
Appeal Decision

Site visit made on 27 November 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/K1128/W/19/3236347
Whiteoaks, Davids Lane, Filham PL21 0DW

- 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 Mrs Rachel French against the decision of South Hams District Council.
 - The application Ref 1386/19/OPA, dated 16 April 2019, was refused by notice dated 14 August 2019.
 - The development proposed is construction of 2 residential dwellings on an infill site, formerly Whiteoaks camp site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application subject of this appeal was submitted in outline with all matters reserved. I have therefore determined the appeal on this basis.
3. I acknowledge the appellants reference to the content of submission versions of the adopted Plymouth & South West Devon Joint Local Plan (2019) and various examination documents that they contend suggest a misinterpretation of policy by the LPA. However, I must have regard to the adopted version of the development plan and the following assessment is based upon formally adopted policies.

Main Issues

4. The main issues are i) whether the proposed development would be in a suitable location having regard to local and national planning policies; and ii) the effect of the proposed dwellings on the character and appearance of the area.

Reasons

Suitability of the location

5. The appeal site is a grassed area currently enclosed to the road by a bank and hedgerow. The site is accessed by an agricultural gate from Davids Lane and it is indicated that it was formerly used as a campsite with the toilet block still on site. There is existing development within the vicinity of the site with the dwelling of Whiteoaks to the north and commercial units within Whiteoaks Court to the south. However, the pattern of development is relatively loose-knit

- with open farmland to the west and east, providing a generally rural and verdant character.
6. The appellant contends that SPT1 and SPT2 of the adopted JLP are strategic policies and are not directly applicable to the determination of this appeal. However, from my assessment of these policies it is evident that they relate to the delivery of sustainable development and underpin other policies including TTV1 of the adopted JLP. The plan was adopted after, and the noted policies are generally consistent with, the provisions of the National Planning Policy Framework (the Framework) and as such I consider them to be of relevance.
 7. Policy TTV1 provides details of the distribution of development based on a hierarchy of sustainable settlements. Having regard to the definitions included within TTV1 of the adopted development plan it is evident, even in the absence of defined settlement boundaries, owing to its characteristics and location, that the appeal site does not fall within a main town, smaller town and key village or a sustainable village as identified within the plan. As such it would fall within category 4 smaller villages, hamlets and the countryside where development is only permitted where it supports sustainable development and communities (as detailed in SPT1 and SPT2) and detailed within TTV26. In this regard I consider Policy TTV26 'Development in the countryside' is of direct relevance to the appeal proposal.
 8. Policy TTV26 of the JLP seeks to protect the special characteristics and role of the countryside. This includes part 1 that seeks to restrict isolated development within the countryside unless there are exceptional circumstances, such as provision of a dwelling for a rural worker (i), it would secure future of a significant heritage asset (ii) or be of a truly outstanding or innovative sustainability and design (iv). These criteria are consistent with paragraph 79 of the Framework.
 9. Paragraph 79 of the Framework states that '*planning policies and decisions should avoid the development of isolated homes in the countryside.*' Having regard to Braintree District Council v Secretary of State for Communities and Local Government & Ors (2017) EWHC 2743 (Admin) and the subsequent Court of Appeal Judgement, the term isolated in relation to paragraph 79, should be given its ordinary objective meaning of "*far away from other places, buildings or people (Oxford Concise English Dictionary)*". As the proposed dwellings would not be far away to existing buildings, it would not strictly be isolated when applying the aforementioned definition.
 10. Notwithstanding the above, Policy TTV26 of the JLP seeks to restrict 'isolated development' and has been adopted since the Braintree judgements and the most recent revision of the Framework. The supporting text of this policy (paragraph 5.169) elaborates upon the form of development that the policy seeks to restrict, stating that '*the delivery of new homes that are distant from existing services and amenities do not represent a sustainable solution to the need for new homes in rural areas. The policy therefore provides criteria that need to be met before a development proposal can be supported in the countryside.*'
 11. There is some debate between the parties with regard to the position of the appeal site relative to local services and I acknowledge that the distances noted within SPT2 are not intended to be a 'tick-box exercise'. However, on the evidence before me, I consider that the site is not a close walking distance to a

number of services and facilities that future occupiers would be reliant upon for day to day living purposes. Although I acknowledge that there are narrow footways, a bus stop on the B3213 and the proximity of the railway station, noting the separation from a number of essential services, I consider that the location of the appeal development would result in future occupiers being largely reliant on the private motor car. As such I consider that the appeal proposal can be considered as 'isolated development' for the purposes of Policy TTV26 of the JLP. No evidence has been provided to indicate that the proposal would meet any of the exceptional circumstances of Policy TTV26, and in this regard, I find the appeal proposal would not accord with the provisions of this policy.

12. The appellant indicates that significant weight should be afforded to the position of the site adjacent to an allocation within the JLP for 200 houses under Policy TTV7. From the evidence before me, a planning application is before the Council for the delivery of this site although this has yet to be determined. Whilst I acknowledge the allocation of this site within the development plan, there is no guarantee that the site will be developed or indeed when; whether functional links would be provided between services and the appeal site; or the specific form of development within the allocated site. Although the situation may change in the future this is the circumstance at the present time.
13. In this regard I also note the appellants contention regarding the lack of definition of settlement boundaries and that it would be illogical that the eastern edge of the allocated site be considered as the boundary of the settlement. I have no evidence before me to indicate that settlement boundaries have been defined at this time. As such, for similar reasons detailed above, in lieu of the status of the adjoining site, it would be presumptuous at this time to consider the likely position of any such settlement boundary. Therefore, I am not persuaded that the position of the site adjacent to a allocation for housing development within the JLP; the lack of current definition of settlement boundaries, or the appellants contention that the appeal site could have been considered as part of this allocation, alters my view with regard to the current suitability of the site for residential development or that the site falls within the countryside.
14. As such the proposals are at odds with the Council's development strategy as detailed within TTV1 of the JLP; would not accord with the requirements of Policy TTV26 and would fail to provide a suitable, sustainable or accessible location for housing having regard to Policies SPT1, SPT2, TTV1 and TTV26 of the JLP and the Framework, including paragraphs 78 and 79.

Character and appearance

15. The appeal development would sit between existing commercial units to the south and a dwelling to the north. Although I acknowledge the historic use of the site as a campsite and that the toilet block remains on-site, it largely retains an undeveloped appearance. Owing to the separation between development, in my mind it also represents a substantial gap in the frontage between built form and does not represent a logical infill site for the purposes of UG5 of the Ugborough Neighbourhood Plan 2018 (NP). Whilst there is built development in the vicinity of the site that is evident within the wider landscape, this is loose-knit and informal in its form. Although the development

may be currently screened by hedgerow and notwithstanding the modest density of the proposal, the addition of two dwellings within the site would further consolidate built form in this area at odds with the generally dispersed pattern of development. Although I acknowledge that the proposals have been submitted in outline with all matters reserved, the proposed addition of two additional dwellings would not have proper regard to the pattern of development, at odds with the generally rural sense of place that is currently evident on the lane.

16. Whilst I acknowledge the appeal site's location adjacent to a site allocated for residential development, the land to the west maintains an undeveloped character. Owing to the current status of the site including lack of definitive timescale, form or certainty of delivery, this in my mind does not result in a presumption for additional built form in this location. Although the appellant contends that the appeal site sits on a transition between countryside and the town, I am not persuaded that this is the case and the proposal would introduce additional built form within a generally rural and verdant context.
17. Although detailed design of the dwellings would be a reserved matter considered under future applications, I am not persuaded that the appeal development would necessarily be overly visible or prominent within the wider landscape. As such I do not find conflict with policies UG11 of the NP or DEV23 of the JLP, although I still find harm with regard to the immediate context and rural sense of place that is currently evident at the site.
18. For the above collective reasons, I conclude that the proposal would have a significantly harmful effect on the character and appearance of the area and would not accord therefore with Policy DEV20 of the JLP which seeks to, amongst other things, ensure that development has regard to pattern of local development and sense of place; and Policy UG5 of the NP that seeks infill sites that are within a restricted gap in a continuity of existing frontage or built up area.

Other matters

19. I note the lack of objection received from the Parish Council and the letter of support received with the application. Even in the absence of objection from the parish council with regard to neighbourhood plan policies, it is incumbent upon me to consider the proposal in line with the relevant policies. Furthermore these representations do not outweigh the harm I have identified with regard to the main issues.
20. The appellant has commented that another consent for similar development has recently been granted to the north of Whiteoaks and the Local Authority has been inconsistent in their determination of the appeal proposal. Whilst some detail has been provided, I am not familiar with the specifics of the case and it was approved prior to the adoption of the JLP. In any event, I have determined the appeal on its individual planning merits.
21. The appellant contends that the application of policy in a similar way to this proposal would sterilise other sites allocated for development through the JLP. Although I note these comments, limited evidence has been provided to support this claim and I have considered the appeal proposal on its individual planning merits.

22. My attention has been drawn to planning permission being granted on a nearby allocation under Policy TTV6. However, from the evidence before me this is not immediately adjacent to the site and is for development allocated within the adopted development plan. This does not in itself overcome my conclusions on the main issues.
23. I note the site has an extant licence to be operated as a caravan site, although I am not persuaded that the level or nature of impact from this use would be commensurate to that of the appeal development, and do not consider this outweighs my findings above. Additionally, whilst the appellant contends the site may be too small for agricultural use, in my mind this does not result in a presumption for additional built development within the site.
24. Reference is also made by the appellant to the opinions and debate at committee of officers and Councillors involved in the determination of the original planning application. However, this has little bearing on the planning merits and consideration of this appeal.
25. None of the other matters outweigh or alter my conclusions on the main issues.

Conclusion

26. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR