



Appeal Decision

Site visit made on 18 July 2019

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/Y1138/W/19/3225936

Fairview, Cheriton Bishop, Exeter, Devon EX6 6JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Peter Benjamin against the decision of Mid Devon District Council.
 - The application Ref 19/00261/PIP, dated 11 February 2019, was refused by notice dated 22 March 2019.
 - The development proposed is one detached dwelling.
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Decision

1. The appeal is allowed and permission in principle is granted for the erection of one detached dwelling in accordance with the terms of application Ref 19/00261/PIP, dated 11 February 2019.

Procedural Matters

2. Planning Practice Guidance (PPG) states that permission in principle is an alternative way of obtaining planning consent for housing led development. The scope of the permission in principle stage is limited to location, land use and amount of development, with other matters being dealt with at the technical details consent stage. It is not possible for conditions to be attached to a grant of permission in principle. In this case, the application form sets out both the minimum and maximum development proposed as 1 dwelling.

Main Issues

3. The main issues are:
 - whether the development plan supports the principle of the development in this location, and
 - the effect of the development on the character and appearance of the area and, in particular, whether it would preserve or enhance the character or appearance of the Cheriton Bishop Conservation Area (the CA), including its setting.

Reasons

Principle of development

4. Policy COR17 of the Mid Devon Core Strategy 2026 (adopted July 2007) (the Core Strategy) identifies Cheriton Bishop as one of a number of villages which the supporting text explains is based on their physical characteristics, and the

- availability of a school, shop, pub and daily transport service. The policy indicates that in villages development will be limited to minor proposals within the defined settlement boundary and to allocations of specified types of development. Outside the defined settlement boundary, Policy COR18 of the Core Strategy applies and this indicates that development will be strictly controlled and, for housing, this will be limited to affordable housing to meet local needs, gypsy accommodation, replacement dwellings and essential accommodation for agricultural or forestry workers.
5. The defined settlement in this area extends from around the junction near the school, along the road in a broadly westly direction to include The Cottage, a substantial 3 storey building. The appeal site is further along and to the northern side of the road. The site is located outside the settlement boundary in land designated as countryside. As the proposal is for an open market dwelling outside the settlement boundary, it would not meet the requirements of Policies COR17 and COR18 of the Core Strategy and therefore would conflict with the approach to delivering housing in villages.
 6. The site is reasonably close to other buildings and the village and therefore I am satisfied that the proposal would not constitute the development of an isolated dwelling in the countryside. Indeed, with Fairview, a substantial replacement dwelling further along the road, the proposed dwelling would not particularly extend development into open countryside. In coming to this view, I have had regard to the site circumstances and to the approach set out in *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610, which has been drawn to my attention.
 7. The scheme would therefore not conflict with paragraph 79 of the National Planning Policy Framework (the Framework) although this does not mean that the proposal would comply with the housing approach to development in and around villages as set out in the development plan.
 8. In the light of the above analysis, I conclude that the principle of development in this location would not be supported by the development plan. In particular the proposed open market dwelling would conflict with Policies COR17 and COR18 of the Core Strategy, which seek, amongst other things, to direct development to within settlement boundaries of villages.
 9. Policy COR1 of the Core Strategy sets the approach to providing sustainable communities. Although the site is close to an identified village that could accept some housing, as it falls beyond the settlement boundary there is conflict with the intentions of this policy.

Character and appearance

10. The significance of the Cheriton Bishop CA lies in the range of historic and other vernacular buildings, in particular the Church, Rectory, school buildings and Spalding Hall, often fronting the reasonably narrow lanes with many bounded by either walls or hedging, together with the surrounding fields that create the overall rural village character. The Devon banks of some of the adjoining roads and parts of the generally rolling countryside that surround the CA make a positive contribution to the setting of the CA.
11. The CA includes The Cottage, a non-designated heritage asset, and a visually prominent building when travelling towards the CA from the west. It is framed

in views towards the CA along the road by the hedgebanks. The replacement building at Fairview, because of its size and prominence, has an influence on the street scene and on the more distant views towards the CA. However, the appeal site is predominantly screened in these views by Fairview and the established frontage vegetation. In more immediate views the site is largely separated from the CA by other boundary vegetation. There are fleeting glimpses through into the site when travelling along the road but generally these views are not experienced in the same context as the CA and the buildings around The Cottage. In these circumstances, the site makes little positive contribution to the setting of the CA.

12. I am conscious of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area. Furthermore, the National Planning Policy Framework (the Framework) requires great weight should be given to the conservation of heritage assets and this includes development that may affect the setting of a heritage asset.
13. The permission in principle route does not require any detailed drawings of a proposal and I note the concerns that a dwelling could create a harmful cumulative impact with Fairview to the detriment of the CA and wider area. That could be the case with an insensitive approach or an overly large dwelling. However, as I have noted, the site is reasonably well screened and separated visually from the CA such that it does not form an important part of the setting of the CA. In these circumstances, a dwelling of a suitable siting, size, design and materials, with the retention of the front boundary planting, could be accommodated within the site without harm to the setting of the CA or its significance, either resulting from the new dwelling itself or with a cumulative impact with Fairview. As a consequence, the character and appearance of the CA and its setting would be preserved. It also follows that I am satisfied that the scheme would not affect The Cottage, as a non-designated heritage asset. In coming to these conclusions, I have had regard to the Heritage Appraisal and Impact Assessment dated June 2019 and all the other submissions on this issue from interested parties.
14. An appropriately sized and designed dwelling with sensitive boundary treatments, at the technical details consent stage, would also not adversely affect the wider rural surroundings and thereby would not harm the rural character and appearance of the area at this edge of the village. The scope of works required to deliver a suitable dwelling would not be unreasonable on this site and the spacing between buildings and overall impact would not be at odds with the form of this edge of settlement area. In this way, it would be possible to meet the Framework requirements for development to be visually attractive as a result of good architecture and be sympathetic to local character.
15. For the above reasons, I conclude that the proposal, if suitable details are submitted at the technical details consent stage, would not harm the character and appearance of the area and would preserve the character and appearance of the CA and its setting. Consequently, in these circumstances, the scheme would comply with policies COR2 of the Core Strategy, Policies DM2 and DM27 of the Local Plan Part 3 Development Management Policies (adopted October 2013) (the Local Plan) and the Framework which seek, amongst other things, to contribute positively to local character including any heritage assets and the setting of heritage assets.

Other Matters

16. I have taken into account all the representations both for and against the scheme, including the objections from the Parish Council and CPRE Devon. In respect of concerns that allowing this appeal would set a precedent, I have considered this proposal on its merits and the particular site circumstances, in the light of the present policy situation. Other proposals on other sites would also be considered on their merits and the policy situation at that time and therefore concerns regarding precedent in this case carry little weight.
17. I have noted the allocated land for housing elsewhere in the village, and the submissions regarding the other dwellings that have been built in recent years in Cheriton Bishop. However, this background should not prevent consideration of the single dwelling, in this case, on its planning merits, notwithstanding the advanced stage of the Mid Devon Local Plan Review.
18. While it is argued that there is a need for downsizing accommodation, as the size and form of the dwelling is not specified at this stage, I attribute this matter limited weight. Also, the scheme is promoted as a self-build dwelling, and again I attribute this limited weight as the proposal is made in the form of a permission in principle application and it is not possible at this stage to secure compliance with the requirements of the Self-build and Custom Housebuilding Regulations 2016.
19. Given the character of the site and surroundings the scheme would make efficient use of the land and therefore comply with the Framework requirements in this respect. Surface water issues resulting from the development could be addressed at the technical details consent stage. With regards to parking, access and highway safety, this did not form a reason for refusal, and I have found no substantive reasons to disagree with this assessment.
20. The ownership certificate appears to have been signed correctly with the appeal forms and I have found no reason to dispute that the correct procedures have not been followed, despite this being queried by a local resident.
21. The Council has drawn my attention to an appeal decision at land to east of Hill View at Cheriton Bishop¹. That proposed a scheme for 8 affordable dwellings outside the settlement. That Inspector did not find a proven need for the affordable housing and it was concluded that the scheme would urbanise the site harming the character and appearance of the area. I am satisfied that those site specific details and planning considerations are materially different to the present proposal such that I afford the earlier appeal decision limited weight.

Planning Balance and Conclusion

22. Notwithstanding the position in relation to the 5 year housing land supply, the Council in its statement has confirmed that Core Strategy Policies COR3, COR17 and COR18 are not consistent with relevant policies in the Framework and therefore should be accorded limited weight in planning decisions for housing until they are replaced. The Council confirm that the presumption in favour of sustainable development will continue to apply to the determination

¹ APP/Y1138/W/16/3144777

of planning applications concerning proposed housing development in Mid Devon.

23. Policies COR17 and COR18 are the most important for determining the application and I agree that they should be considered out-of-date, that they afford limited weight, and that the presumption in favour of sustainable development as set out in paragraph 11 of the Framework is engaged. I have not found that the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Therefore, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
24. In this case, the provision of an additional dwelling would provide a small boost to housing land supply notwithstanding the Council's considered position on its 5 year housing land supply position. There would be economic and social benefits with the provision of the dwelling during construction, and in subsequent occupation. These benefits would be minor given the single dwelling but do weigh in favour of the proposal. The proposal would be for an open market dwelling, but given the policies concerning the settlement boundary are out-of-date the requirement for an affordable unit in this location carries only limited weight.
25. The dwelling would be provided in a location reasonably close to the edge of a village which the Core Strategy identifies as having some services and transport links and can accommodate minor development proposals. The site is within walking distance of the school and church and with reasonable access to the other services and facilities in the village, such as the shop, public house and medical practice. The site would not be serviced by public footways and street lighting, but neither is the housing in the adjoining part of the village. This is not an unusual occurrence in rural villages and given the nature of the roads in the vicinity this weighs only to a limited extent against the proposal.
26. I have found that the site would not be isolated in the countryside and with the location broadly adjoining the village it would be such as to enhance and maintain the vitality of this village community, albeit in a small way. With an appropriate scheme at the technical details consent stage, a dwelling would not cause harm to the character and appearance of the area and would preserve the character and appearance of the Conservation Area, including its setting.
27. Taking all these matters into account, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In these circumstances, the proposal constitutes sustainable development, and this weighs heavily in favour of the proposal.
28. The proposal would not accord with the development plan, however, there are other material considerations that clearly outweigh this conflict and so I conclude that the appeal should succeed, with the amount of development specified as being one dwelling.
29. As stated in the PPG, it is not possible for conditions to be attached to a grant of permission in principle. I would expect an application for technical details consent to include a detailed design, size, siting and materials, with related heritage assessment, so as to demonstrate that the dwelling would not harm

the character and appearance of the Conservation Area and its setting, as well as details of the retention and strengthening of the boundary planting.

30. Furthermore, the technical details consent stage would also give the opportunity to consider any infrastructure and other contributions that may be necessary in accordance with adopted policies at that time.

David Wyborn

INSPECTOR