

---

## Appeal Decision

Site visit made on 4 December 2017

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 19<sup>th</sup> December 2017.**

---

**Appeal Ref: APP/U1105/W/17/3181255**

**Crosslands, Gammons Hill, Kilminster EX13 7RA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Messrs J and M Miller against the decision of East Devon District Council.
  - The application Ref 17/1302/OUT, dated 24 May 2017, was refused by notice dated 4 July 2017.
  - The development proposed is construction of 1 no. dwelling.
- 

### Decision

1. The appeal is allowed and planning permission is granted for construction of 1 no. dwelling at Crosslands, Gammons Hill, Kilminster EX13 7RA in accordance with the terms of the application, Ref 17/1302/OUT, dated 24 May 2017, subject to the conditions set out in the attached schedule.

### Procedural Matter

2. The application is submitted in outline with all matters reserved for future approval. The site plan is illustrative. I have dealt with the appeal on that basis.

### Main Issues

3. The main issues in this case are firstly whether the proposal would provide future occupiers with acceptable access to services and facilities and secondly the effect on the countryside.

### Reasons

4. The appeal site consists of the side garden to Crosslands, a detached dwelling facing onto the A35 trunk road on the northern outskirts of Kilminster. The site comprises a small gap within an otherwise built-up frontage to the rear of which lies the Millers Farm Shop. This area to the north of the A35 is a discrete pocket of development but in physical and visual terms it has far more in common with the village than the farmland surrounding it.
5. The Council has treated the appeal site as being open countryside on the basis that it falls outside of the Built-up Area Boundary (BUAB). Strategy 7 of the East Devon Local Plan 2013-2031 (LP) seeks to resist development beyond BUABs unless it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

6. Although the LP refers to BUABs in a former local plan these boundaries are out-of-date and have no weight in policy. The Council has resolved to use the BUABs within the draft East Devon Villages Plan (DPD) as primary policy for development management. However, this plan is yet to be declared sound at examination and thus it cannot carry full weight.
7. In the absence of any adopted and up-to-date boundary the proposal stands to be judged against the three primary functions of BUABs which are set out in paragraph 6.20 of the LP. The boundaries seek to limit the outward expansion of settlements, prevent unregulated development across the countryside and define locations where development would meet sustainable development objectives.
8. The village of Kilmington is identified in LP Strategy 27 as having reasonable public transport and offering a range of accessible services and facilities to meet many of the everyday needs of local residents. The appeal site is well related to those services and facilities, most of which are within a 400m walk. The Council argues that pedestrian movement is discouraged by the need to cross the busy A35 trunk road. However, the existence of pavements and a designated crossing point means that the task can be undertaken in relative safety. The accessibility requirements of LP Policy TC2 would therefore be met.
9. The refusal reason indicates that the proposal would lead to sporadic development outside of the built-up area boundary. Given the context which I have described above and the fact that this is effectively an infill plot, the proposal would neither encroach into the countryside nor result in significant harm to the distinctive qualities which LP Strategy 7 seeks to protect. Indeed, the Council concedes that the development would be compatible with the surrounding built form. I concur and find no conflict with LP Policy D1 insofar as it seeks to ensure that new development is of high quality design and locally distinctive.
10. To conclude, future occupiers of the proposed dwelling would have good access to services and facilities without needing to rely upon the private car. The development would not harm the intrinsic character or beauty of the countryside. Notwithstanding the location of the site outside of the BUAB in the DPD, the proposal would not compromise the primary functions of BUABs or conflict with the strategy of the LP to accommodate development within defined settlements. Therefore even if transpires that the DPD is adopted without amendment, no material planning harm would arise from the appeal scheme.

### **Conditions**

11. In addition to the standard conditions for outline permissions, I have attached a condition specifying the approved plans to provide certainty. A landscaping implementation condition is also necessary in the interests of the character and appearance of the area. A final condition is needed to require the submission, for the Council's written approval, of scheme of surface water drainage, in order to prevent flooding.

### **Conclusion**

12. For the reasons given above I conclude that the appeal should succeed.

*Robert Parker*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Drawing no. TW17/24/1.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall commence until a scheme of surface water drainage for the development, and details of the mechanism for the maintenance of any such scheme, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter maintained in accordance with the approved details.