
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/U1105/W/19/3230467

Land at Road Past Bluehayes House, Bluehayes, Broadclyst, EX5 3BA

- 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 Mrs P Lefebvre against the decision of East Devon District Council.
 - The application Ref 18/0789/FUL, dated 2 October 2018, was refused by notice dated 15 February 2019.
 - The development proposed is described as construction of two single storey dwellings and new footpath landscape works.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Amongst other aspects, the Council's Decision Notice alleges that the appeal proposal would have poor access to services and facilities in Cranbrook. However, it is not alleged that the development would conflict with any development plan policies specifically related to this matter. Despite there being no direct connection to Cranbrook, the evidence before me also indicates that various services and facilities in the town are within a reasonable walking distance of the appeal site.
3. Accordingly, the main issues are whether the proposed development would: be in an appropriate location with particular regard to the character and appearance of the surrounding area; and achieve the objectives of the development plan with regard to access to high quality open spaces and enhancing cycling and walking opportunities.

Reasons

Appropriate location

4. Connected by a no-through private road, Blue Hayes Lane, the appeal site consists of two plots. Plot 1 is situated to the north of the lane, in between Blue Hayes House and a bungalow known as Littleshaw. Plot 2 is located at the end of the lane, near to a property known as Greenacres. However, the spacing between the plots and surrounding built form means that neither plot could reasonably be described as an in-fill site. With a spacious character and verdant appearance, both plots were relatively overgrown at the time of my site visit and contained several mature trees, some of which are preserved. The area immediately surrounding both plots contains scattered, relatively well-spaced buildings along with undeveloped open space and fields with a rural character. To the east and relatively close to the site is phase 1 of Cranbrook. However, Blue Hayes Lane has a distinct, less built-up character. Cranbrook is also separated from the plots by an

undeveloped area containing extensive soft landscaping, and there is no direct access between the site and Cranbrook. The plots' relatively open and undeveloped form, visible from the surrounding area despite the vegetation and trees, means that they relate and positively contribute to their rural surroundings and provide space between the scattered buildings on Blue Hayes Lane. The site's location within the Clyst Valley Regional Park (CVRP) and the physical and visual separation between Cranbrook and Blue Hayes Lane underline this.

5. Although public views of plot 1 are relatively limited, the proposed single-storey dwelling would nonetheless be visible from the surrounding area, including from the lane, surrounding land, nearby properties and Cranbrook station to the north. The development, introducing a dwelling into an undeveloped parcel of land, would therefore be experienced as visually intruding into and eroding the site's verdant and open appearance and the break it provides between Littleshaw and Blue Hayes House. It would also disrupt the visual connection and verdant corridor that the plot affords between the fields either side of the lane. Existing and proposed soft landscaping and boundary treatment on and surrounding the site, including the grass verge on the opposite side of the lane, would be insufficient to prevent the harm. The development would therefore detract from the character and appearance of the locality and appear as an encroaching, suburbanising feature in the rural landscape.
6. With the number of trees on and surrounding plot 2, the proposed single-storey dwelling on plot 2 would be relatively well screened. Nevertheless, it would be visible in the locality, including from the lane, nearby plots and land to the west. Introducing residential development into an undeveloped parcel of land, the development would erode the spaciousness that the plot provides between existing built form. Given the plot's open and verdant nature, it would intrude into the rural landscape and appear as an encroaching feature within it. The dwelling's location, close to Greenacres and the buildings to the north-east, combined with its relatively tall boundary wall – forming part of its northern façade and running adjacent to existing iron fencing – means that the development would create a cramped environment. Despite limited public views of the plot and the development preserving views of the veteran oak, it would nevertheless appear as an incongruous addition and have a suburbanising effect that would detract from the surrounding area.
7. I recognise that the appeal site is in relatively close proximity to phase 1 of Cranbrook, that the East Devon Local Plan 2013 to 2031 (EDLP) identifies Cranbrook as major development and a town rather than a village, and that future expansion of it is anticipated. In relation to this, land adjoining both plots within the appeal site is identified within the EDLP as Cranbrook Expansion Areas and the emerging Cranbrook Development Plan Document (DPD) also identifies much of that land as an expansion area. My attention has also been drawn to an approved development to the east and a pending application for outline planning permission on land surrounding the appeal site. Clearly, therefore, the area surrounding the appeal site is likely to change in the future.
8. However, I have little substantive evidence indicating when it might happen or exactly how the site's context would be affected. The evidence before me also indicates that some land in the vicinity of the site appears likely to remain undeveloped, meaning that the appeal site's contribution to the rural surroundings will not necessarily cease when the future expansion of Cranbrook progresses. Consequently, the potential for further development in the surrounding area does not lead me to a different conclusion.

9. The design, scale and mass of the new dwellings would not appear out of character with surrounding built form, and preserved trees would be retained. Although the development would be visually and physically separated from existing buildings, it would also not lead to new isolated homes in the countryside¹. However, EDLP Strategy 7 defines countryside 'as all those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map'. The evidence before me indicates that the site, in relation to the adopted development plan, is not within a built up area boundary or a site specific allocation, including those for Cranbrook. Accordingly, and even though there are plans for Cranbrook to expand around it in the future, the site is located within the countryside as defined by the EDLP.
10. The Cranbrook DPD is emerging and the Council indicates that the next stage is for it to undergo independent examination. The National Planning Policy Framework (the Framework) sets out that emerging plans can attract weight subject to, amongst other aspects, their stage of preparation and the extent of unresolved objections to relevant policies. Although the DPD submission draft attracted a considerable number of comments, I have little substantive evidence that the comments involve significant objections. It seems to me that its progress through three rounds of public consultation and its relatively advanced stage means that it could, therefore, reasonably attract moderate weight.
11. However, irrespective of the weight to be given to it, the evidence before me – including the Draft Cranbrook Plan Extract provided as part of the appellant's appeal statement – indicates that the emerging DPD does not include the appeal site within the built up area boundary of Cranbrook or within a site specific allocation. Accordingly, the emerging DPD does not change the site from being defined by the EDLP as being within the countryside, and I have little other evidence which indicates that the site should not be considered as being within the countryside as defined by the adopted development plan. In coming to this view, I have taken account of the site's location and the openness of the surrounding area, including in relation to nearby development and the existing built up area of Cranbrook, and the fact that the Framework does not restrict development to only sites within settlement boundaries. However, these matters do not lead me to a different conclusion.
12. EDLP Strategy 7 states that 'development in the countryside will only be permitted where 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'. I have little substantive evidence that the appeal proposal would accord with a specific local or neighbourhood plan policy that explicitly permits such development. Furthermore, and in any event, I have found that the appeal proposal would harm the character and appearance of the locality. Accordingly, Strategy 7 indicates that the appeal proposal should not be permitted.

Access, cycling and walking

13. The emerging DPD policies map submitted with the appeal does not show the site within a park or landscape area such as the Cranbrook Country Park or land identified for Suitable Alternative Natural Green Space (SANGS). However, the adopted development plan shows the site is within the CVRP and the emerging DPD is yet to proceed through independent examination. I have little substantive

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.

evidence that the extent of the CVRP in the adopted development plan and the requirements of EDLP Strategy 10 would cease to be applied once the DPD was adopted. The evidence before me also indicates that the emerging DPD will not, once adopted, supersede Strategy 10. Accordingly, and despite the EDLP not establishing a policy boundary which prevents development within the CVRP, I find that Strategy 10 is applicable to the appeal proposal.

14. Strategy 10 sets out that the CVRP will, amongst other aspects, ensure that residents have easy access to high quality open spaces and enhance cycling and walking opportunities to link movement networks that promote the overall recreational experience. The appeal proposal includes a new footpath which would provide a link across Blue Hayes Lane between the field to the south and the open space to the north. Provision of the footpath would be secured through the legal agreement submitted with the appeal. On this basis, the development could therefore be considered to provide access to open space and enhance cycling and walking opportunities.
15. However, the evidence before me indicates that there is currently limited public access to either space and one of them is currently an attenuation area. While the proposed footpath would provide access to and a direct link between them, it seems to me that the provision of one access point to each area – by means of the proposed footpath link – would not result in particularly easy access to open spaces of a high quality. On my site visit, I observed that the proposed footpath would also not appear to join any existing footpaths. On this basis, and given the physical separation between Blue Hayes Lane and the surrounding area, including only being linked with Cranbrook by the B3174 highway, it seems to me that the proposed footpath would not enhance cycling and walking opportunities that would link movement networks that promote the overall recreational experience.
16. In coming to this view, I have taken into account that future developments, including on allocated land, appear likely to change public access to these areas in the future. I recognise that the pending application for outline planning permission on nearby land shows, amongst other aspects, that the areas that would be linked by the proposed footpath would be SANGS, a similar use as shown in the submitted policies map of the emerging DPD. However, I have little substantive evidence as to when or if such development may proceed, nor when public access provision to the relevant areas may progress. I therefore place limited weight on these matters.
17. For the above reasons, I conclude that the proposed development would not achieve the objectives of the development plan with regard to access to high quality open spaces and enhancing cycling and walking opportunities. I therefore find that it conflicts with EDLP Strategy 10.

Other matters

18. I recognise that the appeal proposal was drawn up following discussions with Council Planning Officers and that it was recommended for approval at Planning Committee. However, these matters are not determinative as to the acceptability of the development. Members are also not required to accept Officers' professional advice, and the Council set out its reasons for refusal in its Decision Notice and substantiated these in its appeal statement. I have therefore determined the appeal on its merits and the evidence before me.
19. My attention has been drawn to the wording of paragraph 11d)ii of the Framework. However, I have little substantive evidence that the policies which are most important for determining the application are out-of-date and I am satisfied that

they are not when regard is paid to the provisions of paragraph 11d). The Framework's tilted balance does not therefore apply in this instance.

20. The proximity of the appeal site to European designated nature conservation sites means that the development would, in combination with other plans and projects, be likely to have a significant effect on the internationally important interest features of these areas. Mitigation measures are therefore required to make the development acceptable and avoid an adverse effect on the integrity of the designated sites. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.
21. A number of neighbours have raised other concerns in relation to the development, such as its effect on adjoining occupiers, wildlife and drainage. However, given I am dismissing the appeal for other reasons, there is no need for me to address these in further detail.

Planning Balance

22. Irrespective of the settlement boundary, the development would be centrally positioned within the wider Cranbrook development area and would not lead to isolated homes in the countryside. There would also be reasonable access to the various services and facilities available within Cranbrook, public transport options and a cycle path into Exeter. It has been put to me that the proposed footpath would, by creating a more direct link, also improve access to these. The development, providing two homes with level access, would therefore be reasonably accessible and would support local services and facilities to some extent. However, the benefits to the local economy and community would be limited given the scale of the development.
23. The footpath would provide a link between land that may be used as accessible parkland or SANGS associated with the future expansion of Cranbrook. However, I have little evidence that the footpath would be essential for access and links to the future parkland identified in the emerging Cranbrook DPD and the pending outline planning application. I also have little evidence as to when or if development expanding Cranbrook and public access provision to the relevant areas may progress. I therefore find that the benefits of the footpath would be limited.
24. Consequently, these matters and the relatively limited benefits of the proposed development do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan.

Conclusion

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

Tobias Gethin

INSPECTOR