
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: 03 December 2019

Appeal Ref: APP/Y1138/W/19/3234861

**Land and Buildings at NGR 294119 106891 (adjacent to Highfield),
Bickleigh, Devon EX16 8RQ**

- 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 Jed Hewitt against the decision of Mid Devon District Council.
 - The application Ref 18/00735/OUT, dated 29 April 2018, was refused by notice dated 25 May 2018.
 - The development proposed is described as outline for the erection of 7 dwellings with new access (revised scheme).
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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, in the interests of accuracy and consistency.
3. Outline planning permission is sought with all matters reserved except for access and layout. 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 Issues

5. The main issues are:
 - Whether the proposed development would be in a suitable location for housing with regards to National and Local Planning Policy;
 - Whether the proposed development would preserve or enhance the character or appearance of the Bickleigh Conservation Area (the Conservation Area) and its effect on the setting of nearby listed buildings; and
 - In light of my findings on the above issues and any benefits brought forward by the proposal, whether the scheme would constitute a sustainable form of development.

Reasons

Location of Development

6. The appeal site is a sloping field enclosed by established hedgerows. The site is bordered to the east and west by roads, with the site sloping down steeply from east to west. The site is located approximately four miles south of Tiverton and approximately 11 miles north of Exeter. In my view, and by reason of the presence of residential development adjacent to the site towards the east and south, the appeal site is located within the settlement of Bickleigh and is semi-rural in character and appearance.
7. However, the appeal site is outside of any settlement as defined in the adopted Mid Devon Local Development Framework: Core Strategy 2026¹ (the Core Strategy) and is, therefore, in the countryside for development plan purposes. In their submissions, the Council refers to paragraph 79 of the Framework which concerns isolated homes in the countryside. In this respect, the appeal site is not remote from buildings, people and some services, and therefore may not be regarded as being isolated. The provisions of paragraph 79 of the Framework therefore do not apply to the appeal proposal.
8. Policy COR18 of 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.
9. The appeal scheme is for open market dwellings and has not been submitted on the basis that the proposed accommodation would be essential for rural workers, nor would be for community facilities or for employment. Consequently, the scheme fails to accord with any of the criteria provided under this Policy. However, as is acknowledged by the Council, Policy COR18 of the Core Strategy is not consistent with the provisions of the Framework and, as such this limits the weight that I can attach to the appeal scheme's conflict with the local development plan.
10. Paragraph 103 of the Framework indicates that whilst development patterns should be managed so as to reduce reliance on private motor vehicles, opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Paragraph 78 of the Framework provides that rural housing should be located so as to allow communities to grow and thrive, especially where it would support local services. The Framework goes on to explain that development in one village may support services in other villages nearby and, in this respect, I acknowledge the potential for future residents to support such services and support the vitality of nearby settlements.
11. Bickleigh provides access to some services and facilities including a primary school, church, village hall, cafes, public houses and a shop which provides for some basic needs. The evidence before me also indicates that there are some other commercial enterprises, such as a brewery and hairdresser, which, in addition to the hospitality businesses located within Bickleigh, could also provide employment opportunities for local residents. There is access to bus stops which provides regular services to the nearby larger settlements of Exeter and Tiverton.

¹ Adopted July 2007

12. However, access on foot or by bicycle to the services contained within Bickleigh, including access to the nearest bus stops and access to those facilities which are located across the bridge over the River Exe, would be achieved either by travelling along the A396 main road west of the site, or via a proposed pathway which would connect the proposed development to the narrow lane which runs adjacent to the eastern boundary of the site. There are no pedestrian footways or lighting on the section of the A396 connecting the site to the village, and access to the narrow lane east of the site would require travellers to climb the steep hillside before entering the lane which also does not provide the benefit of street lighting or dedicated pedestrian footways.
13. Consequently, whilst a walk or cycle to the nearest services and facilities may be practical for some able bodied individuals in good light and good weather, in my view it would unlikely be so for the elderly, those with restricted mobility or even perhaps for all during darker and more inclement autumn and winter months. As such I conclude that use of a private motor vehicle is likely to be the main mode of transport of any future occupants of the proposed dwellings. Whilst dependence on private vehicles may be expected in countryside locations, the proposal would only exacerbate this level of reliance. It would contribute to a pattern of development that would be likely to cause environmental harm as a result of increased car journeys and hence carbon emissions.
14. In summary of the above, while the proposal would conflict with Policies COR12 and COR18 of the Core Strategy, the provisions of the Framework lends support to the appeal proposal in terms of the location of the development where future residents may help maintain or enhance the vitality of Bickleigh and other nearby settlements, and where it is recognised that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I shall return to these matters in the Planning Balance section below.

Heritage Assets

15. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a conservation area, listed building or its setting, to have special regard to the desirability of preserving such heritage assets, their setting or any features of special architectural or historic interest.
16. The appeal site is located within the Conservation Area. From the evidence before me, and from observations made on my site visit, the Conservation Area is characterised by a mix of cottages and historic buildings which are arranged around a network of narrow lanes. Outside the core of the village towards the south, the pattern of development changes to some degree, with properties being positioned in a linear pattern adjacent to a single track lane leading out of the village. The site is located just outside of the core of the village, with the established hedgerows which form the border between the site and the adjacent highways, and the verdant nature of the sloping field site, contributing positively to the character and appearance of this part of the Conservation Area.
17. The appeal proposal would be close to the Grade II listed buildings known as Wells Place, Hayridge and Ivy Cottage, which are located east of the site and in an elevated position above the adjacent highway. The Historic England listing

describes Wells Place and Hayridge as comprising whitewashed plastered stone and cob buildings with thatched roofs which are likely to have been originally constructed circa mid seventeenth century but with later extensions. Historic England listing describes Ivy Cottage as comprising a whitewashed and rendered building with thatched roof which is likely to have been originally constructed during the eighteenth century.

18. By reason of the elevated position of the aforementioned listed buildings above the level of the lane which runs adjacent to the eastern boundary of the site, there are some views of the site across the top of the hedgerow which borders the appeal site. Furthermore, given the sloping nature of the land which falls away from the location of the listed buildings, the said listed buildings are in a prominent position and highly visible within the wider landscape.
19. In my view, the appeal site contributes to the setting of these listed buildings due to its open, verdant nature and rich vegetation which encloses the site. Whilst I acknowledge that views from the listed buildings alone do not define the setting of such heritage assets, the listed buildings would be visible within the wider surrounding area and would be seen in the context of the proposed development. When viewed from the wider surrounding area, the layout and spread of the appeal proposal, whilst being contained within the lower section of the field, would draw the eye away from the listed buildings positioned further up the slope of the hill, and would therefore be harmful to the significance and setting of these heritage assets.
20. Furthermore, the appeal proposal would introduce built development which, due to the layout of the proposed dwellings being arranged in a group around a cul-de-sac, would not reflect the linear pattern of development in this part of the village and Conservation Area. In combination with the removal of a substantial section of hedgerow in order to provide access and appropriate visibility splays, the appeal proposal would result in a change to the character and appearance of this part of the Conservation Area and, as a whole, the scheme would fail to preserve or enhance the character or appearance of the Conservation Area.
21. Overall, I conclude that the development would be harmful to the setting of the abovementioned listed buildings as well as being harmful to the character and appearance of the Conservation Area. Paragraph 193 of the Framework provides that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm should require clear and convincing justification in line with paragraph 194 of the Framework.
22. Due to the presence of a number of modern nearby developments located adjacent to the appeal site, and given that the appeal site cannot be seen from a significant portion of the Conservation Area, in terms of the Framework, I conclude that the proposal would lead to less than substantial harm to the heritage assets described above and, accordingly, this harm should be weighed against the public benefits of the scheme in line with paragraph 196 of the Framework. I will return to these matters in the planning balance section given below.

Other Matters

23. The main parties have referred me to a number of appeal decisions and cases in relation to this appeal. However, whilst I have considered these matters carefully, I do not know all of the circumstances that applied in those cases and appeals and, consequently, I cannot therefore be sure that they are comparable to this matter and the appeal site. I have therefore determined the appeal on its own merits.

Planning Balance

24. As noted above, the proposal would result in less than substantial harm to the identified heritage assets and as such this harm must be weighed against the public benefits of the appeal scheme. In this instance, the proposed development would provide short term employment opportunities during the construction phase, and I acknowledge that future occupants may contribute to the vitality of the village and viability of its businesses.
25. Further benefits would also arise by reason of the contribution made towards local housing supply and due to financial contributions, including a contribution towards off site affordable housing provision, made by the proposal. However, in my view and by reason of the modest scale of the proposed development, the benefits which the appeal scheme would bring are moderate in scale, and taking the above points together, the harm to the Conservation Area and listed buildings would outweigh the benefits of the proposal.
26. Consequently, the proposal would conflict with Policy COR2 of the Core Strategy and Policies DM2 and DM27 of Mid Devon Local Plan Part 3 (Development Management Policies) 2013 (the DMP) which, together and amongst other things, require that development preserve and enhance the historical environment. The proposed development would also not accord with the provisions of the Framework which seek to protect heritage assets.
27. Furthermore, whilst the proposal does provide the abovementioned benefits in terms of the economic dimension of sustainable development, the identified harm to heritage assets and the likely reliance on private motor vehicles to access a wide range of services and facilities would not accord with the principles of the environmental or social dimensions of sustainable development as outlined in the Framework. Consequently, when taken as a whole, the appeal scheme could not be considered to be sustainable development in terms of the Framework or in terms of Policy COR1 of the Core Strategy and Policy DM1 of the DMP for which there is a presumption in favour of.
28. The appellant has put it to me that the Council cannot currently demonstrate a five year housing land supply and that, consequently the 'tilted balance' under paragraph 11 d) of the Framework is engaged. The position with regards to current housing land supply is disputed by the Council. However, and notwithstanding the above, paragraph 11 (d) (i) advises that where the application of policies within the Framework provides a clear reason for refusing a development proposal, the presumption in favour of sustainable development does not apply. Designated heritage assets are specifically protected within the associated Footnote 6. The harm to the Conservation Area and listed buildings is therefore sufficient reason to dismiss the appeal, regardless of whether or

not the Council is able to demonstrate a five year supply of deliverable housing sites.

Conclusions

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

A Spencer-Peet

INSPECTOR