



Appeal Decision

Site visit made on 26 March 2019

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 16TH July 2019

Appeal Ref: APP/Y1138/W/18/3217176

Land at NGR 277002 107452 (London Inn) Morchard Bishop, Devon EX17 6NW

- 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 Mr Simeon Rives-Roberts of Timbertek Ltd against the decision of Mid Devon District Council.
 - The application Ref 18/01083/OUT, dated 06 July 2018, was refused by notice dated 13 September 2018.
 - The development proposed is described as proposed residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, the site address in the header above is taken from the Decision Notice and the Appeal Form, which I consider most accurately reflects the location of the appeal proposal.
3. The application was made in outline with all matters reserved for future consideration. I have dealt with the appeal on this basis, treating the submitted Indicative Site Plan as illustrative.

Main Issues

4. The main issues in this case are the effects of the appeal proposal on:
 - the character and appearance of the area, including the setting of the Morchard Bishop Conservation Area (the CA); and
 - highway safety.

Reasons

Character and appearance

5. The appeal site is an irregular shaped section of land which lies adjacent to the car park of the London Inn public house and is situated on the edge of the settlement of Morchard Bishop. The hedged boundary with the car park represents the boundary of the CA. This boundary, and the intervening public highway of Polson Hill, separate the appeal site from the built form of the village.

6. This physical separation with the settlement is reinforced by the topographical relationship of the site with the surrounding rural fields. The appeal site being at a point where land begins to slope away from the linear run of the higher part of the settlement along Church Street.
7. From the information before me, I understand that the site has been used most recently as an allotment, and from my site visit I have no reason to conclude otherwise, the site was overgrown with a small shed but there was evidence of planted beds. The site reads visually and in terms of character with the open and rural characteristics of the sloping fields, which collectively provide a pleasant and attractive rural context to the settlement and the CA.
8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA. These statutory requirements are reinforced through Policy DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies) 2013 (the DMP) and the Framework.
9. Paragraph 184 of the Framework outlines that heritage assets range from sites and buildings of local historic value to those of the highest significance. It goes on to explain that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
10. The Council refer to the Morchard Bishop Conservation Area Appraisal and Management Plan Statement 2015 (the CAA). The document does not form part of the development plan, but was subject to public consultation and I considered it to be a useful and material document in the appraisal of the appeal proposals. The CAA explains that from the top of Polson Hill and adjacent to the appeal site, distant views which contribute to the special qualities of the CA are available. From my visit to the appeal site, far reaching views of the rural landscape from this location were evident. The CAA also refers to the London Inn as a non-designated building of importance, a conclusion I agree with.
11. The appeal proposal would result in the construction of dwelling houses which would expand built form onto the rural slopes leading out from the settlement. This would result in development in an elevated and prominent position when perceived from Polson Hill. To my mind, the proposal would as a result, erode an important characteristic of the setting to the settlement and the CA, that being the undeveloped rural character of this side of Polson Hill. As a result, I consider that the proposal, would as a matter of principle, harm the character and appearance of the area, including the setting of the CA.
12. I am also of the view that residential development would be difficult to assimilate onto the appeal site in character and appearance terms in such a way so that it would respond appropriately to its context, including the setting of the CA and the adjacent London Inn. My concerns being with regard to matters such as the likely mass and form of the proposal as a result of the levels of the appeal site, which would be likely to be disproportionate to the predominately modest form of buildings in the surrounding area. The proposal would also be likely to block the public views from Polson Hill out into the rural landscape as referred to in the CAA.

13. I also have concerns about the siting of the development on the appeal site, which would be partially led by seeking to address highway safety matters such as the emerging visibility and off-street parking and turning. It would appear that in providing visibility at the site entrance for vehicles, this would inevitably direct development back into the appeal site. Such an approach would be out of place with the prevailing pattern of more traditional buildings within the context of the site, which predominately front onto and address the street scene. Furthermore, to facilitate such a site entrance, would be likely to involve the removal of a large section of the hedged boundary with Polson Hill which in itself, due to its rural appearance and linear and enclosing manner is an important characteristic to the setting of the settlement and the CA. Whilst I appreciate the appellant has suggested that the boundary would be realigned and replanted, this would nevertheless erode the current characteristics that exist, and replace these with a splayed entrance with a domestic appearance.
14. As a consequence, I conclude that the proposal would have an adverse effect on the character and appearance of the area and would lead to less than substantial harm to the significance of the CA, a designated heritage asset.
15. Paragraph 196 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as the CA), this harm should be weighed against the public benefits of the proposal. The appellants have referred to a number of social and economic benefits that would arise from the development, such as an increase in the number, choice and type of housing in the area, the construction employment opportunities that would arise and the contribution the development would have in enhancing and maintaining the vitality of Morchard Bishop. However, I consider that these benefits are more than outweighed by the harm the development would cause to the overall character and appearance of the area, including that of the CA.
16. For the above reasons the proposal would result in harm the character and appearance of the area, including the CA. The proposal would be contrary to Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) 2007 (the CS), Policies DM2, DM14 and DM27 of the DMP and Section 12 of the Framework which seek high quality design which has a clear understanding of the characteristics of the site, its wider context and the surrounding area and makes a positive contribution to local character including the setting of heritage assets. The proposal would additionally conflict with Section 16 of the Framework, as it would lead to less than substantial harm to the significance of a designated heritage asset, which is not outweighed by the public benefits.

Highway safety

17. The appeal site is located adjacent to the existing car park with the London Inn. It has an existing gated entrance which has limited emerging visibility due to the existing boundary coverage with Polson Hill.
18. From my site visit it was apparent that vehicles passing the site were relatively slow moving as a result of the topography, narrow width and physical enclosures to the highway. Whilst I consider that it may be possible to accommodate appropriate visibility splays that would provide an acceptable level of emerging visibility from the appeal site, for the reasons already outlined this would be to the detriment of the character and appearance of the area and the setting of the CA.

19. I therefore conclude that, it would not be possible to accommodate an acceptable access to the appeal site that would afford the special attention I am required by statute to be paid to the desirability of preserving or enhancing the character or appearance of the CA.
20. As a consequence, I find that the proposal would conflict with Policy COR1 and COR9 of the CS, Policy DM2 of the DMP and paragraph 109 of the Framework. Collectively, these policies and guidance require that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other matters

21. The appellant has submitted that the local planning authority can not currently demonstrate a five year land supply and as a result the tilted balance under paragraph 11 d) of the Framework should apply to the appeal development. The Council have not made any representations to the contrary in their submissions.
22. Nonetheless, even if I had concluded that the local planning authority could not demonstrate a deliverable five year supply of housing sites, the adverse effects of the appeal development on the character and appearance of the area, including the CA and on highway safety would significantly and demonstrably outweigh the benefits that would arise from the contribution of the proposals to the housing supply of the area.
23. The appellant also has drawn my attention to a number of other examples of development recently approved for housing in the surrounding area and in conservation areas. However, there is little before me to indicate that the circumstances of those cases are directly comparable with the proposal under consideration in this appeal and nevertheless, I am required to appraise the proposal on its own individual merits. As a result, I have afforded these examples limited weight in my appraisal of the appeal proposal.
24. The second grounds for refusal concerned the provision of financial contributions towards public open space. Such a contribution would be required to be secured through a planning obligation, but I have no such document before me to consider. However, as I found that the appeal should be dismissed, these are not now detailed matters for me to consider with due regard to paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Regulations 2010.

Conclusion

25. For the reasons given above, having regard to all matters raised, I find that the adverse effects of the proposal, having particular regard to the effects upon the character and appearance of the area, including the CA and on highway safety would significantly and demonstrably outweigh the benefits of the proposal. I therefore conclude that the appeal should be dismissed.

J Evans

INSPECTOR