
Appeal Decision

Site visit made on 9 January 2018

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 19th January 2018

Appeal Ref: APP/Q1153/W/17/3180266

Land adjacent to Fernside, Crease Lane, Tavistock, Devon, PL19 8EW

- 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 Gavin Caldwell against the decision of West Devon Borough Council.
 - The application Ref 2686/16/FUL, dated 12 August 2016, was refused by notice dated 28 February 2017.
 - The development proposed is a residential development for 4no detached dwellings with integral garages, external parking and new access off Crease Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development is incorrect as the submitted plans show that two of the proposed dwellings would have detached rather than integral garages. I have therefore considered the appeal on this basis.

Main Issues

3. The main issues are
 - Whether the site is a suitable location for dwellings having particular regard to the character and appearance of the surrounding area and access for future residents to essential services, and;
 - Whether the proposal makes adequate provision for any additional need for education facilities in the area.

Reasons

Character and appearance

4. The appeal site is located just outside of the main town of Tavistock on the edge of a residential area. Crease Lane, where the appeal site is located, forms the development boundary of Tavistock here, the appeal site falling just outside of this in an area of what is countryside in planning terms. Opposite the appeal site on the other side of Crease Lane is relatively dense residential development whereas the side where the appeal site is located is markedly more open and undeveloped. Here there are only two dwellings, namely

Greenacres and Fernside. The appeal site comprises land between both of these properties.

5. The proposed dwellings would infill existing gaps between Greenacres and Fernside creating a short linear formation of development which would front onto the highway. Therefore it would not result in a significant intrusion of development into the countryside and would be viewed from the surrounding area largely within the context of existing development. Furthermore the sites would be generous in size allowing good gaps between the dwellings through which the open landscape beyond could be glimpsed. This would mean it would have a much more spacious feel than the development on the opposite side of Crease Lane thereby retaining the transitional character of this area between the town of Tavistock and the countryside. In terms of design the proposed dwellings would be of a broadly similar height and style to that of surrounding dwellings, albeit two would be slightly larger, and the two dwellings on the steeper part of the site would be set into the landscape.
6. Taking the above points together I find no harm to the character and appearance of the surrounding area and as such no conflict with Policies SP1, SP17 and SP20 of the West Devon Core Strategy (2011) (CS) which seek to conserve landscape character. Similarly I find no conflict with the National Planning Policy Framework (the Framework) which requires decision makers to take account of the different roles and character of different areas.

Access to services

7. The appeal site is within easy walking/cycling distance of Tavistock, and therefore schools, shops and public transport links, either via Crease Lane or Viaduct Walk, and I note local residents' comments that these are popular with pedestrians and cyclists. There are, however, some issues with these routes. Crease Lane does not have pavements and is relatively narrow. From my experience of walking along it the level of traffic along Crease Lane is not so heavy so as to discourage able bodied people walking along it, although I accept that my visit provided only a snap shot of traffic levels in the area. Alternatively Viaduct Walk is a rougher track to walk/cycle along but is car free. There is limited lighting along both routes which might put future occupiers of the development off using them at night. Nevertheless, between them, Viaduct Walk and Crease Lane would provide satisfactory access to the town for able bodied persons and those with children during daylight hours.
8. In addition to the above, a short walk through the housing estate opposite which has pavements and street lighting, takes you to bus stops on the A390. Using the bus is therefore a good alternative way to access the centre of Tavistock, and further afield, for future occupiers of the development.
9. Taking the above points together, I consider that there is a good range of options for future occupiers to safely access the town centre from the appeal site by alternative transport modes to the private car. I therefore find the site's accessibility to essential services to be adequate and as such no conflict with the relevant provisions of Policy SP1 of the CS. This Policy requires homes to be linked to jobs and services in accessible locations, promoting walking, cycling and the use of public transport. Similarly I find no conflict with the Framework which requires the active management of growth to make the fullest possible use of public transport, walking and cycling.

Education facilities

10. Although it did not form a reason for refusal the Council have indicated that a contribution of £13,329.50 towards primary school infrastructure is required. This is because the nearest primary schools to the development have no forecast surplus capacity. Therefore to mitigate the impact of the development, which the Council predict to generate one primary aged pupil, the above financial contribution is sought. I am therefore satisfied that this obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
11. Although I note that the appellant is willing to enter into a legal agreement to secure the above contribution there is nothing before me to this effect. The lack of adequate mitigation in respect of education facilities would therefore constitute a reason for dismissing the appeal.

Overall planning balance

12. Both parties agree that the appeal site is located outside of the built up limits of Tiverton. In this respect the proposal conflicts with Policies NE10 and H31 of the West Devon Local Plan Review (2005) (LP) and SP5 of the CS. The Framework, however, is a material consideration in planning decisions and at paragraph 49 it states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The appellant contends that the Council cannot demonstrate this and the Council do not refute the appellant's position nor have they provided any evidence to the contrary. The fourth bullet of Paragraph 14 of the Framework states that where relevant policies are out-of-date 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. Based on the evidence before me it is therefore necessary for me to balance the benefits of the proposal against the adverse impacts.
13. As set out above I have identified no adverse impact on the character and appearance of the surrounding area or in terms of access for future occupiers to essential services. There is also no harm to local education facilities, only a lack of mitigation. There are benefits as a result of the proposal. It would add to local housing supply, albeit to a modest degree, as well as providing economic benefits in terms of jobs during the construction period and future residents supporting local shops and services. I therefore find that the conflict with the development plan does not significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole. Consequently I find that the proposal benefits from the 'presumption in favour of sustainable development' as set out in paragraph 14.

Conclusion

14. My findings in respect of paragraph 14 of the Framework, along with other material considerations, indicate that planning permission should be granted notwithstanding the conflict with the development plan that I have found. However, no means of securing appropriate mitigation in respect of local

education facilities has been provided. For this reason alone the appeal is therefore dismissed.

Hayley Butcher

INSPECTOR