



Appeal Decision

Site visit made on 13 May 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th May 2020.

Appeal Ref: APP/K1128/W/20/3244829

**Land adjoining Westerland Dale, Westerland, Marldon, Paignton, Devon
TQ3 1RU**

- 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 Derek G. Webber against the decision of South Hams District Council.
 - The application Ref 1548/19/OPA, dated 14 May 2019, was refused by notice dated 14 August 2019.
 - The development proposed is construction of a single storey dwelling with garage under on land adjoining Westerland Dale and alterations to existing vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline form with all matters reserved for future consideration. In the context of the outline application, I have treated the submitted plans showing a potential site layout as purely indicative.

Main Issues

3. The main issues are:
 - whether the location of the development accords with local planning policies in respect of accessibility to local services and minimising the need to travel by private vehicle;
 - whether there would be any prejudicial effects on highway safety; and
 - the effects on the character and appearance of the area.

Reasons

Location of development

4. The Plymouth and South West Devon Joint Local Plan 2014 - 2034 (JLP), adopted in March 2019, includes Policies STP1 and STP2 that provide an overarching strategy for the location of new development. JLP Policy TTV1 sets out the hierarchy of settlements which are to receive proportionate amounts of growth over the plan period, with smaller villages, hamlets and the countryside being where the least development will be permitted subject to other policies in the Plan, including Policy TTV26. Policy TTV2 sets out the objectives for sustainable growth within the 'Thriving Towns and Villages' area.

5. Under JLP Policy TTV1, 'Sustainable Villages' are to receive a proportion of development aimed at meeting locally identified needs and to sustain available services. The Policy preamble identifies Marlton as a sustainable village.
6. The preamble to Policy TTV1 also indicates that the JLP does not define settlement boundaries and that development outside built up areas will be considered in the context of Policy TTV26. As such, a judgement is to be made as to whether the site is considered to fall outside of the built up area, and thus in the countryside in policy terms.
7. The built up extent of Marlton is broadly well-defined with the exception of the area around Totnes Road and Westerland Lane which appears to be more tapered. In this area, there is some lower density housing and some evident gaps between the clusters or linear groups of housing.
8. The appeal site comprises a distinctly large gap between two existing dwellings. Other than for one immediately adjoining neighbour to the north, these dwellings are sited a generous distance from the nearest cluster of dwellings, which arguably form more a satellite arm of the settlement than an integral part of its built form.
9. The area has a remote quality about it and though there are three options to walk to the village centre or nearby petrol filling station, either on the highway or via public footpath, these routes are a walk of more than approximately 10 minutes on unlit, narrow routes, absent of footways, some sections of which are sloping and uneven. This would mean that journeys on foot to the village amenities would be unlikely, other than for recreational walking purposes. Consequently, the appeal site does not form part of the built up area of Marlton and is therefore part of the countryside.
10. JLP Policy TTV26 includes part 1 that seeks to restrict 'isolated' development within the countryside unless there are exceptional circumstances, such as provision for dwellings for rural workers (i), securing the future of a significant heritage asset (ii), reusing redundant buildings (iii) or involving development of a truly outstanding or innovative design or quality (iv). Part 2 follows from part 1 and sets out the criteria which should be applied to isolated developments. The proposal does not fit the criteria of any of the exempted developments under JLP Policy TTV26.
11. The supporting text to JLP Policy TTV26 details the form of development that the policy seeks to restrict, e.g. *'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.'* This supporting text is relevant to the policy's interpretation.
12. I have concluded that the site falls outside of the built up area of Marlton due to the distance and the physical and visual gaps between it and the main built extent. The rural nature of the routes to and from the site, and its remote qualities also indicate that the site should be considered 'isolated' in the context of JLP Policy TTV26, and thus, not *within* the 'Sustainable Village' to accord with Policy TTV25 either.
13. Drawing this main issue together, the appeal site is not located in an area where new unrestricted development is supportable and it therefore conflicts

with JLP Policies STP1, STP2, TTV1, TTV2 and TTV26 in respect of accessibility to local services and minimising the need to travel.

Highway safety

14. The appeal site is accessed via Westerland Lane which has a junction with Totnes Road. The junction has restricted visibility, particularly to the right, and particularly in the summer months when the vegetation is at its fullest. From the evidence, it appears that previous improvements to the junction were implemented in connection with a modest barn conversion scheme, but the concern about the safety of users still persists. The concern relates to the increased use of the substandard junction and the Highway Authority supports its objection with 'recent' accident data in which a slight injury was sustained.
15. Whilst I accept that road traffic accidents should not be treated lightly, given the number of residences in the Westerland/Lower Westerland area, and the two-way nature of the road, it is a well-used junction. The junction is navigable with due care and attention and I do not consider that increase in the use of the junction from only one additional dwelling, in the order of 5 to 6 daily two way trips, would be likely to give rise to a materially harmful increased accident risk. Though a greater number of additional dwellings or greater cumulative impact would be a concern, I consider the present arrangement could capably accommodate additional traffic movements from a single dwelling, particularly given that there are also alternative vehicle routes from the appeal site that may limit the number of instances of use of the problematic junction.
16. In view of this main issue, the proposal would not prejudice highway safety and, thus, would not conflict with JLP Policy DEV29 which seeks to achieve safe and satisfactory vehicular access to, and within sites. Nor would the proposal conflict with paragraphs 108 or 109 of the National Planning Policy Framework 2019 (the Framework) which also seek to avoid unacceptable impacts on highway safety.

Character and appearance

17. The character of the area in the vicinity of the appeal site is rural. The lanes are narrow and high hedged; the area has a verdant quality. Whilst there are scattered dwellings in the vicinity of the appeal site, they are largely screened from view by topography, hedges and trees.
18. The parent dwelling, Westerland Dale, is set above the level of the road and is well screened by high hedges. Due to the level difference between the plot and the adjoining road, the access has been cut through the land and there are high, stone retaining walls on either side. The solid stone retaining banks and high metal gate at the entrance to the site contrast markedly from the high hedged, green characteristics of the area. It is a hard, urban solution which addresses the steep level change but is stark and deliberate, with little graduation or landscaping features to soften its appearance.
19. The proposal would also introduce a dwelling onto the higher tier above the adjoining road. Although the proposal is made in outline form with all matters reserved, the dwelling itself would likely be well enclosed by the surrounding hedges and largely out of view from public vantage points owing to its height. The indicative point of access shows adaptations to an existing field gate entrance to form a new driveway. The new access would be similar to that

serving Westerland Dale, albeit potentially sharper and less meandering owing to the more limited space. It is also indicated that it would be enclosed by a high stone retaining wall.

20. Due to the significance of the level change, the creation of a formal access for vehicles from the narrow rural road requires a substantial intervention. The introduction of another highly engineered and rigid feature in the streetscape would detract from the natural and rural qualities of the area. Though it would be similar to the access serving Westerland Dale, I do not find that feature to be so characteristic of the area to justify the introduction of another similarly urbanising feature into the area.
21. For this reason, the proposal would harm the character and appearance of the area, contrary to Policies TTV26 and DEV23 of the JLP which seek to conserve and enhance the characteristics of the area.

Other Matters

22. There is an indication that the appeal site is brownfield land given its association with the host dwelling. The Council dispute that the appeal property forms part of the domestic curtilage associated with Westerland Dale and that its actual lawful use is agricultural. There is insufficient evidence for me to conclude that the appeal site lawfully forms part of the domestic curtilage and accordingly, I cannot attribute weight to this factor.
23. Although my attention has been drawn to other allegedly recent developments in the wider surroundings, no specific details on the locations or circumstances of those cases are before me. As such, I cannot conclude that there are any parallels that provide justification for the appeal proposal.

Planning balance and conclusion

24. I note that the proposal would provide an additional dwelling to the local housing stock, with resultant economic and social benefits. Given the scale of the proposal, these benefits would, by extension, be relatively modest.
25. Whilst I have not found that there would be demonstrably harmful effects on highway safety, the proposal would not be located in a manner that minimises the need to travel by vehicle and would harm the character and appearance of the area, contrary to the Development Plan and the Framework. No other considerations of sufficient materiality have been put forward that outweigh this conflict.
26. For the reasons outlined above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR