



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/U1105/W/19/3240709

Four Acres, Lane to the Briary, Exton Lane, Exton EX3 0PN

- 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 & Mrs Ward against the decision of East Devon District Council.
 - The application Ref 19/1104/OUT, dated 22 May 2019, was refused by notice dated 24 September 2019.
 - The development proposed is detached dwelling within the existing rear garden of Four Acres, Exton Lane, Exton.
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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. As such, I have treated all annotations on the submitted plans in respect of the access point as purely indicative.
3. The site lies within 5km of the internationally designated Exe Estuary Special Protection Areas, Pebblebed Heaths Special Protection Area and Special Area of Conservation ('the protected areas'). Whilst not a reason for refusal, as the competent authority in this case, I am required to consider the potential effects on the protected areas. I therefore address this matter later in my decision.

Main Issue

4. The main issue is whether the proposal accords with the provisions of the relevant Development Plan policies in respect of locating new housing.

Reasons

5. The East Devon District Local Plan 2013 – 2031 (LP) was adopted in January 2016 and forms part of the current Development Plan for the area. LP Strategy 27 sets out that new development will be supported in the listed range of smaller towns and larger villages which will also have a defined Built-Up Area Boundary (BUAB). The list of settlements has been selected on the basis of the availability of services and reasonable public transport provision.
6. Policy TC2 of the LP supports Strategy 27 insofar as it seeks to ensure development is located so as to be accessible by pedestrians, cyclists and public transport in order to minimise the need to travel by car.

7. LP Strategy 7 aims to protect the character of the countryside and defines the countryside as all parts of the Plan area that are not within BUABs. Development in the countryside will only be permitted under Strategy 7 where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development, subject to a range of specific criteria.
8. Exton is not a settlement listed in LP Strategy 27 and does not have a BUAB. There is no made neighbourhood plan for the area which otherwise seeks to promote development under the approach outlined in Strategies 7 and 27.
9. In terms of its location, despite that the site could not be considered isolated, the appeal proposal would thus conflict with the Development Plan.
10. The appellants' statement suggests that there are several villages listed in Strategy 27 that could be argued to be less sustainable than Exton for a range of reasons, including the lack of train services. Lympston is one such settlement highlighted in light of its modest range of daily facilities. Whilst there are factors that pull in both directions, the evidence for determining which settlements would have BUABs as part of the LP, which also looked at accessibility to schools and a wider range of shops, has been rigorously examined and found to be sound. It is not a matter for me as part of this particular appeal scheme to reconsider matters pertaining to the formulation of the Development Plan.
11. I note that there are a limited number of other examples of new residential development in Exton having received planning permission subsequent to the adoption of the LP. This does not include the outline permission granted for the site on Exmouth Road, known as St Johns. Whilst I have limited details in respect of that scheme, it would appear to have been granted prior to the adoption of the LP and consequently at a time when the policy circumstances were materially different.
12. The subdivision of the dwelling known as Foye¹, was approved on the basis of the site's location directly adjacent to the train station and the relatively short train journeys involved to destinations including Exeter and Exmouth. In this case, the train station is a moderately longer walk involving some routes without a footway or street lighting which reduces the attractiveness of the train as an alternative to the private vehicle. That particular scheme also involved a higher number of residential units that offered a greater contribution to the local housing stock than in the present case.
13. In the example of Orchard Cottage², the proposal was not found to be remote from facilities and services although the appeal was dismissed on the basis of the harm to the defined Green Wedge. The differences in sustainability terms between that scheme and this appear to be more subtle, but ultimately the site's accessibility was not considered to override the identified harms.
14. The Exton Lodge decision³ highlights that Exton is not a location where there has been an intention to define a BUAB and, that despite there being a limited range of facilities on offer within the village, that it is not a matter of simply setting aside the adopted strategic policies. Whilst I am not bound by the

¹ APP/U1105/W/15/3139662

² APP/U1105/W/18/3196758

³ APP/U1105/W/19/3226312

decision of my colleague, I concur with these findings and note the absence of a neighbourhood or community plan that offers an alternative approach.

15. In view of this main issue, the proposal is located within a settlement which, in policy terms, falls within the countryside and thus outside of an area where new growth and residential development is permissible. As such, the proposal conflicts with LP Strategies 7, 27 and Policy TC2. For similar reasons, it is also contrary to the policies of the National Planning Policy Framework.

Other Matters

16. From the evidence, I note that the parties agree that the arboricultural implications could be overcome through reserved matters and subject to conditions. Similarly, the scale, layout, potential effects on neighbouring occupiers and other technical matters could be addressed through similar means to achieve a satisfactory development in these regards.
17. Due to the proximity of the appeal site to the protected areas, there is potential for increased pressure upon them from disturbance associated with activities such as recreation and dog walking. Such effects would potentially harm their integrity. The parties do not dispute that any potential effects can be mitigated through contributions secured through the Community Infrastructure Levy (CIL) and by Strategic Access Management and Monitoring (SAMM). The SAMM elements are required to be addressed outside of CIL and the appellant has submitted an agreement to seek to secure the contribution⁴.
18. However, as the circumstances that could have led to the granting of planning permission are not present, it is not necessary for me to ascertain the appropriateness and delivery of the mitigation within an Appropriate Assessment. Accordingly, I have not taken this matter further.
19. I note that the appellants have been residents of the host dwelling for a significant period, during which a large number of other plot subdivisions have taken place in the area. Whilst there may be only a limited number of instances in Exton where subdivision has not already occurred, this does not alter the weight that should be attributed to the current Development Plan policies which preclude new residential development in Exton and other areas of countryside.

Planning balance and conclusion

20. The appeal proposal would generate a small input into the local economy during the construction phase and would introduce new occupiers to the area which would also help to sustain the limited local facilities. There would also be some social benefits in this regard.
21. However, neither the benefits nor other considerations are of sufficient materiality to indicate that a decision should be made other than in accordance with the Development Plan.
22. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

⁴ Under S111 of the Local Government Act 1972