



Appeal Decision

Site visit made on 16 October 2017

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 8th November 2017

Appeal Ref: APP/K1128/W/17/3179284

Land South of St Werburgh Close, Wembury, Devon, PL9 0AP

- 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 Blue Cedar Homes Ltd against the decision of South Hams District Council.
 - The application Ref 3977/16/FUL, dated 9 February 2017, was refused by notice dated 30 May 2017.
 - The development proposed is for 15 age-restricted dwellings and associated infrastructure with details of access, appearance, landscaping, layout and scale.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. A signed and dated Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted by the Appellant. Had I allowed the appeal, I would have taken its provisions into account.
3. Both parties drew my attention to recent appeal decisions mainly affecting sites in the Area of Outstanding Natural Beauty (AONB) in South Hams. I am not aware of the detailed history of these decisions which limits the weight I can give to them, and in any event it is important to consider each appeal on its own merits.

Main Issues

4. I consider the main issues to be whether the Council can demonstrate a five-year supply of deliverable housing sites; and the effect of the proposal on the character and appearance of the surrounding area, which is part of the designated South Devon AONB and Heritage Coast.

Reasons

5. The triangular appeal site (approximately 1.1 ha) is an overgrown field, immediately to the south-east of the settlement of Wembury. The boundaries of the site facing the countryside are contained by hedgerows. A public footpath runs just outside the south-east boundary hedge. The countryside lies within the AONB; the settlement of Wembury is also 'washed over' by the AONB designation.

Issue 1 – Whether the local planning authority can demonstrate a five-year supply of deliverable housing sites

6. The Council argues that the emerging Joint Local Plan¹ identifies a five-year housing land supply for South Hams. This emerging plan has not yet been tested at a public examination, so I can only attach limited weight to it.
7. There is agreement between the main parties that the adopted Local Development Framework (LDF)² does not provide for a five-year housing land supply on deliverable housing sites. In these circumstances, paragraph 49 of *the Framework*³ is triggered; this paragraph states that relevant housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 14 of *the Framework* requires that where the development plan is out-of-date, planning permission should be granted unless specific policies in *the Framework* indicate that development should be restricted.
8. On the basis of the above considerations, I conclude on the first main issue that the lack of a five-year housing land supply in South Hams is a material consideration in favour of the proposed development, to which I attach substantial weight.

Issue 2 – The effect of the proposed development on the character and appearance of the area

9. Paragraph 115 of *the Framework* states that great weight should be given to conserving landscape and scenic beauty in AONBs. Such designations have the highest status of protection in relation to landscape and scenic beauty. LDF policy CS9 reflects national policy, stating that in the designated AONB, its conservation and enhancement will be given great weight.
10. The Appellant argues that the proposed development would, through its scale, form and design, enhance the character and appearance of the settlement edge of Wembury, in accordance with DPD policy DP2 (landscape character)⁴; that the proposal would not involve removing any boundary hedges; and it would have a limited impact on the surrounding landscape, as demonstrated by its Landscape and Visual Impact Assessment (LVIA). It is also argued that *the Framework* does not preclude all developments from the AONB and that the local planning authority “regularly” approves developments in the AONB.
11. The Appellant views the existing interface between the built form of Wembury and the countryside as “harsh and abrupt”. The settlement edge bordering the appeal site is a mixture of fencing, trees, hedges and breeze block walls, including sections where the boundary treatment can be described as ‘inappropriate’.
12. I consider that the appeal site, augmented by the peripheral hedgerows, performs the role of a ‘buffer’, enabling a satisfactory transition from the built-up area to the rolling landscape which is characteristic of this part of the AONB. Although I accept that the proposal would conserve the existing hedgerows, I consider that the harmful impact of the proposed development on the AONB

¹ Plymouth and South West Devon Joint Local Plan (as considered by the Full Councils end February/Early March 2017).

² South Hams Local Development Framework (LDF): Core Strategy; Adopted December 2006.

³ DCLG: National Planning Policy Framework (*the Framework*); March 2012.

⁴ South Hams Development Framework Development Policies Development Plan Document (DPD).

would outweigh any existing harm caused by the intermittent boundary treatment of existing properties on the edge of Wembury, which I explain in more detail below.

13. The positive landscaping and 'green' maintenance regime that the Appellant proposes for the scheme goes beyond the duty of care often associated with new residential development. Nevertheless, I agree with the Council, based on its detailed experience in such areas, that the same pressures which have led to the removal of trees and hedgerows to enable residents to gain enhanced views of the coastal countryside are likely to continue in relation to new development, and that such pressures are difficult to resist.
14. Regarding the effect of the proposed development on the character and appearance of the surrounding countryside, the Appellant's LVIA states that the appeal site is not especially prominent in the wider landscape; that its own character and features are unremarkable; and that views of the site from publicly accessible locations within the surrounding landscape are limited by the topography, woodland and the extensive network of Devon hedgebanks.
15. I consider that the character of the appeal site is undistinguished, and that it is not particularly prominent in the wider landscape from distance, as the LVIA demonstrates. However, there are several views into the site from nearby public footpath locations, especially into the north-east part of the appeal site which has the highest altitude, and from where there are clear views out, into the surrounding countryside and the sea.
16. I have no doubt that even bungalows on the appeal site would be visible from several nearby footpath locations in the AONB, and that the tranquil rural character and appearance of the area to the south and south-east of the appeal site would be harmed by the increased proximity of residential development, including the impact of lighting during the hours of darkness. One of these footpaths runs close to the appeal site, to the south and south-east, and the urbanising effect on this stretch of its route, which is overwhelmingly rural, would be particularly intrusive.
17. It is clear from my site visit that the countryside around Wembury is well used by both casual and serious walkers and that this part of a spectacular coastal stretch of the AONB for outdoor recreation is valued as a national asset, which is heavily used for meeting recreational and leisure needs from not only the local population, but from nearby urban areas and further afield.
18. Whilst it is correct to state that in national planning policy, development is not totally precluded from the AONB, *the Framework* requires great weight to be given to conserving these areas; paragraph 116 states that planning permission should be refused for major developments in these designated areas, except in exceptional circumstances. There is no statutory definition of what constitutes a 'major development'. I consider, however, that the development of an entire field for housing on the edge of a small settlement would be sufficiently large, and based on what I have already stated, sufficiently intrusive in relation to such a spectacular part of the South Devon AONB, for the three criteria in paragraph 116 to apply in this appeal.
19. These criteria relate to need for the development; scope for developing alternatives; and any detrimental impact on the environment, including the landscape. I interpret paragraph 116 as a requirement that a proposal needs

to pass all three of these criteria for development to be acceptable in the AONB. In this appeal, the impact on the landscape is the critical criterion.

20. On the basis of the above considerations, I conclude on the second main issue that the harmful impact on the AONB weighs decisively against the proposed development, and that the proposal would conflict with *the Framework* and development plan policies CS9 and DP2.

Other Considerations

21. The Appellant provides two further supporting arguments. The first is that the proposal would meet the development needs of the village of Wembury, where development is acceptable in principle. The second argument is that there is a critical need to provide housing for older people in view of the projected increase in the number of households aged 65 and over.
22. LDF policy CS1 identifies Wembury as a settlement where development would be acceptable in principle and a figure of around 10 dwellings is considered to be appropriate. The proposal would exceed this figure by 50%, on a site outside the settlement boundary which is not allocated for development in either the adopted LDF or in the emerging Joint Local Plan. I do not consider that the Local Plan was prepared on the assumption that some impact on the AONB would be acceptable in relation to the countryside around Wembury. Based on these considerations, I do not agree that the proposal is acceptable in principle.
23. The need for more old persons' housing is not disputed, although the Appellant does not put forward evidence of the need specific to Wembury. Secondly, this need falls within the overall housing need, which as I have already stated, is a material consideration to which I have given substantial weight.

Planning Balance and Conclusion

24. As I have concluded in the first main issue that the local planning authority cannot demonstrate a five-year supply of deliverable housing land, paragraph 14 of *the Framework* states that planning permission should be granted unless specific policies in *the Framework* indicate development should be restricted. Footnote 9 of *the Framework* lists AONB as one of the nationally important policy considerations that the need for housing must be balanced against.
25. In relation to the second main issue, I conclude that the proposal would harm the character and appearance of the AONB, to which I have attached great weight in the light of the requirement in paragraph 115 of *the Framework* to attach great weight to conserving the landscape and scenic beauty of AONBs, and also in relation to the relevant policies in the development plan decision.
26. In applying the planning balance, I conclude that the harm I have identified to the character and appearance of this coastal section of the AONB would comprehensively and decisively outweigh the lack of a five-year housing land supply in relation to the proposal. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Mike Fox

INSPECTOR