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# Appeal Decision

Site visit made on 17 December 2019

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 January 2020**

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**Appeal Ref: APP/K1128/W/19/3237202**

**Wilma, Woodcourt Road, Harbertonford, Totnes, Devon TQ9 7TY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr Liam Nally against the decision of South Hams District Council.
  - The application Ref 0573/19/PIP, received by the LPA on 20 February 2019, was refused by notice dated 18 July 2019.
  - The development proposed is one new dwelling.
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## Decision

1. The appeal is allowed.

## Procedural Matters

2. The appeal proposal is for a Permission in Principle. In accordance with the Planning Practice Guidance (the Guidance) and the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order), this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage). The appeal proposal is at the first stage and therefore I have considered the principle of the scheme. The scope of the first stage is limited to location, land use and the amount of development.
3. The Plymouth and South West Devon Joint Local Plan 2014- 2034 (JLP) was adopted on 26 March 2019. This was after the submission of the planning application but before its determination. Therefore, notwithstanding the reference to the emerging JLP policies within the appellant's Supporting Planning Statement, I am satisfied that the Council's decision was made on the basis of the adopted JLP policies. Both parties refer to the adopted policies within the appeal documentation. Accordingly, I have dealt with the appeal on this basis.

## Main Issue

4. The main issue is whether the principle of the appeal proposal is acceptable, having regard to whether the proposed development would provide a suitable location for housing, in respect of the accessibility of services and facilities and the character and appearance of the area.

## Reasons

5. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages (TTV) Policy Area. The policy supports development which accords with the Council's settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside. The supporting text to Policy TTV1 confirms that Harbertonford is a Sustainable Village for the purposes of Policy TTV1, with a limited but vital provision of services and amenities. In respect of development within Sustainable Villages, Policy TTV1 states that development to meet locally identified needs and to sustain limited services and amenities will be supported. The supporting text to Policy TTV1 confirms that the JLP envisages growth in the identified Sustainable Villages to meet local needs, and encourages communities to identify sites to meet these needs through neighbourhood plans.
6. JLP Policy TTV25 confirms the number of homes sought to be provided from Sustainable Villages as part of the overall housing supply for the TTV Policy Area. The Policy advises that development within the Sustainable Villages, including the indicative level of housing set out in Figure 5.8, which in the case of Harbertonford is around 30 dwellings, should be provided through neighbourhood plans, unless such provision would conflict with other policies of the JLP. Policy TTV25 confirms that within Sustainable Villages without neighbourhood plans, the LPA will still support development that meets the identified local needs of local communities and development which responds positively to the indicative housing figures set out in Figure 5.8, and that development proposals will be considered against the other policies of the JLP.
7. The supporting text to Policy TTV25 confirms that the JLP does not specifically allocate sites for development in the Sustainable Villages. Rather, an approach is taken which aims to enable development to come forward in these villages which reflects their sustainability, and which responds to local needs. JLP paragraph 5.161 confirms that in these locations it is important to strike a balance to ensure new development maintains or improves the viability of the villages whilst also being of an appropriate scale and meeting the needs of local people, and respecting the character of the villages, particularly of any landscape designations.
8. JLP Policy TTV2 confirms that the LPA will support developments within the TTV Policy Area which reinforce the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development, including the location of housing where it will enhance or maintain the vitality of rural communities and the delivery of affordable homes that enable rural communities to remain vibrant.
9. The aforementioned policies are broadly consistent with the National Planning Policy Framework (the Framework) aims of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.
10. The Council's view is that the appeal site is not within the village, or within the historic development boundary, and does not form a contiguous part of the built form of the village. Also, the Council contends that it has not been demonstrated that the proposal meets the identified local needs of the local

community. As such, the LPA maintains that the proposal does not accord with the provisions of JLP Policy TTV25.

11. The Council considers that the proposal should be considered against the criteria in JLP Policy TTV26 (development in the countryside) which aims to protect the special characteristics and role of the countryside, avoiding isolated development in the countryside except in exceptional circumstances in accordance with Paragraph 79 of the Framework. The Council has also assessed the appeal scheme against JLP Policy DEV23, which requires new development to conserve and enhance landscape, townscape and seascape character and scenic and visual quality, avoiding significant and adverse landscape or visual impacts.
12. The Council contends that the proposal would not accord with policies TTV26 and DEV23, due to harm to the rural countryside setting of the appeal site as a result of the introduction of a dwelling and the associated residential paraphernalia into this location, the creation of an unacceptable pattern of development well beyond the edge of the settlement, and the lack of proven essential agricultural, forestry or other occupational need that requires a countryside location.
13. The appellant asserts that the appeal site is within the village of Harbertonford, and that the appeal scheme accords with the criteria of JLP Policy TTV25. The appellant contends that the appeal site does not lie in an isolated countryside location, and would not harm its rural setting, so that there would be no conflict with JLP Policies TTV26 and DEV23.
14. The appeal site comprises a rectangular-shaped area of land fronting onto the north side of Woodcourt Road, to the west of the village of Harbertonford. Woodcourt Road is a single track, un-lit lane which terminates at Woodcourt Farm further west. In addition to serving the appeal site, it serves a complex of farm buildings and residential properties at its western end, and residential properties, the village hall and playing fields/football ground to the east of the appeal site.
15. The site is flat and grassed and comprises part of the extended garden area of the residential property known as Wilma, to the east of the site. The appeal site boundaries are defined by hedging, and there is a farm-gated vehicular access onto Woodcourt Road. Wilma is a one and a half storey dwelling, with detached annexe and garage buildings to its side.
16. The supporting text to JLP Policy TTV1 confirms that the JLP does not define settlement boundaries, and that neighbourhood plans may choose to identify settlement boundaries for their towns and villages. There is currently no 'made' neighbourhood plan with respect to Harbertonford, and therefore no defined development plan settlement boundary for the village.
17. I acknowledge that the appeal site is detached from the tight urban form of the built-up part of the village, and has a distinctly more rural character, since Wilma is surrounded by open fields. However, although separated from the village hall and football club buildings by playing fields and a field used for equestrian activities, the appeal site and the host property are, nonetheless, located in relatively close proximity to the built-up core of the village, including the row of residential properties on the opposite side of the road.

18. Both parties are agreed that the appeal site is within reasonable walking distance of the services, facilities, employment opportunities and public transport links within the village, which include a post office, shop, public house and bus stop. Although single track and unlit, Woodcourt Road is a no-through road, with a relatively low number of traffic movements. I therefore find that walking would be a feasible means of accessing the village facilities and services from the appeal site. The appellant has also advised that the land used as a pony field to the east of the appeal site, as well as the appellant's land, has been used for village community events, including camping, musical events, parking, village fetes and community classes, so that the appeal site has an affinity with the functional aspect of the village community.
19. The Braintree caselaw<sup>1</sup> concluded that the definition of 'settlement' within the context of paragraph 79 of the Framework is not defined and that the Framework contains no definitions of a 'community', a 'settlement' or a 'village', so that whether a site is considered 'isolated' or not, will be a matter of fact and planning judgement for the decision-maker. Having regard to the lack of defined village settlement boundary in the development plan, and the aforementioned proximity of the appeal site to the western edge of the built-up area of the village, and the ease of access to facilities and services by means other than the car, I find that the appeal site can be considered to be within Harbertonford for the purposes of JLP Policy TTV25.
20. Both parties refer to the emerging Harberton Parish Neighbourhood Plan (the NP). The planning application officer report confirms that the Council afforded it no weight in the determination of the planning application. However, the application decision preceded the publication of the Draft NP dated 31 October 2019. The appellant has drawn my attention to the NP identified local need, which includes small scale housing development, with an emphasis on providing affordable/low cost housing to provide both starter homes and properties suitable for elderly residents to downsize, in order to enable residents to stay within the parish. The appellant identifies the latter as specifically applying to the appeal proposal. The appellant also refers to the JLP housing allocation of 30 dwellings for Harbertonford and the Draft NP greenfield sites identified for the potential provision of this housing.
21. Whilst the NP is currently at draft stage, I accord some weight to the aforementioned aspects of the Draft NP, since it has been produced following public consultation and questionnaire surveys, and identifies specific housing requirements for Harbertonford, in conjunction with the JLP. Accordingly, I find that the provision of an additional dwelling on the appeal site would make a contribution towards the identified local housing needs of the local community, in accordance with the criteria of JLP Policy TTV25.
22. In respect of JLP Policy TTV26, I do not find the appeal site to be an 'isolated' countryside location, having regard to the Braintree caselaw, so that the principle of a new dwelling on the appeal site does not have to be justified in accordance with the exceptions within paragraph 79 of the Framework.
23. Having regard to JLP Policies TTV26 and DEV23, the appeal site lies immediately adjacent to the residential property of Wilma and its associated outbuildings, and both parties are agreed that it lies within the residential

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<sup>1</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

garden of that property. It could, therefore, potentially contain a significantly greater amount of domestic paraphernalia than that which currently exists, thereby having a less rural character than at present.

24. Furthermore, whilst the detailed design and siting of the dwelling are not under consideration as part of this appeal, the amount of development proposed, comprising a single dwelling, could feasibly be located close to the eastern site boundary and the existing buildings associated with the host dwelling. The appeal site size is of sufficient size to accommodate a dwelling and retain a significant amount of soft landscaping, including enhanced boundary landscaping. Accordingly, I do not share the Council's concern that any new dwelling on the appeal site would harm the rural countryside setting of the appeal site.
25. For the reasons set out above, I therefore conclude that the principle of the appeal proposal is acceptable, and that the proposed development would provide a suitable location for a single dwelling, having regard to the accessibility of services and facilities, and the character and appearance of the area. As such, the proposal would accord with Policies TTV25, TTV26 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034. These policies, amongst other aims, require new development to reflect the sustainability of the identified Sustainable Villages, respond to local needs, maintain or improve the viability of the Sustainable Villages, protect the special characteristics and role of the countryside, and avoid significant and adverse landscape or visual impacts.
26. The proposal would also accord with Policies within the Framework which advise that, in rural areas, planning decisions should be responsive to local circumstances and support housing developments that reflect local needs, and that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities (paragraphs 77 and 78).

## **Conclusion**

27. No conditions are applicable, since the Guidance makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, the type and amount of development.
28. For the above reasons, I therefore conclude that the appeal should be allowed.

*S Leonard*

INSPECTOR