
Appeal Decision

Site visit made on 10 February 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/Y1138/W/19/3241017

**Gray Gables, Road from Tower Cross to Waterhouse Cross,
Cheriton Fitzpaine EX17 4JE**

- 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 Graham Rooke against the decision of Mid Devon District Council.
 - The application Ref 19/00216/OUT, dated 1 February 2019, was refused by notice dated 13 May 2019.
 - The development proposed is outline planning permission for one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was made in outline form with all matters reserved for future consideration. The submitted site plan ref 0163-01 Rev A shows a potential layout with a single dwelling and point of access. In the context of the outline application, I have treated this plan as purely indicative.
3. The Mid-Devon Local Plan Review (LPR) Main Modifications Consultation period expired during the consideration of the appeal. The Council acknowledges that the LPR is still only capable of attracting limited weight at the present time and I have not reached an alternative view in this regard.

Main Issues

4. The main issues are:
 - whether the proposal accords with the provisions of the relevant planning policies in respect of locating new housing; and
 - the effect of the proposal on the character and appearance of the area and settings of designated heritage assets, including those of grade II listed buildings, Honeysuckle Cottage and Tower Hill Cottage, and that of the Cheriton Fitzpaine Conservation Area (CA).

Reasons

Location of development

5. The appeal site lies on the outskirts of Cheriton Fitzpaine. The Mid Devon Local Development Framework Core Strategy 2026¹ (CS), through Policies COR1,

¹ (adopted July 2007)

- COR2, COR12 and COR17 sets out a spatial development strategy for the district which seeks to focus new development in towns and other defined settlements and villages. Cheriton Fitzpaine is a designated village under Policy COR17 and within its settlement limits, a limited range of development may be permissible, including affordable housing and very limited development which enhances community vitality or meets a local social or economic need.
6. The appeal site falls outside of, but immediately to the north of the defined settlement limit for Cheriton Fitzpaine. It is therefore in the countryside in policy terms under the current CS.
 7. CS Policy COR18 relates to development in the countryside and specifically limits new residential development to affordable housing to meet local needs, gypsy accommodation, replacement dwellings and housing essential to accommodate rural workers. The rationale for this is to ensure development is located to maximise accessibility to services and facilities by means other than the private car. CS Policy COR9 also supports the reduction in car dependency.
 8. Drawing this main issue together, due to the location of the site outside of the defined settlement limits and the open market nature of the proposal which does not fall within any of the permissible categories of development in the countryside, the proposal conflicts with the Development Plan, in particular CS Policies COR1, COR2, COR17 and COR18. Whilst I note that the appellant may have interpreted the Council's pre-application response differently, I note that the Council reached similar findings in respect of the Development Plan conflict in its initial assessment of the proposal.

Character and appearance

9. Turning to the character of the area, the appeal site comprises the lower part of a small agricultural field currently used for grazing purposes. It sits on an elevated position on the north-western outskirts of the village, adjacent and to the north of the dwelling known as Grey Gables. As its name suggests, Grey Gables presents a twin gable fronted elevation to the street from a prominent corner position between Tower Hill and Holy Water Road.
10. The site lies outside of, but in close proximity to the boundary of the CA. From the CA Appraisal and Management Plan (2015), the CA comprises the historic core of the village which sits in a landscape dip and derives its special qualities from the high number and range of historic listed buildings therein. A number of its listed buildings are considered to be rare or exceptional, including the grade I Church of St Matthew and grade II* Almshouses. It also hosts a large number of grade II thatched cob cottages dating from between the 15th and 19th Centuries; this is applicable to Honeysuckle and Tower Hill Cottages, albeit that the former no longer has a thatched roof.
11. The appeal site lies in close proximity to the aforementioned listed buildings. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard to the desirability of preserving any listed building or its setting.
12. Whilst the proposal is in outline form, it is inevitable that a dwelling situated on the broadly natural ground levels of the appeal site would be highly visible owing to the elevated nature of the site. Rather than forming a natural extension of the village within a logically defined site, a new dwelling would

appear to perch above the dwellings on the outer reaches, resulting in development creeping up onto the sloping agricultural land that encloses the existing built form of the village. Furthermore, owing to the levels of the road relative to the site itself, a significant amount of excavation would be required to form the access point which would also harm the rural, high hedged and enclosed character of Tower Hill beyond Grey Gables.

13. Notwithstanding the outline nature of the proposal, the introduction of a dwelling on the appeal site would form a prominent and incongruous addition on this rising green backdrop to the village. The absence of any landscape features, such as a hedgerow or trees, enclosing the northern boundary of the site would also accentuate the unusual transition from urban to rural form. As such, though the dwelling would be seen in the context of some existing dwellings to the south, these factors would detract from the character and appearance of the area and the setting of the village.
14. The significance of Tower Hill Cottage and Honeysuckle Cottage is principally derived from their traditional architectural forms, historic fabric and specified features of special interest. Their siting on the periphery of the historic core of the village, with its clearly defined built limits and agricultural hinterland, contributes to their significance, albeit to a minor degree. The site forms a part of this immediate context and therefore makes a slight contribution to the significance of these assets.
15. Insofar as the proposal would undermine the character and setting of the village edge in which Tower Hill Cottage and Honeysuckle Cottage are seen in context, the proposal would also detract slightly from their significance. For similar reasons, the proposal would also harm the setting of the CA.
16. In view of this main issue, the proposal would harm the character and appearance of the area and would harm the settings of the identified heritage assets, contrary to, in particular, CS Policy COR2 and Mid Devon Local Plan Part 3 (Development Management Policies)² Policies DM2 and DM27. Read together, these Policies seek to ensure development demonstrates a clear understanding of the characteristics of the site, its wider context and positively contributes to local character, including the setting of heritage assets.
17. In terms of the language of the National Planning Policy Framework (2019) ('the Framework'), the harm to the settings of the identified heritage assets, including the CA, is considered to be 'less than substantial', and towards the lower end of the scale of potential harm. Although it predates the current Framework, DMP Policy 27 mirrors the wording of paragraph 196 of the Framework which states that where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, the harm should be weighed against the public benefits. I return to this aspect later in this decision.

Other Matters

18. Mid Devon District Council Allocations and Infrastructure Development Plan Document³ Policy AL/IN/3 requires that new residential developments contribute to the provision of public open space (POS) through financial contributions payable through a planning obligation under Section 106 of The

² (adopted October 2013)

³ Mid Devon District Allocations and Infrastructure Development Plan Document (adopted January 2011)

Act⁴. From the evidence I note that the amount payable per open market dwelling is £1205.

19. Whilst the appellant has not indicated a willingness, or otherwise, to contribute towards POS provision, as the appeal is being dismissed for other reasons, I do not need to consider this matter further.

Planning balance and conclusion

20. The Council's five year housing land supply (5YHLS) position as at April 2019 showed a 7.43 year's supply with a 5% buffer. The appellant has not raised any dispute with this position.
21. Despite the absence of a 5YHLS, the Council accept that its current housing policies, in particular those which I have found most relevant to my first main issue, are out of date. Ordinarily, in such circumstances, the 'tilted balance' outlined in paragraph 11 (d) of the Framework would be engaged. The tilted balance sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. However, it is not argued that DMP Policies DM2 or DM27, with which the proposal conflicts, are out of date. Furthermore, footnote 6 of paragraph 11 (d) seeks to protect assets of particular importance, including designated heritage assets, and effectively disengages the tilted balance where policies of the Framework, such as paragraph 196, provide clear reasons for refusing a proposed development.
23. The outline nature of the proposal would provide sufficient flexibility to secure a dwelling suitable for its future occupants, with appropriate drainage infrastructure and without harm to highway safety or the living conditions of neighbouring occupiers. These are neutral factors in the overall balance.
24. In terms of the benefits, the proposal would deliver an open market dwelling on a site in close proximity to the village of Cheriton Fitzpaine with its attendant facilities and services. There would be a degree of economic benefit to the area during the construction period and the future occupants would help to sustain local businesses and facilities. The provision of an additional dwelling to the local housing stock would also generate modest social benefits.
25. However, even when the above considerations are weighed together, I find that the public benefits of the proposal would not outweigh the less than substantial harm to significance of designated heritage assets or adverse impacts upon the character and appearance of the area, contrary to the Development Plan and the Framework.
26. I therefore conclude that the appeal should not succeed.

Hollie Nicholls

INSPECTOR

⁴ Town and Country Planning Act 1990 (as amended)