



Appeal Decision

Site visit made on 27 January 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/W1145/W/19/3238655

Budaire Bungalow, Road from Kingsmoor Cross to Narrac, Highhampton, Devon EX21 5JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Ray Nelson against the decision of Torridge District Council.
 - The application Ref 1/0565/2019/FUL, dated 1 July 2019, was refused by notice dated 2 September 2019.
 - The development proposed is detached dwelling and detached (double) garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development:
 - accords with the provisions of the relevant planning policies in respect of locating new housing and whether it would maintain the rural character of the area; and
 - would prejudice the safety of the users of the highway.

Reasons

Location and effect on rural character

3. The appeal site lies in a rural location along the A3072 within approximately 5km of Highhampton and 7km from Black Torrington. Whilst the site is not isolated, being within a cluster of a limited number of other dwellings and agricultural buildings, it is not a settlement with a defined settlement boundary under the North Devon and Torridge Local Plan 2011 – 2031 (adopted Oct 2018) (NDTLP).
4. NDTLP Policy ST07 seeks to direct new residential development to local centres and villages. Within the development boundaries of settlements identified in Policy ST07 and in the built-up areas of unnamed settlements, new residential development will be supported. Outside of these areas, 'rural settlements' that contain at least one service or community facility may be deemed suitable to accommodate small scale development to meet locally generated needs.
5. The appeal site is located amongst a cluster of approximately four dwellings including the host dwelling, Budaire Bungalow. The area is not listed as a village and nor does it comprise a small rural settlement with one service or

community facility under NDTLP Policy ST07. The site is therefore in the open countryside in policy terms.

6. Policy ST07 states that in the countryside, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location. The proposal to construct an open market dwelling in the countryside does not appear to accord with any of the specific criteria for such development. Whilst the proposal would utilise an area of surplus garden and would involve the demolition of a dilapidated domestic outbuilding, the site is not in a suitable location for new unrestricted residential development on the basis of the clear and unambiguous strategy set by the Development Plan.
7. In terms of the character and appearance of the area, the appeal site contributes to its rural quality by maintaining a strong roadside hedgerow which is a typical feature of the area. Whilst there is a degree of domesticity of the site through its use as a surplus area of garden associated with Budaire Bungalow, the modest domestic outbuilding is not visible within the street scene and the site is otherwise largely featureless.
8. The proposal would introduce a bulky two storey dwelling and a new access onto the site removing much of the roadside vegetation, opening up the views towards the dwelling. The bulky scale and massing of the dwelling, combined with the scale of roadside hedgerow removal, would result in the dwelling forming a prominent and incongruous feature within its immediate context. Whilst the appellants indicate that the hedgerow could be removed and replaced with a fence in any event, this would not result in the same level of harm that would result from the construction of the proposed dwelling.
9. In view of this main issue, I find that the proposal conflicts with the strategy for the location of new housing development and would harm the rural characteristics of the area, contrary to, in particular, NDTLP Policies ST04, ST07 and DM04. Read together, these policies seek to support development on the basis of a structured hierarchy to achieve an economically resilient and active rural area and promote design that responds to the characteristics of a site, its wider context and the surrounding area.

Highway safety

10. The appeal site has a frontage onto the A3072 highway which is subject to the national speed limit (NSL) of 60mph. The proposed point of access would involve creating a new opening in the existing roadside hedge a short distance from the existing vehicular access belonging to Budaire Bungalow.
11. The submitted plans presently indicate the proposed access having visibility splays of approximately 44 metres in either direction. The Highways Authority considers that there is limited information relating to the achievable visibility and that owing to the permitted vehicular speeds on the road and the necessary sight stopping distances, visibility splays of 215 metres in either direction should be considered as a starting point.
12. It is apparent that visibility splays of 215 metres could not be achieved within land owned or controlled by the appellants. The appellants indicates that it is unlikely that any accesses in the vicinity of the appeal site achieve visibility splays of 215 metres given the substantial lengths of road frontage that it

- would involve. Whilst that may be so, that is not sufficient to justify an access with restricted visibility that may result in prejudicial effects on highway safety.
13. The appellants also highlights that it would be possible to either combine the access for the proposed dwelling with that of Budaire Bungalow, or to relocate it in a westerly direction towards the adjacent area of woodland. However, no plans for either potential option have been submitted. In the absence of such information it is not possible to be satisfied that either option would be most suited to the road conditions so as to avoid unacceptable risks to driver safety.
14. For all of these reasons, the proposal would prejudice highway safety and therefore conflicts with NDTLP Policy DM05 which, amongst other things, seeks to ensure safe and well-designed vehicular access and egress which consider the needs and accessibility of all highway users.

Other Matters

15. I note that the appellants states that his family members have existing health conditions and require care and assistance. Whilst I accept that some form of annexe accommodation would enable this to be provided at close quarters, there is limited evidence to suggest that the appeal proposal is the only means of achieving such an outcome.
16. The appellants highlights that there would be a reduction in the number of car journeys if he were able to provide care to his family from a neighbouring dwelling. However, owing to the rural location of the site, there would still be additional dependency on vehicles for journeys to places of employment and other necessary facilities, including shops.
17. I acknowledge that the appellants' family have human rights to live in peace, without the impacts of construction activity, and that an annexe physically attached to the host dwelling may not allow a sufficient degree of independence to be retained. However, these matters do not alter my findings on the main issues.
18. I note the appellants' offer to considerably reduce the size of the house. Whilst a smaller dwelling may overcome the impacts on the character and appearance of the area, the unacceptability of providing a new open market dwelling in this location cannot be overcome through alterations to its scale.

Planning balance and conclusion

19. The proposal would result in the provision of a new dwelling which would add to the rural housing stock and result in economic benefits throughout the construction phase and during occupation. There would also be some social benefits from the proposal. I attribute these benefits modest weight.
20. However, the benefits of the scheme do not amount to considerations of sufficient materiality to outweigh the identified harm or associated Development Plan conflict.
21. Therefore, for the reasons given above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR