
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: 28th June 2017

Appeal Ref: APP/X1118/W/16/3165988

6 Langmead, Westleigh EX39 4NP

- 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 & Mrs Edwards against the decision of North Devon District Council.
 - The application No:61444, dated 29 June 2016, was refused by notice dated 15 August 2016.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. A previous application for a dwelling on this site was refused for two reasons. North Devon District Council was not satisfied that there was a demonstrable need for an open market dwelling to meet the realistic needs of the local community. The second reason for refusal concerned the adverse effects of the siting and design of the proposal on the wider street scene, and in particular when viewed from key viewpoints within Westleigh Conservation Area.
3. North Devon District Council subsequently refused the application for a revised scheme, which is the subject of this appeal, on the grounds that the provision of an unrestricted open market dwelling would not meet the housing needs of the local community. However, local residents raised issues, at both the application and appeal stages, about the effects of the proposed development on the street scene, heritage assets, highway safety and the living conditions of neighbours.
4. Westleigh is identified as a Rural Settlement in the North Devon Local Plan, which was adopted in July 2006 (LP). Policy HSG4 of the LP permits residential development here, where it is well related to the main built up area of the settlement, it does not harm the rural character and setting of the settlement and the surrounding countryside, and that secure arrangements are made to ensure that the dwelling remains available to meet the needs of the local community both initially and in the long term, provided the need exists.
5. The appeal site adjoins the boundary of Westleigh Conservation Area. The Chimneys (now Mulberry) is located on the lane to the south of the appeal site and is a Grade II listed building. So too, is Rock Cottage, which is sited further

down the lane to the north of the appeal site.¹ Rock Cottage is a rendered stone and cob cottage with gable ends and a thatched roof. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the setting of listed buildings. Section 72 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

6. The written appeal submissions refer to the Court of Appeal's decision in the *Suffolk Coastal* and *Richborough Estates* judgment. The Supreme Court delivered its judgment about these cases on 10 May 2017.² The parties were given the opportunity to comment on this, and I have taken their representations into account in determining this appeal.

Main issues

7. The main issues in this appeal are the effects of the proposed development on:
 - (a) The supply of housing, and whether or not the proposed development should provide for local need affordable accommodation, having regard to relevant policy.
 - (b) The character and appearance of the area, and on heritage assets.

Reasons

Housing

8. North Devon District Council cannot demonstrate a five-year supply of deliverable housing sites, and so the proposed additional dwelling would make a contribution to boosting the supply of housing in the area. The absence of a demonstrable five-year housing land supply also triggers the 'tilted' balance in paragraph 14 of the *National Planning Policy Framework*. So, unless material considerations indicate otherwise, the presumption in favour of sustainable development means that planning 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 specific policies in the *Framework* indicate development should be restricted.
9. However, that does not mean that LP Policy HSG4 should be disregarded or necessarily given no weight. It seems to me that its objectives remain relevant for identified rural settlements that are subject to considerable housing demand. There is no convincing evidence before me to dispute the local planning authority's view that North Devon has a pressing and proven need for more affordable dwellings that is a particular problem in rural areas. The proposal does not secure arrangements to ensure that the dwelling remains available to meet the needs of the local community both initially and in the long term. The proposed development would, therefore, conflict with LP Policy HSG4. The resultant harm and policy conflict weighs significantly against allowing the appeal.

¹ I note that Rock Cottage, although listed, does not appear as a listed building on the Westleigh Conservation Area Boundary & Listed Building plan submitted with the appeal documentation.

² *Suffolk Coastal DC v Hopkins Homes Ltd and SoSCLG, Richborough Estates Partnership LLP and SoSCLG v Cheshire East BC* [2017] UKSC 37.

Character, appearance and heritage

10. Whilst not issues for North Devon District Council, I share some of the concerns of the Parish Council and local residents about the effects of the proposed development on the character and appearance of the area, and on heritage assets.
11. The appeal site comprises part of the garden of the detached dwelling at 6 Langmead. Langmead is a cul-de-sac of six houses, which is set to the west of the core of the settlement, and on the western side of the lane that runs from the B3233 to Southcott. The cul-de-sac and its more modern housing appears detached from the historic part of Westleigh. The openness of the appeal site contributes to this sense of separation from the central part of the settlement. The proposed dwelling would erode this separation between the modern and historic housing in this part of the settlement. Furthermore, the appeal site is set on much higher land than the lane. I consider that a dwelling of the scale and siting proposed would tower above the lane, and so would detract from the character and appearance of the area.
12. The Council's delegated report about the application records that the Heritage and Conservation Officer commented that the design, massing and position of the proposed dwelling had been altered following concerns about the effect of the original scheme on the setting of the Conservation Area and nearby listed buildings, and considered this to be an improvement so that the change to the setting of heritage assets would not be so harmful as to substantiate a reason for refusal. Nevertheless, I am required to apply the statutory duty outlined above.
13. The Conservation Area is characterised by close-knit housing development with limited views out of the area towards the adjoining countryside and towards the River Torridge. Where these views do open up they provide an important context for the settlement and add to the setting of the Conservation Area. The higher parts of the lane to the south of Langmead currently provide views over the appeal site towards the River. The proposed dwelling would obstruct these views to a considerable degree, and this change would have an adverse effect on the setting of the Conservation Area.
14. Rock Cottage is a modest building set close to the lane. The lane is an important part of its setting. The bulk of the proposed dwelling, set high above the lane, would contrast sharply with scale of the cottage and the narrow winding lane. I consider that this change would adversely affect the historic setting of Rock Cottage. Mulberry is located adjacent to a higher part of the lane, and so the proposed dwelling would have a negligible effect on its setting.
15. I find that the effects on designated heritage assets would result in an adverse impact of low to moderate significance. But nonetheless a consideration that should be given considerable weight and importance in the planning balance having regard to the Section 66 and Section 72 duties. This would be less than substantial harm for the purposes of applying the *Framework*, but nonetheless would need to be balanced against the public benefits of the proposal.

Planning balance

16. A new dwelling here would be of some advantage to the local economy, and would assist in addressing the housing land supply deficit in the area. However, in my judgement, the harm to the character and appearance of the area, and to heritage assets, along with the conflict with local policy concerning affordable housing, would far outweigh the benefits of an unrestricted open market dwelling on this site. I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole. The planning balance here falls against the proposal.
17. I have taken into account all the other matters raised in the evidence, including local concerns about highway safety and the living conditions of neighbours. There is no technical or other evidence to indicate that the local road network could not accommodate the additional traffic from the proposed dwelling without impairing highway safety. It was evident from my site visit, given the separation distances and orientation of nearby dwellings, that the proposal would not have an unacceptable adverse impact on the living conditions of neighbouring residents by reason of privacy or visual impact. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusions.
18. The proposal would conflict with the development plan and would not gain support from the *Framework*. Furthermore, there are no other material considerations 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.

John Woolcock
Inspector