

Appeal Decision

Site visit made on 25 June 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2019

Appeal Ref: APP/U1105/W/19/3226048

The Springhead, Spring Head Road, Uplyme DT7 3RS

- 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 Christian Eyres against the decision of East Devon District Council.
 - The application Ref 18/1703/FUL, dated 19 July 2018, was refused by notice dated 4 October 2018.
 - The development proposed is 2 no. dwellings, separate garages and sewage treatment plants.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is referred to as The Springhead in the appellant's statement and various submissions, and was also on the sign at the property. It is referred to as Springhead on the application form. I have used the former description in this decision.

Application for costs

3. An application for costs was made by Mr Christian Eyres against East Devon District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - the principle of the proposed development;
 - the effect of the proposed development on the character and appearance of the area, including its trees; and
 - its effect on highway safety.

Reasons

Principle of the proposed development

5. Strategy 7 of the East Devon Local Plan 2013 to 2031, January 2016, (the 'EDLP') relates to development in the countryside. It precludes this, 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. It defines the countryside as those parts of the plan area outside the built-up area boundaries and site-specific allocations shown on the Proposals Map.
6. The main parties agree that the site lies outside the Built-Up Area Boundary (BUAB) for the village, set out in the East Devon Village Plan, adopted July 2018, (EDVP), and the Uplyme Neighbourhood Plan, made December 2017 (UNP). These show that the site is divorced from this boundary by some distance, rather than lying adjacent to it. In planning policy terms, therefore, the site is in the countryside.
 7. The UNP provides support for development within the BUAB, most notably in its UNP Policy UHG1. Although it does not preclude development outside this boundary, it does not support infill schemes as is proposed here. Its support is limited to the provision of affordable housing on 'exception sites' and the conversion of rural buildings – neither of which is the case in this proposal.
 8. The appeal decision, for the erection of a dwelling at Rhode Lane, which I viewed at the time of my site visit, does not establish that the BUAB must include all residential development. That decision was reached under a different development plan regime and pre-dated the publication of the Government's National Planning Policy Framework and work on the BUAB. It does not set a precedent for this proposal and I give it little weight in my assessment.
 9. On this main issue, I find that the site lies outside the BUAB for the village of Uplyme and is therefore in the countryside. Residential development in this location is only supported in certain circumstances, which do not exist in this proposal. The principle of the proposed development is therefore contrary to Strategy 7 of the EDLP and Policy UHG1 of the UNP.

Character and appearance

10. Development at the large village of Uplyme is largely characterised by linear growth along roads radiating away from its centre on the B3165.
11. Spring Head Road is a very steep narrow lane to the northeast of the village centre, with which it is linked by other narrow roads. Save for at its lowest end, development is limited to its western side and is characterised by large detached properties set within generous plots. The Springhead, which has a very large plot, lies at the upper end of this loose line of development. It is within the East Devon Area of Outstanding Natural Beauty (AONB).
12. The National Planning Policy Framework sets out that "great weight should be given to conserving or enhancing landscape and scenic beauty" of the AONB, which is reflected in Strategy 46 of the EDLP.
13. The appeal site is readily seen from a number of vantage points across the village and is particularly conspicuous from the public footpath that runs across the field that adjoins the site. The proposed development would be prominent on the hillside and would result in a consolidation of built development in the AONB that would cause significant harm to its scenic qualities.
14. Although they would have a similar density to the two dwellings closest to the site, would be of a suitable design, could be set down below the skyline and

- that landscaping could be carried out, these would not mitigate this significant harm.
15. There are a number of trees on the appeal site, primarily along its road frontage. These, and those on neighbouring land, give the upper part of Spring Head Road a verdant appearance.
 16. Works to provide access to the proposed dwellings would affect trees at the site. A number of these are scheduled to be removed. Of these, according to the submitted Arboricultural Constraints Report¹ (ACR), some are not in good condition, have structural issues or add relatively little to the area. These findings have not been challenged by the Council.
 17. However, the Council's Arboricultural Officer raised concerns regarding the creation of the access to serve Plot 1. It is proposed to remove part of a hedge bank, to create an opening onto the highway, with a drive behind leading to the dwelling and its garage. Parts of the Root Protection Areas (RPA) for two off-site trees (numbered T13 and T14 in the ACR) fall within the area of these works. The former is a Monterey Cypress, which the ACR describes as 'declining' but with an estimated 10-20 years of life, the latter an Ash described as being in 'good' condition with an estimated 20-40 years of life. Both add to the appearance of the AONB.
 18. Little reference to the removal of the hedge bank is made in the ACR or the Arboricultural Method Statement² (AMS). It is proposed to use a 'no dig' approach to the proposed drive. However, with respect to this work, the AMS sets out that "the detailed design work has yet to be completed". In addition, it states that the height of the plot has yet to be agreed and, in this regard, I note that there are no finished levels on the submitted drawings. The AMS states that the "height of the new drive and its method of construction are going to be fundamental for the continued retention of the off-site trees".
 19. In order to address the Council's concerns regarding highway safety, the appellant submitted Drawings 1802 02-90-01 and 1802 02-02-03. The former shows a visibility splay for the proposed access that would require the reduction of the height of the hedge bank, close to the trees. The other shows a single, shared access. However, the latter would still require the use of a large area of land within the RPAs of trees T13 and T14.
 20. Given the importance of these two trees in the local landscape, and their estimated lifespans, it is essential that sufficient information is available to assess the full effects of the proposed development on them. I have not been provided with this, either in the original submissions or the revised access plans I refer to, above. I am therefore unable to be sure that they would not be adversely affected.
 21. On this main issue, I find that the erection of the proposed dwellings would significantly harm the visual qualities of the AONB. Furthermore, I cannot be sure that the proposal would not have a harmful effect on significantly important trees. In these circumstances, it is appropriate to take a precautionary approach. The proposed development would, therefore, be contrary to the terms of Strategy 46 of the EDLP, which reflect the Government's National Planning Policy Framework (the Framework). The

¹ JP Associates, August 2018

² JP Associates, August 2018

elements of Strategy 46 relating to landscape protection are mirrored in EDLP Policy D1, and those relating to tree protection are reflected in UNP Policy UEN5, both of which the proposal also contravenes.

Highway safety

22. The minor road that runs past The Springhead is subject to the national speed limit. Presently, the site is served by a single access. The application drawings showed one of the proposed dwellings sharing the existing access with the host dwelling. The second proposed dwelling would be served by a new access a short distance downhill from the existing one.
23. Spring Head Road is subject to the national speed limit. Notwithstanding the steep nature of this road, which might modify traffic speeds, the Council opined that these accesses would be dangerous as they would provide sub-standard visibility and, given their proximity, there would be inter-visibility issues when both accesses were being used.
24. In response, the appellant's case was accompanied by the revised plans I refer to above. One shows a single access to serve all three resultant dwellings at The Springhead. The other showed visibility splays on both access points. I am mindful that the appeal process should not be used to evolve a scheme as to do otherwise would be potentially prejudicial in terms of fairness to the Council and other potentially interested parties who may have wished to express a view on such a proposition. This is especially the case here, where the right-hand splay for the new access would appear to rely on third-party land.
25. Notwithstanding this, the splays that are shown are still sub-standard when assessed against the guidance in Manual for Streets (MfS). Furthermore, MfS sets out that splays should normally be measured to the nearside kerb, rather than the far side as is shown in these drawings.
26. Whilst outside the BUAB, I do not agree that occupants of the proposed dwellings would be entirely reliant on car travel. Although the dwellings would be located some way from the centre of the village and accessed via unlit roads without footways and a steep hill, I saw that this was commonplace in the village. Whilst car travel would be more likely in certain circumstances, it would not be an inevitable consequence of the proposed development. Therefore, in this regard, I do not find that the proposal would be unsustainable or cause problems of highway safety.
27. Whilst technology might well evolve that will overcome this highway safety issue during the lifetime of the EDLP, it is not readily available at this time. I have to make my assessment on what is available presently. On the basis of the evidence before me, I find that there would be limited visibility available to drivers exiting the proposed accesses and that this would prejudice highway safety. This would be contrary to the terms of EDLP Policy TC7 and paragraph 108 of the Framework that seek, amongst other things, to ensure that developments are served by a safe means of access.

Other Matters

28. The manner in which the EDVP and UNP were formulated, and the assessment of site UL06 in the former, are not matters for this appeal. My decision has to be made in accordance with the development plan, unless material

considerations indicate otherwise³. The terms of the West Dorset, Weymouth and Portland Local Plan 2015 have little relevance to this appeal, and cannot be applied to this proposal. I recognise the need for co-operation between neighbouring authorities, and the constraints on development at Lyme Regis. However, again, neither are matters for this appeal, nor can they outweigh the adopted BUAB and associated policies that are contained in those plans, which are germane to the site.

Conclusion

29. For the above reasons, and having taken all other matters into account, the appeal is dismissed.

Roy Curnow

INSPECTOR

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990