The site lies within Exmoor National Park and I have had regard to the purposes of the Park. The development plan for the area includes the Exmoor National Park Local Plan 2001-2011, which was adopted in 2005 (LP). Dunster is identified as a Village in the LP, which would act a focal point for those living across the Moor, and where some development would be permitted to enable the diversification of the economy and to help retain and enhance key services and facilities to meet the basic needs of local people by maintaining or enhancing their communities. Policy H1 provides that the purpose of housing development will be to meet the needs of local communities, principally

affordable housing with local occupancy ties. The latter are defined in Policy H2. Policy CBS2 sets out criteria for the change of use of buildings in Villages. These include meeting the requirements of Policy H6, which requires, amongst other things, securing a planning obligation to ensure that occupancy of the dwelling is confined to persons in local housing need in perpetuity.

5. The emerging Exmoor National Park Local Plan 2011-2031 (eLP) is awaiting the Inspector's report. Policy HC-S3 of the eLP includes criteria for local need affordable dwellings, and an occupancy tie is required by Policy HC-S2. Policy HC-S4 aims to ensure that new market housing is prevented from being a second or holiday home. The appellants acknowledge that some sort of principal residence only condition is arguably sensible. The emerging policies indicate the authority's intent to carry forward the general thrust of the LP housing strategy, but at this stage the relevant eLP policies cannot be given much weight.
6. The WMS and provisions of the *Planning Practice Guidance* set out thresholds beneath which affordable housing should not be sought, but add that the restrictions on seeking planning obligations do not apply to development on Rural Exception Sites. The proposal for two dwellings falls well below the thresholds in the WMS and *Guidance*.

Main issues

7. The main issues in this appeal are the effects of two market dwellings on the supply of housing, and whether or not the proposed development should provide for local need affordable accommodation, having regard to relevant policy.

Reasons

8. The provision of two residential units would help to boost the supply of housing and would make effective use of a vacant building in a designated village. However, the proposal would conflict with LP Policies H1, H2, CBS2 and H6 concerning local need affordable accommodation. The appellants argue that there is no identified need for affordable housing. However, the Authority's evidence about the 'affordability gap' between household incomes and National Park house prices was not challenged. I have no reason to doubt that this is particularly so in the attractive and historic old Dunster Village. Notwithstanding the absence of an up-to-date housing need survey for Dunster, I am satisfied that the evidence in the written submissions indicates the likelihood of a significant local need for affordable housing. I have had regard to the appellant's evidence about the unlikely prospect of a Registered Provider of Social Housing taking on a local need affordable dwelling in this case. But as the Authority points out, there are other means by which its objectives for affordable accommodation could be achieved for such older buildings in this historic village.
9. It was evident from my site visit that only small changes to the fabric of the buildings would be necessary to create two dwellings. There is no convincing evidence that the viability of the proposal could only be secured by granting planning permission for two open market dwellings.
10. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Government policy concerning thresholds for affordable housing is a material consideration to be

weighed against the conflict with the development plan. I have also had regard to paragraph 54 of the *National Planning Policy Framework*, which states that authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, and adds that consideration should be given to whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. The *Framework* provides that the social dimension to sustainable development includes supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. I disagree with the appellants' submission that the LP should only be accorded very limited weight. The appellants refer to paragraph 14 of the *Framework*. However, the development plan is not absent or silent. Furthermore, I do not consider that relevant policies are rendered out of date by reason of either the age of the LP or the provisions of the *WMS/Guidance*. Even if I am wrong about that, specific policies in the *Framework* concerning the National Park indicate that development should be restricted. In the particular circumstances that apply here, I find that permitting two unfettered open market houses would bring the proposal into conflict with the overall provisions of the *Framework* concerning sustainable development.

11. I have taken into account all the other matters raised in the evidence, including the submissions about hardship and the personal circumstances of the appellants. I have noted the local support for the conversion and acknowledgement of the long service provided by the doctors who occupied the surgery. Neither these, nor any of the other matters raised, are sufficient to outweigh my conclusions on the main issues, which have led to my decision on this appeal.
12. The proposal would conflict with the development plan and there are no material considerations here that would indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused. Representations were made to the effect that the rights of the appellants, under the Human Rights Act 1998, Article 1 of the First Protocol, would be violated if the appeal were to be dismissed and the application refused. However, it seems to me that controls on the use of the property in the circumstances that apply here would be in accordance with the general interest, and that the degree of any interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.

John Woolcock
Inspector