



Appeal Decision

Site visit made on 15 July 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/K1128/W/19/3227246

Weatheracre House, Fleet Mill to Longcombe, Longcombe TQ9 6PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Jemma Major against South Hams District Council.
 - The application Ref 3629/18/FUL, is dated 5 November 2018.
 - The development proposed is described as 'to construct a new 3 bed dwelling in the largely disused garden next to Weatheracre House, Longcombe'.
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Decision

1. The appeal is dismissed and planning permission 'to construct a new 3 bed dwelling in the largely disused garden next to Weatheracre House, Longcombe' is refused.

Procedural Matters

2. The appeal results from the Authority's failure to determine the planning application within the statutory timescale. Whilst the Council have sought to progress the application to determination and have issued a decision notice, there is no formal decision on the application, as jurisdiction was taken away when the appeal was lodged. However, from the evidence before me, it appears that the Council would have refused the planning application had it been empowered to do so. I have considered the Council's submitted decision notice in terms of defining the main issues below.
3. Limited details in support of the appeal were provided by the appellant. Despite writing to the appellant and providing them with an opportunity to comment on details submitted by the Council and to provide any details that they wanted to be considered in the appeal process, no further details were received. As such I have progressed the appeal on the basis of the evidence provided.

Main Issues

4. The main issues are:
 - i) whether the proposed development would be in a suitable location, having regard to local and national planning policies;
 - ii) whether or not adequate arrangements would be made for the disposal of foul and surface water from the site; and

- iii) the effect of the proposed dwelling on the character and appearance of the area.

Reasons

Suitability of the location

5. The appeal site is the side garden of Weatheracre House that is currently enclosed by a stone wall. The site is accessed from a single-track lane with sporadic, loose knit residential development along the southern side of the lane with open farmland and pockets of trees within undulating land to the north and south, providing a generally verdant character. Site levels within the site fall downhill away from the road.
6. Policy TTV26 'Development in the countryside' of the adopted Plymouth and South West Devon Joint Local Plan (JLP) ¹ seeks to protect the special characteristics and role of the countryside. This includes part 1 that seeks to restrict isolated development within the countryside unless there are exceptional circumstances, such as provision of a dwelling for a rural worker (i), it would secure future of a significant heritage asset (ii) or be of a truly outstanding or innovative sustainability and design (iv). These criteria are consistent with paragraph 79 of the National Planning Policy Framework (the Framework).
7. Paragraph 79 of the Framework states that '*planning policies and decisions should avoid the development of isolated homes in the countryside.*' Having regard to Braintree District Council v Secretary of State for Communities and Local Government & Ors (2017) EWHC 2743 (Admin) and the subsequent Court of Appeal Judgement, the term isolated in relation to paragraph 79, should be given its ordinary objective meaning of "*far away from other places, buildings or people (Oxford Concise English Dictionary)*". Given the proposed dwelling would be adjacent to existing buildings, it would not strictly be isolated when applying the aforementioned definition.
8. Notwithstanding the above, policy TTV26 of the JLP seeks to restrict 'isolated development' and has been adopted since the Braintree judgements and the most recent revision of the Framework. The supporting text of this policy (paragraph 5.169) elaborates upon the form of development that the policy seeks to restrict, stating that '*the delivery of new homes that are distant from existing services and amenities do not represent a sustainable solution to the need for new homes in rural areas. The policy therefore provides criteria that need to be met before a development proposal can be supported in the countryside.*' The evidence submitted within the officer report includes details of the distance to nearby services and amenities that have not been disputed by the appellant. The evidence indicates that the site is not close to settlements where there is a reasonable number of services and facilities for day to day living purposes. Noting these long distances, I therefore consider that the appeal development can be considered as 'isolated development' for the purposes of policy TTV26 of the JLP.
9. On the evidence before me, no justification has been provided in support of the appeal proposals with regard to the provisions of policy TTV26 including part 1 criteria i), ii) iii) or v). With regard to criteria iv) whilst noting the appellants

¹ Adopted March 2019

assertion with regard to the importance of sustainability and '*the production of a true Eco property*', no evidence of such has been provided in support of this appeal to demonstrate that this is the case. There is no objective evidence before me to indicate that the proposal would meet any of the exceptional circumstances and therefore, and in this regard, I find the appeal proposal would not accord with the requirements of policy TTV26.

10. In addition to the above, the appeal development would not be sited in an accessible location. The lane serving the site is narrow and immediately connecting roads including that to public transport facilities such as the bus stop at Longcombe Cross, or the nearest settlements of Totnes, Aish and Stoke Gabriel, do not benefit from footways or street lights. This would discourage future occupants of the dwelling from walking or cycling to the nearest facilities and services. Such an arrangement would not adequately cater for the day-to-day needs of the future occupants of this development without significant reliance on the private motor vehicle as the main means of travel. As such the appeal development would not accord with the accessibility and sustainability aims of policy TTV26 of the JLP and Chapters 2 and 5 of the Framework.
11. For the reasons outlined above, the proposed development would not accord with the requirements of policy TTV26 of the JLP or provide a suitable, sustainable or accessible location for housing having regard to Policies TTV26 of the JLP and the Framework.

Drainage

12. The Council have provided details of consultation with drainage officers who objected to the proposals given a lack of information to demonstrate that foul and surface water could be adequately dealt with. In the absence of further details that the appeal proposal would, at least in principle, be able to cater for foul and surface water drainage, I cannot conclude that in this regard the development would accord with Policy DEV35 of the JLP which amongst other things seeks to control flood risk and pollution.

Character and appearance

13. The appeal development would sit within the walled side garden of Weatheracre House. The proposed dwelling has been designed to reflect site levels with two storey mass to the lower, rear elevation. Given the loose-knit nature of existing development and spacious gaps between buildings, I consider that the introduction of a dwelling on the site would fail to reflect the overall loose and informal pattern of development in the locality. From close views, the dwelling would be seen in the context of the small group of more traditional buildings set within a wider countryside location and the proposed contemporary design of the dwelling including the asymmetric, standing seam roof would be at odds with the existing character and appearance of the area.
14. Whilst it would not extend the built form into an area which currently has an open and unspoiled rural character or be overly visible or prominent within the wider landscape, the dwelling would not suitably reflect its immediate context that predominantly comprises more traditional rural dwellings. I find that the proposals would not have proper regard to the pattern of development or surroundings, including in terms of style and detailing.

15. For the above collective reasons, I conclude that the proposal would have a significantly harmful effect on the character and appearance of the area and would not accord therefore with policy DEV20 of the JLP which seeks to, amongst other things, ensure that development proposals meet good standards of design that has regard to local development in terms of style and visual impact.

Other matters

16. The appellant indicates that the site should be considered as 'previously developed land' with reference to an article relating to a recent high court judgement, that is indicated to exclude private residential gardens in "built-up" areas only and not residential gardens elsewhere. Even if the appeal site were to be considered as 'previously developed land', this would not in itself overcome my conclusions on the main issues.
17. I note the supportive comments made by the Parish Council. However, neither this nor any of the other matters raised alter or outweigh my conclusions on the main issues.

Conclusion

18. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR