



Appeal Decision

Site visit made on 3 September 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/X1118/W/18/3218119

Wray Cottage, Road From Devon View To St Marys Road, Croyde, EX33 1PL

- 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 Andrzej Baraniak against the decision of North Devon District Council.
 - The application Ref 64947, dated 4 May 2018, was refused by notice dated 20 July 2018.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in February 2019. However, as the Framework's policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.
3. Since the Council's decision on the planning application, the North Devon and Torridge Local Plan 2011-2031 (NDTLP) has been adopted. The policies in the previous North Devon Local Plan 1995 to 2011 referred to in the Council's decision notice have therefore been superseded by relevant NDTLP policies. The Council has indicated that the adopted NDTLP policies relevant to the appeal proposal are those referenced in their decision notice as emerging policies. Accordingly, it has not been necessary for me to consult the main parties on this matter.

Main Issues

4. The main issues are:
 - whether the development would be in an appropriate location with regard to the character and appearance of the surrounding area;
 - whether occupants of the development would have reasonable access to services and facilities; and
 - the effect of the development on wildlife.

Reasons

Character and appearance

5. Located to the side of Wray Cottage, the redline boundary of the appeal site includes part of a domestic garden and part of a field. Amongst other aspects, the site contains areas of relatively-well-maintained grass and pasture, trees and soft

landscaping. There is a watercourse on its northern boundary in the valley floor, and the highway runs along the site's southern boundary wall. There is some built form in the surrounding area, focused primarily within Cross, with the nearest properties being Wray Cottage to the east and a row of terraced houses on the opposite side of the highway to the south-west. However, the site is physically and visually separated from properties in the locality, and it has a verdant and generally undeveloped character and appearance. Despite it forming part of a domestic garden, it therefore relates more closely to its undeveloped and countryside surroundings which extend along and on the other side of the valley, and is experienced in this context from the public realm.

6. The site is located within the North Devon Coast Area of Outstanding Natural Beauty (AONB), Heritage Coast and Coastal Preservation Area. Notable for its coastline and wooded valleys, the area includes linear settlements, often displaying traditional vernacular, contained within the landscape. The Framework sets out that AONBs have the highest status of protection in relation to landscape and scenic beauty, and I am mindful that great weight should be given to conserving and enhancing these aspects.
7. Introducing a new dwelling on land forming a domestic garden and separated from existing properties, the development would appear unconnected from the clustered pattern of properties in Cross and would visibly extend built form into the rural landscape. This would erode the site's generally undeveloped and verdant appearance, which contributes positively to the locality. Consequently, the development would appear as an incongruous feature that would have a suburbanising effect on the countryside and detract from the surrounding area's openness and undeveloped rural landscape. It would also be experienced as a relatively modern addition compared to the more traditional vernacular of surrounding built form and contain features such as a relatively steep pitched roof and veranda which are not characteristic of buildings in the locality. Accordingly, the development would have a detrimental effect on the landscape and scenic beauty of the AONB and the special character of the Heritage Coast and Coastal Preservation Area.
8. Although the development would be visually and physically separated from existing buildings, it would not lead to a new isolated dwelling in the countryside¹. It would use similar materials to nearby properties and I recognise that the new dwelling, utilising the site's topography, would be set down into the site and would appear from the highway as a single storey building with accommodation in the roof. Be that as it may, it would be visible from the public realm and would extend into and interrupt views of the surrounding landscape and valley. Its presence would be emphasised by the new vehicular access, which would be wider than the existing pedestrian gate, and the loss of a section of the boundary wall running along the highway. Furthermore, despite it fronting the highway, the site's separation from Wray Cottage, the significant gap to built form on the other side and the general separating presence of trees and soft landscaping means that the appeal proposal cannot be reasonably described as infill development.
9. I recognise that there are some existing outbuildings in the garden of Wray Cottage and that these are visible from the highway. However, their relatively modest size and appearance mean that they do not detract from their rural setting. It has been put to me that the appeal site previously housed various garden

¹ The Framework does not define the word 'isolated', but in *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin), the judge found 'isolated' should be given its ordinary objective meaning of 'far away from other places, buildings or people; remote'. That judgement was subsequently upheld at the Court of Appeal, *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.

buildings and structures, and that such domestic structures could be erected without the need for planning permission. However, I do not have the full details of what could be erected. Notwithstanding this, it seems to me that such structures would also not be particularly comparable to the development. Accordingly, I place limited weight on this.

10. The evidence before me indicates that the site is not within any of the settlements listed in NDTLP Policy ST07. Although it is not a considerable distance away from the development boundary of Croyde and despite it being described as being within the curtilage of Wray Cottage, the site is therefore defined by the NDTLP as being within the open countryside. Section 4 of Policy ST07 sets out that development in the countryside will be limited to certain exceptions, including meeting local economic and social needs, while Policy DM28 allows for rural worker accommodation subject to various requirements.
11. Although the appellant and his partner work locally, I have little substantive evidence that the development would provide rural worker accommodation connected to a rural enterprise where there is an essential operational need for a full time worker to be resident at or near the place of work. The appeal proposal would also not involve rural building reuse nor be development which is necessarily restricted to a countryside location. However, the appellant sets out that the new dwelling would be for his young, growing family who are from the village and have no other means of affording accommodation in what is a very high value area. The development would therefore enable them to continue living in the area, near to their work and their childrens' schools, and supporting the appellant's partner's elderly mother in Wray Cottage.
12. On this basis, the appeal proposal could therefore be described as meeting a local social need. However, I am mindful of the advice contained in Planning Practice Guidance² (PPG) that in general planning is concerned with land use in the public interest. It is probable that the dwelling would remain long after the appellant's personal circumstances cease to be material. Future use of the dwelling would also not necessarily entail a similar situation. I also have little substantive evidence that there is a local social need beyond the personal circumstances of the appellant, particularly given the Council indicates that it can demonstrate sufficient housing land supply. Furthermore, the supporting text for Policy ST07 identifies one of the reasons behind the Council's approach to development in the countryside, with paragraph 4.16 stating that the 'character of the countryside should be conserved and enhanced and new development will not detract from this'.
13. It has been put to me that there have been some recent approvals for residential development outside of development boundaries in the locality, including for holiday accommodation in Georgeham, and that the appeal proposal is as worthy of support as more holiday accommodation. However, as I do not have full details before me of that scheme or the others, I cannot determine whether the circumstances are analogous to the appeal proposal. The evidence before me also indicates that the holiday accommodation unit was approved under the previous local plan and involved different policy provisions, while the two schemes referred to in the appellant's Planning Statement involve development within a settlement boundary and accommodation defined formally as affordable housing. Accordingly, I have determined the appeal proposal on its merits and the evidence before me.
14. Despite providing accommodation for a local family, I conclude that the proposed development would, for the above reasons, harm the character and appearance of

² Paragraph: 008 Reference ID: 21b-008-20140306 – 'What is a material planning consideration?'. Revision date 06/03/2014.

the area and would not be in an appropriate location. I therefore find that it fails to accord with NDTLP Policies ST07, ST09, ST14, DM08A and DM28. Amongst other aspects, these: set out the Council's approach to accommodating new residential development; give great weight to conserving the landscape and scenic beauty of designated landscapes and their settings; seek to protect the undeveloped character of the Heritage Coasts; and set out that development should respect and enhance landscape character, conserve and enhance local distinctiveness and not detract from the unspoilt character and appearance of the area. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places and conserving and enhancing the natural environment.

Accessibility

15. Croyde is the nearest settlement which contains some facilities and services. At approximately 800 metres, the site is within a reasonable walking distance of it and this is an acceptable distance in terms of relevant guidance. However, it seems to me that walking to Croyde would not be a particularly appealing or safe prospect because the highway between the two lacks separate footways and street lighting for much of the way. It is also relatively narrow and enclosed by hedges in places. This is not conducive to walking to and from Croyde. Georgeham also contains some services and facilities. However, Georgeham is further away and walking there would involve also similar highway conditions for some of the route.
16. Although a bus service runs past the site, the evidence before me indicates that the bus does not stop nearby. Occupiers of the development would therefore have to walk along the highway in order to get the bus. However, it seems to me that the highway conditions would be likely to limit occupiers' use of the bus service.
17. I recognise that the appellant has proposed that the owners of the new dwelling could look after an area of land on the opposite side of the highway from the site in order to provide a safe pedestrian refuge and walkway. However, looking after this area of land would not improve the walking conditions to Croyde or Georgeham except in the immediate vicinity of the site. The evidence before me also indicates that the appellant does not own or have control over this area.
18. The evidence before me indicates that Croyde and Georgeham only have limited services and facilities. Settlements with a fuller range of services and facilities necessary for day to day living are significantly further away, with the nearest town/local centre, Braunton, being several kilometres away.
19. The site's situation is not conducive to accessing the proposed development except predominantly by private car. I accept that this may be the case for rural areas in general and that the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, occupiers in this case would be highly reliant on one mode of transport – the private car – for many of their journeys and to serve their daily needs. This weighs against the proposal.
20. It has been put to me that similar distances to community facilities and services have been accepted in several appeal decisions in the Council's area. However, I have not been provided with the details of those developments. In any event, it is the site's limited transport options, stemming from the highway conditions between it and nearby settlements, that are unsatisfactory in this instance rather than the distance per se.
21. For the above reasons, I conclude that occupants of the proposed development would not have reasonable access to services and facilities. I therefore find that it

conflicts with NDTLP Policies ST10 and DM05. Amongst other aspects, these seek development with layouts which consider the needs and accessibility of all highway users, which reduce the need to travel by car and which ensure that access to new development is safe and appropriate. The proposal would also be inconsistent with the provisions in the Framework in relation to promoting sustainable transport.

Wildlife

22. Amongst other aspects, NDTLP Policies ST14 and DM08 seek to conserve and protect northern Devon's natural environment and biodiversity by ensuring that: all development takes into account the importance of habitats; impacts on protected species are avoided wherever possible; unavoidable adverse impacts are adequately and proportionately mitigated; and development contributes to net gain in biodiversity where possible.
23. The PPG indicates that an ecological survey may be appropriate where, for example, protected species may be present. Government Circular 06/2005 (Biodiversity and Geological Conservation), referenced within the provisions in the Framework relating to habitats and biodiversity, sets out amongst other aspects that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the development, is established before planning permission is granted. I am also mindful of the protection afforded to habitats and species by the Wildlife and Countryside Act 1981 (as amended) and that the Natural Environment and Rural Communities Act 2006 requires that public authorities must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.
24. The evidence before me does not indicate that the site is within or near to any internationally designated nature conservation sites. The requirements within the Conservation of Habitats and Species Regulations 2017 are therefore not relevant to the appeal proposal. There is also little substantive evidence before me, such as a wildlife/biodiversity report or similar, to confirm the presence of protected species, other wildlife or habitats on and in the vicinity of the site. However, it seems to me that the nearby watercourse, the numerous trees and pastoral surroundings and the generally verdant nature of the site, particularly including the less intensively maintained pastureland, could provide suitable habitat for wildlife, including protected species.
25. The wildlife trigger list directs that a wildlife report is not triggered if the Part A questions are all answered negatively. However, the proposed dwelling would be in relatively close proximity to a watercourse, mature trees situated next to it and pasture. The amount of glazing on its northern elevation indicates that the development could illuminate these features through light spill. In turn, this could harm wildlife. Accordingly, and with little substantive evidence to indicate otherwise, there is a reasonable likelihood that the development could harm protected species and their habitats. In coming to this view, I have taken account of the fact that part of the site forms a domestic garden and that sufficient surface water and foul drainage connections could be provided and no objections in these respects were raised by the Environment Agency or South West Water.
26. A biodiversity report was not requested by the Council prior to determining the application. However, this matter is not determinative as to the acceptability of the appeal proposal and its potential affect on wildlife and protected species. I have therefore considered the proposal on its merits, based on the evidence before me.

27. For the above reasons, I conclude that the proposed development has the potential to harm wildlife. I therefore find that it conflicts with NDTLP Policies ST14 and DM08. The proposal would also be inconsistent with the provisions in the Framework relating to conserving and enhancing the natural environment.

Other matters

28. Although not a reason for refusal, the Council have suggested that the proposed vehicular access would be substandard and would therefore harm highway safety. I recognise that the appellant, in an attempt to overcome the Council's concerns, has proposed that one of the existing accesses serving Wray Cottage could be closed in order to improve highway safety. It has been put to me that this would also result in highway betterment. However, I have little substantive evidence that this would be the case or that it would mitigate highway safety concerns associated with the proposed vehicular access. Accordingly, I place limited weight on this aspect. In any event, as the appeal has failed for other reasons, I have not considered the highway safety matters relating to the proposed vehicle access any further because it could not lead me to a different conclusion.
29. I acknowledge the appellant's reference to pre-application discussions with the Council and that the Council's response was carefully considered. I note the appellant's concerns that the Council's pre-application response and determination of the planning application did not take a positive approach or sufficiently consider his and his family's particular circumstances. However, these issues are not determinative as to the acceptability of the appeal proposal. I have therefore considered the proposal on its merits, based on the evidence before me.

Planning Balance

30. The appeal proposal would provide accommodation for the appellant and his growing family in an area where existing properties are financially out of their reach. The development would enable them to continue living in the area, near to their work and their children's schools, and support the appellant's partner's elderly mother, who is finding day to day activities physically demanding and challenging.
31. I have given the appellant's personal circumstances careful consideration. However, I am mindful that in general planning is concerned with land use in the public interest, and it seems to me that the development would be likely to remain long after the appellant's personal circumstances cease to be material.
32. I recognise that planning policies support development to meet locally identified needs and that the Love Braunton Community Forum support the appeal proposal on this basis. It has been put to me that the objections raised by the Council must be considered alongside the principal policy objective of helping address local needs and the particular circumstances that affect the appellant's family and their wish to remain within the village and support the extended family. However, these matters do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan.

Conclusion

33. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR