
Appeal Decision

Site visit made on 25 July 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 31 August 2017

Appeal Ref: APP/X1118/W/17/3172313

Land adjacent to Katri Park, Lower Loxhore, Barnstaple, Devon

- 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 Ms Maureen Stone against the decision of North Devon District Council.
 - The application Ref 61238, dated 17 May 2016, was refused by notice dated 9 November 2016.
 - The development proposed is described on the application form as 'residential development for one affordable dwelling and one open market dwelling'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Maureen Stone against North Devon District Council, which is the subject of a separate decision.

Preliminary matters

3. As the development proposed is in outline with all matters reserved,¹ I have treated the supporting plans as illustrative. This appeal follows a previously unsuccessful application, pre-application advice, and assessment of the site undertaken as part of the Council's Strategic Housing Land Availability Assessment.² Nevertheless, I have determined the proposal before me on its particular merits.
4. The development plan comprises principally saved policies of the North Devon Local Plan (adopted July 2006, the 'LP'), notwithstanding the emerging North Devon and Torridge Local Plan 2011-2031 (the 'JLP').
5. In refusing permission the Council stated that the proposal was not accompanied by a planning obligation that would secure one of the dwellings proposed as affordable housing (as defined in the glossary to the National Planning Policy Framework, the 'Framework').

¹ Matters of access, appearance, landscaping, layout and scale.

² The Council's appeal statement identifies the site as having Ref SHLA/LOX/367 in this context.

6. A signed unilateral undertaking dated 15 August is now before me (the 'UU'), which seeks to achieve this.³ Whilst the Council have not commented on the UU, I have nevertheless assessed the proposal on the basis that it would provide for one affordable home (whether secured via the UU or suitably-worded condition).⁴

Main issues

7. The main issues are (1) whether or not the appeal site is an appropriate location for the development proposed with regard to local and national planning policy, and (2) the effect of the proposal on the character and appearance of the area.

Reasons

Location

8. The appeal site is part of a larger agricultural field. There are no existing boundary features which define it as a distinct element thereof. One boundary of the site abuts the plot of the property named Katri Park. Another adjoins the unnamed single track lane running centrally through Lower Loxhore, which is demarcated by a Devon hedge.
9. The settlement of Lower Loxhore comprises a handful of properties loosely scattered within a strongly rural rolling landscape. It has no services or facilities related to the day-to-day needs of residents. The nearest shop and school are located some 3 miles away in Bratton Fleming, and the closest bus route runs approximately 1.5 miles distant.⁵
10. The route that must be taken to reach services and facilities is furthermore, for the most part, along narrow winding rural lanes without dedicated footways or lighting. As such occupants of the dwellings proposed would be highly reliant on the use of private vehicles.
11. In summary LP policies HSG2 'Development boundaries', HSG3 'Small villages in the priority area for rural regeneration' and HSG4 'Residential development in identified rural settlements' guide development primarily towards established settlements where certain services and facilities are available.
12. The Council explain, however, that they are unable to demonstrate a five year land supply of deliverable housing sites.⁶ Accordingly relevant policies for the supply of housing, including those cited above, must be considered out-of-date (notwithstanding that their present weight is a matter of planning judgement).⁷
13. Whilst acknowledging that opportunities to maximise the use of sustainable modes of transport will vary from urban to rural areas, the Framework

³ Pursuant to Section 106 of the Town and Country Planning Act 1990 as amended.

⁴ In the event that the UU would not fulfil its intended purpose, a negatively worded condition in this respect may be appropriate (Planning Practice Guidance Reference ID: 21a-005-20140306).

⁵ As set out in paragraph 5.4 of the Council's statement of case.

⁶ With regard to paragraphs 47, 49 and 14 of the Framework.

⁷ As established in the judgement handed down on 10 May 2017 in *Suffolk Coastal District Council v Hopkins Homes Ltd & Anor* [2017] UKSC 37.

nevertheless sets out that planning should 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling'.⁸

14. Similarly, in acknowledging that the provision of rural housing may maintain or enhance the vitality of rural communities, the Framework also sets out that isolated housing in the countryside should generally be avoided.⁹ As the objectives of policies HSG2, HSG3 and HSG4 are consistent with the approach in the Framework, in so far as relevant here, I accord them moderate weight.
15. LP policy HSG8 'Affordable housing in rural areas' sets out the Council's rural exception site policy. This supports the provision of affordable homes in rural areas where residential development would not normally be acceptable, subject to certain criteria.¹⁰ The Framework equally supports the use of rural exception sites.¹¹ It is common ground between the main parties that one affordable and one open market dwelling, as is proposed, is appropriate in this instance with regard to the viability of the scheme.
16. In order to comply with criterion A) of LP policy HSG8, affordable housing in rural areas must be 'within or immediately adjoining the main built up area of an identified village or rural settlement'. Identified villages and rural settlements, i.e. those to which LP policies HSG2, HSG3 and HSG4 relate, are listed in paragraph 3.22 and 3.29 of the LP. Lower Loxhore is not therein listed, and is consequently an 'unidentified' or 'other' settlement as described in LP paragraph 3.31.
17. Accordingly the development proposed conflicts with criterion A) of policy HSG8, irrespective of whether or not it complies with criterion B), i.e. that there must be a demonstrable 'established local housing need' to which a proposal would relate. However, as established above, policies HSG2, HSG3 and HSG4 may only be accorded moderate weight in present circumstances. I therefore now turn to address whether or not the proposal would relate to an established local need, which is required by LP policy HSG8 and by virtue of the definition of rural exception sites in the Framework.
18. I acknowledge that the emerging JLP indicates that there is a significant need for affordable housing in the districts of North Devon and Torridge.¹² The Council explain, however, based on a 2012 Rural Housing Alliance Needs Survey and additional work undertaken investigating local housing needs, that there are presently only 2 individuals in need of affordable housing who may consider occupying an affordable home in Lower Loxhore (notwithstanding that this would be outside of their current Parishes of residence).¹³
19. Whilst I accept that there is a general need for affordable housing in the District, the evidence before me in relation to a specific local need in this location is insufficient to enable me to conclude that the proposal would comply with criterion B) of policy HSG8, or the approach to rural exception sites in the Framework.

⁸ Paragraphs 29 and 17.

⁹ Paragraph 55.

¹⁰ As described in LP paragraph 7.42.

¹¹ At paragraph 54, as defined in the glossary.

¹² As referred to in particular in the appellant's affordable housing statement.

¹³ As set out in paragraphs 5.15 and 5.16 of their statement of case, which the appellant does not specifically dispute.

20. Moreover the support given in the Framework to rural exception sites does not obviate the need to consider the approach in the Framework as a whole.¹⁴ As established above occupants of the dwellings would be highly reliant on the use of private vehicles to reach services and facilities catering for day to day needs. The proposal would therefore result in environmental harm in conflict with the encouragement given in the Framework, and LP, to guiding development towards accessible locations.
21. On account of the location of the appeal site, its natural character at present, and the dispersed form of Lower Loxhore, in my view the proposal may fairly be described as for isolated homes in the countryside with reference to paragraph 55 of the Framework. The appellant does not make the case that the proposal would fulfil any of the special circumstances identified in paragraph 55 where isolated homes in the countryside may be permissible (or those set out in LP policy HSG9 'Permanent dwellings in the countryside').
22. I therefore conclude that the appeal site is not an appropriate location for the development proposed. The proposal conflicts with the approach in LP policy HSG8 and is not supported by other LP policies. The proposal furthermore conflicts with the approach in relevant elements of the Framework cited above.

Character and appearance

23. As identified above, on account of the nature of the appeal site and its surroundings the proposal may fairly be described as for isolated homes in the countryside. I acknowledge that several factors would limit the visual prominence of the dwellings in the landscape: the presence of Katri Park adjacent, the boundary features of the site, a wooded area opposite, and as matters of scale, appearance and landscaping are reserved for future consideration.
24. However the development proposed would result in the introduction of built development in what is presently a natural and open element of the countryside. The creation of 2 dwellings in this location, irrespective of their form, would inevitably be readily apparent from a number of vantage points (notably as the appeal site is at a higher ground level than the adjacent lane, and as vehicular access free from obstruction would need to be provided).
25. Whilst I accept that the weight attributable to relevant policies for the supply of housing in the LP is qualified as set out above, the appeal site is nevertheless within an Area of Great Landscape Value. I observed that the defining characteristics of Lower Loxhore are a dispersed settlement pattern set within a strongly rural rolling landscape. The development proposed, albeit to a limited degree, would inevitably be detrimental to the intrinsic character and beauty of the countryside in this context.
26. I therefore conclude that the proposal would have an adverse effect on the character and appearance of the area in conflict with LP policy ENV6 which, in summary, sets out that development must not detract from landscape qualities and characteristics. The proposal would also conflict with paragraphs 17 and

¹⁴ As set out in paragraph 6 of the Framework.

109 of the Framework which explain that planning should recognise the intrinsic character and beauty of the countryside and protect valued landscapes.

Other matters

27. I accept the lane via which the dwellings proposed would be accessed is narrow, winding, and enclosed. However as access is a reserved matter, the evidence before me is insufficient to enable me to reach a finding as to whether access arrangements would be compliant with LP policy TRA6 'General highway considerations' (the Council's third reason of refusal within their decision notice). This matter therefore remains neutral in my assessment of the appeal.
28. The Council's fifth reason for refusal within their decision notice states that the proposal would conflict with the approach in policy DVS1A 'Sustainable development' of the Local Plan. This policy is not applicable to the development proposed as it relates only to residential development of 10 dwellings or more.
29. The appellant has brought appeal Ref APP/W1145/W/16/3143486 to my attention (an appeal which fell to me). The circumstances in that appeal are significantly different to those here, chiefly as I found in that appeal that the appeal site related more closely in character to the settlement of Chilsworthy than to the surrounding rural landscape. In that appeal I also noted that Chilsworthy benefits from certain services and facilities, in contrast to Lower Loxhore.

Planning balance

30. Given my reasoning in paragraph 12 above, it is necessary to consider whether or not the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal (the approach in paragraph 14 of the Framework).
31. In this context I acknowledge that the development proposed would have certain benefits. Allowing the appeal would enable the creation of two new homes in North Devon. This would in turn support employment during construction, future occupants would make use of services and facilities in the wider area, and the Council would receive new homes bonus receipts.
32. However the benefits of two new homes in these respects would inevitably be modest. Moreover, as set out above, I am not satisfied on the basis of the evidence before me that the affordable unit proposed would relate to a specific local need, and there is consequently a risk that it would remain unoccupied.
33. Furthermore the support in the Framework for the provision of new housing is not at the expense of ensuring that all development is appropriately located and respects the character of its surroundings. I have identified that the proposal would be in an inaccessible location, result in environmental harm as a consequence of private vehicular use, and represent isolated homes in the countryside detrimental to the character and appearance of the area.
34. I therefore find that the adverse impacts of the development proposed would significantly and demonstrably outweigh its benefits when assessed against the

policies of the Framework taken as a whole, having taken account of the other matters set out above.

Conclusion

35. 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. I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR