
Appeal Decision

Site visit made on 10 July 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/W1145/W/19/3223987

Lake House, Road Past Lake Methodist Chapel, Shebbear EX21 5SJ

- 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 & Mrs Fred & Jayne Roffey against the decision of Torridge District Council.
 - The application Ref No: 1/0978/2018/OUT, dated 5 September 2018, was refused by notice dated 12 November 2018.
 - The development proposed is one new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters to be reserved for later consideration. I have dealt with the appeal on this basis, treating the site plan that shows the layout and access to the highway as indicative.
3. The Council's reasons for refusal cites a grade II listed chapel, shown as Lake Methodist Church on the submitted plans, and the effect of the proposal on the setting of that heritage asset. However, the Council has confirmed that the church/chapel is not a grade II listed building but that a number of headstones within its graveyard are grade II listed. The parties have had the opportunity to comment on these matters and are therefore not prejudiced by my consideration of them.
4. The Council's first reason for refusal cites, amongst other things, Policy DM07 of the North Devon and Torridge Local Plan (LP). However, I consider that this is a typographical error as the Council's Delegated Report for the planning application refers to LP Policy ST07 within the principle of development section. I have been provided with a copy of LP Policy ST07 and the appellants have had the opportunity to comment on it and have cited it within their evidence. As such, they would not be prejudiced by my consideration of it.

Main Issues

5. The main issues are: -
 - Whether the site would be a suitable location for a dwelling having regard to the spatial development strategy of the LP and policies of the National Planning Policy Framework (the Framework) with regard to rural housing;

- The effect on the character and appearance of the area having regard to the nearby heritage assets.

Reasons

6. The appeal site comprises part of the extensive garden areas to Lake House. Access to the site would be gained off an existing access drive which runs adjacent to Lake Methodist Church and its graveyard. I observed that part of that access drive also appears to be a public right of way (PROW). The appeal proposal would involve the construction of one dwelling.

Spatial strategy

7. The LP was adopted in October 2018 and LP Policy ST07 sets out the spatial development strategy for Northern Devon's rural area. Shebbear is identified within Schedule A, of this policy, as a Local Centre where development will be enabled within development boundaries and on allocated sites in accordance with local spatial strategies. Section (4) of LP Policy ST07 states that in the countryside beyond Local Centres, Villages and Rural Settlements, development will be limited to certain exceptions.
8. I have not been provided with any local spatial strategy that specifically relates to Shebbear. I acknowledge that the appeal site is adjacent to a cluster of buildings that are close to Lake Methodist Church. As such, the proposal would not lead to the development of an isolated home in the countryside and it therefore comply with paragraph 79 of the Framework.
9. Nevertheless, the appeal site is outside of the development boundary for Shebbear and is not an allocated site. Therefore, for the purposes of LP Policy ST07 it is to be treated as being in the countryside. The development would not involve rural building reuse, and although it would provide housing, I have little evidence before me to indicate that it would meet an identified local economic or social need or is a development which is necessarily restricted to a countryside location. It follows that the proposal would conflict with LP Policy ST07.
10. As stated above, Shebbear is a Local Centre and therefore it has a number of services and facilities within it. These services and facilities are within walking and cycling distance of the appeal site. There are also bus services that run through the settlement. Consequently, there would be a choice of transport modes for future residents and paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. As a result, the appeal site is within a relatively accessible location for a rural area.
11. Nevertheless, the same circumstances would arise in relation to other sites which are close to the development boundaries of this and other settlements identified as Local Centres within the spatial development strategy. This factor simply indicates that the proposal would not cause material harm in this respect.
12. Paragraph 78 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It is likely that the future occupiers of the dwellings would utilise and help to maintain the vitality of the services within Shebbear. However, the contribution that the development and

occupation of one new dwelling would make to the vitality of the rural community would be small.

13. Taking into account all of the above, even though the proposal would comply with paragraphs 78 and 79 of the Framework, when judged against LP Policy ST07 the proposal would not be in a suitable location as the Council's spatial development strategy would be undermined.

Character, appearance and heritage assets

14. Due to mature trees and landscaping along and adjacent to the boundaries of the appeal site views of the site are restricted to near/middle distance views from the access drive/PROW. The appeal site is part of the garden associated with Lake House and it is on an edge of the cluster of buildings that located to the north of Lake Methodist Church. There are open and undeveloped areas adjoining the appeal site and the remaining parts of the gardens to Lake House. Moreover, the appeal site is at an appreciably higher ground level to Lake House and the majority of its other garden areas and it has an informal in appearance as it is mainly turfed with a number of trees within and around its boundaries.
15. I acknowledge that the proposal would not lead to an encroachment of domestic development into agricultural land and that planning consent has been granted for a dwelling within an adjacent part of the garden to Lake House. However, the difference in levels and its informal appearance mean that the appeal site is viewed as a transitional area with the adjoining countryside. As such, the development of another dwelling would slightly extend the urbanising nature of this cluster of buildings when viewed from the access drive/PROW.
16. However, the close proximity of the appeal site to the approved dwelling and Lake House would limit the harm to the rural character and appearance of the area. Furthermore, as this is an outline application, a reserved matters scheme could be appropriately designed to ensure that the visual impact of the dwelling would be minimised and that its design would be in keeping local character and architectural styling.
17. Consequently, taking into account the above, the urbanising effect would be limited and the proposal would not be incongruous to the character and appearance of the area. It follows that the proposal would not conflict with LP Policy DM04 which, amongst other things, seeks developments that reinforce the key characteristics and special qualities of the area in which the development is proposed.
18. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) 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. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced.
19. The definition of heritage assets, as set out in the Framework, includes designated heritage assets and non-designated heritage assets (NDHA) identified by the local planning authority. Such assets are those identified as

having a degree of significance due to their heritage interest that merits consideration in planning decisions. The building, Lake Methodist Church, is not included within a 'local list' but it has been identified as a NDHA by the Council.

20. The grade II listed headstones that are sited within the graveyard of Lake Methodist Church relate to the Thorne family that were associated with the Bible Christian movement and the church. Based on the evidence before me I consider that the significance of the headstones is largely derived from their historic, evidential and aesthetic value connected with the links to this notable local family, the Bible Christian movement and their historic fabric.
21. I noted that due to the distance of the graveyard from the appeal site and intervening vegetation that there is limited intervisibility between the appeal site and the graveyard. In addition, due to the intervening boundary treatments and vegetation the headstones are not visible from the appeal site. Moreover, the significance of the headstones is predominantly experienced from within the graveyard. As such, the proposal would have negligible impact on this experience. Furthermore, I have no evidence to suggest that the appeal site formed part of the land that was historically associated with the headstones or the church. As a result, even if the appeal site was considered to form part of the setting to the headstones the proposal would have a neutral impact on the appreciation of the special interest/significance of the listed building.
22. Lake Methodist Church has been identified as NDHA by the Council and this appears to be based on its historic, evidential, aesthetic and communal value as a place of worship. The building is a small vernacular church/chapel and is of some age and has associations with a notable local family and the Bible Christian movement. Therefore, I consider that it does have an appreciable amount of historic, evidential and communal value. Even though, it has had modern replacement windows inserted its overall architectural form makes a positive contribution to the streetscene as it is visible from the junction of the access drive with one of the roads that runs through the settlement. As such, it also has a modest level of aesthetic value. Based on my observations, I consider that this building is of sufficient historic interest to be treated as a NDHA. Its significance derives from its age, form, architectural features and past use.
23. The church is set within a landscaped graveyard and when viewed from the road adjacent to its junction with the access drive it is seen in conjunction with the adjacent schoolroom, the grounds of the nearby school/college and the undeveloped land on the opposite side of the access drive. Its location on the outskirts of settlement relates to its use as a church and worshippers wanting privacy when visiting it. Therefore, the informal rural character of the graveyard in combination with the rural landscape setting make a positive contribution to its significance. Due to the intervening vegetation there would be little intervisibility between the appeal site and the church. However, at certain times of the year it may be possible to see the church and parts of the proposed dwelling together in views from the access drive/road junction. Accordingly, I consider that the appeal site could be treated as being within the rural landscape setting of this heritage asset.

24. However, it would be some distance from the church and its level of visibility would alter during the year due to the intervening vegetation. I acknowledge that the vegetation is not permanent and that views to and from the appeal site could be increased or decreased in the future. Nevertheless, there is no firm evidence before me to suggest that the existing situation is likely to change in the near future. Moreover, as stated above there is little before me to indicate that the appeal site was historically associated with the church. As a result, although the presence of additional built form would slightly erode the wider rural landscape setting of the church, I consider that overall the values that contribute to its significance would be preserved.
25. Taking into account all of the above, the proposal would not harm the special interest or significance of the nearby heritage assets. It follows that the proposal would comply with LP Policies ST15 and DM07 which state, amongst other things, that great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment and proposals which conserve and enhance heritage assets and their settings will be supported.

Other matters

26. The appellants have drawn to my attention to a number of planning consents on sites nearby to the appeal site. However, I have very little evidence of the circumstances that led to these proposals being accepted. However, it would appear that these planning applications were determined before the LP was adopted and a different approach to decision-taking was therefore required in those cases. As such, I do not consider that they are directly comparable to the case before me and have little weight. In any case, I am required to determine the appeal on its individual merits.
27. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

Overall Balance and Conclusion

28. The Council have stated that they can demonstrate a 5 year supply of housing land, this is not specifically disputed by the appellant and the development plan has been recently adopted. Therefore, I have no evidence before me to indicate that section d) of paragraph 11 of the Framework is relevant to this case. I have found that the proposal would conflict with LP Policy ST07. This policy pre-dates the publication of the 2019 version of the Framework. Taking into account paragraph 213 of the Framework I consider that the policy is consistent with the Framework and that therefore this conflict has full weight.
29. Moreover, paragraph 15 of the Framework states that the planning system should be genuinely plan-led. The conflict with the spatial development strategy leads me to conclude that the proposal would conflict with the development plan as a whole. In accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
30. The development would contribute to meeting the Council's housing provision, to which there is no ceiling. The appeal site occupies a relatively accessible

location. The occupants of the dwellings would help to maintain the vitality of the rural community. The proposal would also make a contribution to the local economy including the provision of construction jobs and some additional local spend. Given the amount of development proposed, these benefits would be likely to be small in scale. The development would involve the utilisation of a small site which can be treated as previously developed land for the purposes of the Framework. Consequently, I give modest weight to these matters taking into account the size of the scheme, the Framework's objective of significantly boosting the supply of homes and supportive stance towards utilising small sites and previously developed land.

31. As stated above, bearing in mind that this is an outline application, a reserved matters scheme could be appropriately designed in materials that would be sympathetic to the vernacular architecture of the surrounding area. The Council did not object to the proposal in relation to its impact on highway safety/parking, ecology, flood water/drainage or the amenities of neighbouring occupiers. However, the lack of harm in these respects is a neutral consideration that does not weigh for or against the proposal.
32. Taking into account all of the above, whilst there would be benefits with modest weight associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Having regard to all other matters raised therefore, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR