



Appeal Decision

Site visit made on 20 May 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/P1133/W/19/3223782

Bridge House, Old Totnes Road, Buckfastleigh, S Devon TQ11 0BY

- 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 Geoffrey Davey against the decision of Teignbridge District Council.
 - The application Ref 18/01555/FUL, dated 23 July 2018, was refused by notice dated 2 October 2018.
 - The development proposed is erection of one, two storey three bedroom house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's delegated report identified that the site falls within a Special Area of Conservation (SAC) 4km bat sustenance zone and SAC 500m wide strategic bat flyway. The Council's decision notice does not refer to this matter in its reasons for refusal. However, it is apparent that the appeal site would be affected by its proximity to the SAC. Under the Conservation of Habitats and Species Regulations 2017, as decision-maker, I have a statutory duty to consider this matter which I deal with as a main issue.

Main Issues

3. The main issues are:
 - the effect of the proposal on the wildlife and conservation considerations of the SAC 4km bat sustenance zone and the SAC 500m wide strategic bat flyway; and
 - whether the appeal site is a suitable location for a residential development having regard to local and national planning policy for the delivery of housing.

Reasons

Special Area of Conservation

4. To enable me to fulfil my statutory duties, I went back to the Council seeking further information in relation to this matter. The Council confirmed the SAC but provided no information in relation to its conservation objectives. I acknowledge that the Council considered that the scale of the proposal being

for a single dwelling only would not have an impact on protected species. However, I am required to consider the effects on the proposal either alone or in combination with other plans and projects. As I have not been provided with enough information to enable me to undertake an appropriate assessment which I am required to do, I cannot be certain there would be no adverse effects on the integrity of the SAC.

5. I therefore conclude, in adopting a precautionary approach, that in the absence of firm evidence the proposed development may have an adverse effect on the wildlife and conservation considerations of the SAC 4km bat sustenance zone and the SAC 500m wide strategic bat flyway. The proposal would therefore conflict with Policies EN8 and EN9 of the Teignbridge Local Plan 2013-2033 (2014) (the TLP) which together seek to protect biodiversity and resist development that would harm designated sites.

Location of development

6. The appeal site is located on the edges of Buckfastleigh which is a small town located within the neighbouring Dartmoor National Park Authority. The appeal site itself is located in a linear cluster of houses along Old Totnes Road, separated from the main built up area by the A38 Devon Expressway flyover. For the purposes of planning policy, it is outside a defined settlement boundary and as such is classified as open countryside.
7. The Council's strategy for managing housing growth is set out in the TLP. Policy S22 of the TLP restricts development in open countryside in order to provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. The policy restricts development to uses which are necessary to meet these aims. For residential development this is restricted to affordable housing for local needs, replacement dwellings and dwellings for agricultural, forestry and other necessary rural workers.
8. The proposed dwelling would not be for any of the uses or types of occupants set out in Policy S22 and it would be outside the settlement boundary. It would therefore conflict with this policy in this respect. However, there are other considerations which are relevant.
9. The appeal site, while remote from any defined settlement boundary within Teignbridge District Council, forms part of the built up area on the edge of Buckfastleigh. From my site visit, I observed that the line of residential development beyond the settlement boundary of Buckfastleigh extends some way along Old Totnes Road and beyond the appeal site, which is itself relatively close to the main town. Consequently, due to its location on a residential street, it would not be an isolated home in the countryside in terms of paragraph 79 of the National Planning Policy Framework (the Framework).
10. The site is within walking distance of the town centre of Buckfastleigh which provides a range of services and facilities. There is a bus stop within walking distance of the site which provides access to the wider area. The development would not therefore be solely reliant on the use of the private car for access to services and facilities. This factor in combination with the small scale of the development, would have a very limited impact on overall travel patterns which the wider aims of Policy S22 seek to manage.

11. I note that the appeal site is not allocated for residential development and that the Council is able to demonstrate a five year housing land supply (5YHLS). However, the Government is seeking to significantly boost the supply of housing and the Council's ability to demonstrate a 5YHLS does not preclude the development of additional suitable sites.
12. The provision of an additional modestly-priced family house in this location would make a small, contribution to supporting local services, providing both economic and social benefits. These factors weigh in favour of the suitability of the location for housing.
13. Concluding on this main issue, the proposal conflicts with Policy S22 of the TLP insofar as the appeal site lies outside a settlement boundary and the proposed house would not be for users as defined in the policy. However, in terms of the wider aims of this policy, I have found the appeal site is a suitable location for a residential development due to its proximity to the settlement within neighbouring Dartmoor National Park Authority's jurisdiction, its position within an already developed street and its accessibility to services via means other than the private car. I therefore find it would accord with Policies S1 and S1A of the TLP which together support sustainable development. It would also accord with the objectives for housing delivery within the Framework and the National Planning Policy Guidance.

Other Matters

14. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. I have considered the effect of the proposal on nearby listed buildings. The Council provided a map showing the location of listed buildings within a buffering zone. From this it is evident that appeal site is not located near to any listed buildings within the buffering zone. Therefore, the proposal would not impact on the setting of the listed buildings as these buildings would not be seen in the context of the proposed dwelling.
16. I have noted the concern raised by adjoining neighbours in relation to the proximity of the proposed development and the impact of construction work on their boundary trees and hedge. However, the proposed house would be set sufficiently far away from this boundary and behind an existing retaining wall so as not to harm this hedge and trees.

Planning Balance and Conclusion

17. The location of the scheme conflicts with the development plan as it lies outside a defined settlement boundary. However, other material considerations, including its proximity to a settlement in the neighbouring authority, its accessibility and location within a built up area are factors which I consider outweigh the policy conflict with the development plan in this regard. For that reason, I have found the development acceptable in terms of its location. However, I am not satisfied that the scheme would not have an adverse effect on the wildlife and conservation considerations of the SAC. As such the scheme would be in conflict with the development plan policies which

seek to protect biodiversity and resist development that would harm designated sites. This is a matter to which I attach significant weight and accordingly for this reason the appeal is dismissed.

Rachael Pipkin

Inspector