
Appeal Decision

Site visit made on 5 November 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/Y1138/W/19/3234899

Land Adjacent to Hill View, Road from Woodleigh Hill to Cheriton Cross, Cheriton Bishop EX16 6JL

- 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 Paul Nickells of SAS Europe Ltd against the decision of Mid Devon District Council.
 - The application Ref 18/01948/OUT, dated 27 November 2018, was refused by notice dated 11 February 2019.
 - The development proposed is described as outline for the erection of 5 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency.
3. Outline planning permission is sought with all matters reserved. The details submitted with the application include reference to layout. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site might be developed. I have determined the appeal on this basis.
4. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issue

5. The main issue in this appeal is whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development and the effect of the proposal on the character and appearance of the surrounding area.

Reasons

6. The appeal site comprises an irregular shaped field which slopes downhill from south to north. The site is enclosed to the north and east by open agricultural fields. The southern boundary of the site comprises a well established hedge

which borders a roughly grassed verge which is substantial in terms of its depth and which runs adjacent to the highway. Due to the presence of open agricultural land and established hedgerows, and by reason of the site being, in my view, physically and visually divorced from the nearby settlement of Cheriton Bishop, I consider that the appeal site is located within the countryside.

7. Policy COR18 of the Mid Devon Local Development Framework Core Strategy 2026¹ (the Core Strategy) seeks to restrict new development within the countryside, except in specific circumstances where the proposed development would fulfil particular criteria aimed at sustaining and promoting the rural economy. The appeal scheme is for open market dwellings with no affordable housing provision and the proposal has not been submitted on the basis that the proposed accommodation would be essential for rural workers or would be an appropriately scaled extension to an existing building. Consequently, the scheme fails to accord with any of the criteria provided under this Policy.
8. Policy COR1 of the Core Strategy concerns sustainable communities and which, amongst other things, also seeks to meet housing needs for all sectors of such communities, including the provision of affordable housing.
9. The evidence before me refers to isolated homes in the countryside and paragraph 79 of the Framework. The Framework does not define what is meant by the term 'isolated'. However, a court judgement² determined that 'isolated' should be given its ordinary objective meaning, being 'far away from other places, buildings or people'.
10. Whilst I accept that the appeal site is located close to the settlement boundary of Cheriton Bishop, it is nonetheless physically separated from that village and would be located some distance from the services and facilities, such as the Doctor's Surgery, the village shop, the primary school and the parish church. I therefore consider that in this regard the site can be described as isolated. As noted above, the scheme is not for affordable housing, nor would be essential to meet the needs of agricultural workers. Furthermore, the proposed development would not re-use redundant or disused buildings and, accordingly, the scheme would not accord with the provisions of paragraph 79 of the Framework
11. For the above reasons the appeal scheme would conflict with the development plan and the Framework with regards to its location within the countryside where no justification for housing in such a location is provided. I attach significant weight to this conflict in the determination of this appeal.
12. As noted by the Inspector in a previous appeal³ which concerned this site, the appeal scheme would be located outside of the settlement and in an area where urbanising features such as footpaths and street lighting do not exist. The surrounding area is rural in character with the appeal site, and the established hedgerow which forms the southern boundary of the site, making a positive contribution to the rural appearance of the surrounding area and the setting of Cheriton Bishop.

¹ Adopted July 2007.

² Braintree District Council v Secretary of State for Communities and Local Government [2017] EWHC 2743 (Admin).

³ Appeal Reference: APP/Y1138/W/16/3144777

13. Whilst I acknowledge that the planning application is for outline permission with all matters reserved and that, consequently, matters such as access, design and layout can be refined, there is nothing to persuade me that this would be anything other than a limited scale modern estate type development located outside of the edge of the nearby village.
14. Accordingly, the appeal scheme would alter the appearance of the site from undeveloped countryside to domestic residential with the lighting, activity and domestic paraphernalia that would entail, and, as such, would have an urbanising effect on this rural countryside location. This would be harmful to the character and appearance of the surrounding area and detrimental to the quality of the rural landscape.
15. The Framework provides that the concept of sustainable development comprises three mutually dependent dimensions – being the economic, social and environmental elements of the proposal.
16. In this respect, the proposal would provide limited social benefits in terms of a contribution of five dwellings towards housing supply. Whilst it has been put to me by the Appellant that the scheme would make use of a brownfield site, there is no evidence before me which indicates or confirms that the site can be considered to be previously developed land within the context and definitions of the Framework. Furthermore, whilst I acknowledge that the proposal would provide a separate new pavement which would connect the appeal site to Cheriton Bishop, such provision would only serve as a benefit to the residents of the appeal scheme. Consequently, this limits the weight that can be attached to this form of proposed benefit.
17. The scheme would provide some limited economic benefits in terms of employment opportunities during the construction phase. The Framework also recognises that new housing can contribute to the vitality of rural communities by helping to support local services. As such, I accept that additional households at the appeal site could play a small part in supporting the viability of the services located within Cheriton Bishop and the surrounding area.
18. However, the sustainability of the proposed development cannot be assessed against these criteria alone. In this regard, I have concluded that the appeal site would be located in the countryside where no justification for such housing has been provided and that the appeal scheme would be harmful to the character and appearance of the surrounding rural area. This would be in conflict with the environmental dimension of sustainable development.
19. For the above reasons, the appeal scheme would conflict with Policy COR18 of the Core Strategy. Furthermore, the proposal would conflict with Policy COR2 of the Core Strategy and Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) 2013 which requires that development integrates into its surroundings and sustains the distinctive quality, character and diversity of Mid Devon's environmental assets. The proposed scheme could not be considered to be sustainable development in the terms of the Framework or in terms of Policy COR1 of the Core Strategy for which there is a presumption in favour of.
20. In summary of the above, the proposal's conflict with the development plan when taken as a whole, weighs significantly against the appeal scheme. For the reasons given, I conclude that the potential benefits described above, either

singularly or in combination, would attract only limited weight and, consequently, would not outweigh the harm identified in relation to the development plan conflict.

Other Matters

21. In support of the planning application, the Appellant has provided a Planning Policy Support Statement in which the Appellant maintains that the local planning authority cannot currently demonstrate a five year land supply and as a result the tilted balance under paragraph 11 d) of the Framework should apply to the appeal development. The Council dispute that they are currently unable to demonstrate a five year land supply.
22. In this regard, even in the event that the Council were unable to demonstrate a five year land supply, I have concluded that the appeal scheme would not constitute sustainable development within the context of the Framework. Consequently, the presumption in favour of sustainable development contained within the Framework would not apply to the appeal proposal.

Conclusions

23. For the reasons given above, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR