
Appeal Decision

Site visit made on 14 August 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2019.

Appeal Ref: APP/U1105/W/19/3226312

Exton Lodge, Mill Lane, Exton EX3 0PJ

- 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 Jordan against the decision of East Devon District Council.
 - The application Ref 18/2733/OUT, dated 30 November 2018, was refused by notice dated 26 February 2019.
 - The development proposed is construction of detached dwelling and garage (outline application seeking approval for access only).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access. However, the application includes an indicative layout plan. Whilst not definitive, I have had regard to the plan as a helpful indication of how the development could take place.
3. The description of the proposed development was amended during the course of the planning application with the agreement of both main parties. I have therefore adopted the description given on the refusal notice in the banner heading above.
4. The site lies within 5km of the internationally designated Exe Estuary Special Protection Areas and the Pebblebed Heaths Special Protection Area and Special Area of Conservation. Whilst not a reason for refusal, it is incumbent upon me as competent authority to consider any such effects on the sites. I therefore address this matter later in my decision.

Main Issue

5. The main issue is whether the appeal site would be suitable for the proposed development having regard to local planning policies on the location of housing and accessibility to services and facilities.

Reasons

6. The appeal site lies towards the edge of the built-up area of Exton, a short distance to the east of the main A376 Exmouth Road.

7. The National Planning Policy Framework (the Framework) reflects planning law in stating that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It further states that where an application conflicts with an up-to-date development plan, it should not usually be granted.
8. The adopted East Devon Local Plan 2013-2031 (January 2016) (the Local Plan) sets out a strategy for accommodating housing development which, through Local Plan Policy Strategy 27, steers growth to a network of named smaller towns and larger villages. These provide a range of facilities and services to meet the basic needs of their residents and those of nearby rural areas and smaller villages. The Policy also recognises that some of the named settlements may have regular public transport services.
9. This approach is broadly consistent with the aims of the Framework in requiring development plans to set out an overall strategy for the pattern and scale of development.
10. Whilst Exton has a range of public transport options, which I consider below, it has a limited range of day-to-day services including a church, village hall, public house and open/play space, together with a petrol filling station with a small convenience shop attached. As such it is not identified as a named villages in the Local Plan's settlement hierarchy. Therefore, for development plan purposes, the appeal site lies within the countryside.
11. To this end, the Local Plan clarifies that, in the countryside, development may be promoted in locations other than that set out in Policy Strategy 27 only where justified in a Neighbourhood Plan or community-led development which promotes the objectives of sustainable development.
12. Similarly, whilst the proposal would not, subject to careful design, be harmful to the character and appearance of the area, it would nonetheless also conflict with Local Plan Policy Strategy 7 which allows development in the countryside only where it is in accordance with a specific local or neighbourhood plan policy that explicitly permits such development.
13. I recognise the site does not lie in an "isolated"¹ location for the purposes of the Framework. Nevertheless, it does not follow that development in all other locations in the countryside is necessarily acceptable. The proposal does not therefore accord with the spatial strategy of the Local Plan.
14. I have had regard to two appeal decisions elsewhere in East Devon, where the Inspectors concluded that the proposals were acceptable outside of a defined Built-up Area Boundary (BuAB)². In those cases, it was concluded that the respective proposals would not compromise the primary functions of the BuABs which are to limit the outward expansion of settlements, prevent unregulated development across the countryside and open areas and to define locations where development would complement sustainable development objectives.

¹ As clarified in *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited* [2017] EWHC 2743 (Admin)

² Appeal Ref APP/U1105/W/17/3181255 – Crosslands and Ref APP/U1105/W/17/3183352 – The Gap, West Hill

15. Whilst the appellants contend that the current appeal would similarly not contradict those objectives, Exton is not, for the above reasons, a location where there is any policy intention to define a BuAB in any event. Even if the proposal did comply their qualifying objectives, it would not therefore be sufficient justification to set aside the strategic policies of the Local Plan, which I am mindful have been prepared and adopted after lengthy public consultation and examination.
16. Turning to accessibility, the settlement is well served by public transport services. In particular the railway station provides frequent services to Exeter and Exmouth. There are also good bus services linking to the same destinations and which run between 0600 and midnight. The village is also served by the off-road Exe Estuary Cycle Trail which forms part of the national cycle network and offers flat and scenic access to Exeter, Topsham and Exmouth.
17. The appeal site is located fairly close to the bus routes although I saw that there is no pavement access to the south-bound stop and this would necessitate crossing and re-crossing the busy A376 road in order to reach it.
18. More generally, the pedestrian route to access most other services in the village, including the railway station, would also require people to cross the A376 and, with the exception of the shop, would involve a rather circuitous walk. Whilst the appellants suggest these are within recommended walking distances, no further evidence in this regard has been proffered.
19. In my judgement, given the distances, the intervening road and the indirect route, the appellants have overstated the accessibility credentials of the site and, in practice, it would be reasonable to expect most journeys to be made by the private car.
20. The appellants have drawn my attention to a number of other decisions which purport to show that the appeal site is accessible. I am not familiar with the background to those case and therefore the circumstances may not be comparable to the current case. Nevertheless, I have considered the submitted decision letters and the appellants' sustainability diagram.
21. Appeal Ref APP/U1105/W/15/3139662 concerned a proposal at Foye in Exton. In that case, the Inspector accepted that the village lacks most local facilities but, in allowing the appeal, noted the site was in immediate proximity to the railway station. As a result of having exceptionally good access to it, it was concluded the proposal was, on balance, acceptable. That contrasts strongly with the case before me where, as I have noted above, the limited village facilities and services and railway station are not particularly accessible from the site.
22. Furthermore, in the case of land east of Orchard Cottage (appeal Ref APP/U1105/W/15/3196758) I note that appeal site lies on the southern periphery of the village close to the village hall and public house and to the west of the A376 Exmouth Road. Moreover, the Inspector concluded that that particular location benefitted from good pedestrian links into the settlement via a short walk on a well-lit pavement, as well as being within a short walk of a sheltered bus stop. That site is also located close to a light-controlled pedestrian crossing providing safe and convenient access to south bound bus services. Again, those are not comparable circumstances to those in the

current appeal. I therefore attach little weight to the above appeals in favour of the case before me.

23. Similarly, whilst the Council's Development Management Committee resolved to grant planning permission for two dwellings at the nearby St Johns site, I have been provided with no details as to the evidence that was before that Committee in making its resolution. Similarly, other than the briefly stated reason that Members considered Exton to be a sustainable location, it is not clear why Members reached that conclusion. In any event, the decision of the Committee is not determinative to this appeal which I have considered on its merits and on the evidence available to me.
24. Consequently, I consider that any accessibility benefits associated with the current appeal proposal would be limited and insufficient to outweigh the conflict I have found with the Development Plan.
25. Drawing this main issue together, the proposal is located on the edge of a small settlement which lies in the countryside contrary to the strategy of the Local Plan as articulated in Policies Strategy 7 and Strategy 27. Furthermore, as the proposal would not minimise the need to travel by the private car, it would not accord with Local Plan Policy Strategy TC2 which requires new development, amongst other considerations, to be well related to compatible land uses so as to minimise the need to travel by car. It is also contrary to the Framework given the proposal conflicts with an up-to-date development plan and therefore should not usually be granted.

Other Matters

26. The Council has indicated that the proposal would be likely, either alone or in combination with other developments in the area, to have a significant effect on designated sites. Accordingly, the appellants have made a payment under s111 of the Local Government Act in order to mitigate any harm in accordance with a strategy developed in South East Devon along with Natural England. This is a matter of some significance as case law has demonstrated that mitigation measures should only be taken into account by a decision-maker, including Inspectors at appeal, having first undertaken a project-specific Appropriate Assessment (AA). However, as the appeal is unacceptable for other reasons, it has not been necessary for me to consider this matter further.
27. The appellants submit that the proposal would be sustainable development, for which there is a presumption in favour, with reference to paragraph 11 of the Framework. The Framework sets out three overarching economic, social and environmental objectives for sustainable development. However, it is also stated that these are not criteria against which every decision can or should be judged and that the 'presumption' does not change the statutory status of the Development Plan as a starting point for making a decision. As there is no evidence before me to indicate that the relevant Local Plan policies are not up-to-date, the tilted balance is not engaged in this case.
28. Nevertheless, the proposal would have a number of economic, social and environmental benefits to which I have had regard. The dwelling would make a contribution to local housing land supply, support construction jobs and local services and businesses. The proposal could also provide biodiversity gains and make efficient use of the land.

29. Furthermore, whilst the appellants describe the development as replacing existing development, I saw that the site is vacant. Even if I were to consider it previously developed land, it does not to my mind, currently detract from the character and appearance of the area. Any such benefit associated with its development would therefore be limited. Furthermore, whilst I have had regard to an expression of support submitted by an interested party, that is not in itself reason to grant permission.
30. The scheme could be designed to a high standard and would not, subject to detailed design, be harmful to the living conditions of neighbouring occupiers or to the character and appearance of the countryside. There would also not be any unacceptable effect on the operation of the highway network or road safety. However, these are neutral considerations in the planning balance.
31. Overall, therefore, the benefits associated with the development of a single dwelling are limited and insufficient to outweigh the conflict I have found with the Development Plan.

Conclusion

32. For the aforementioned reasons, the appeal should be dismissed.

Ian Bowen

INSPECTOR