
Appeal Decision

Site visit made on 15 July 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Appeal Ref: APP/Y1138/W/19/3242101

Land at Higher Road at OS GR 282793 100930

- 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 Place Land LLP against the decision of Mid Devon District Council.
 - The application Ref 18/00786/MOUT, dated 16 May 2018, was refused by notice dated 7 August 2019.
 - The development proposed is outline planning application for the development of up to 65 residential dwellings (C3), public open space, ancillary works and associated infrastructure, including means of access, with all other matters reserved for future consideration.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Until the adoption of the Mid-Devon Local Plan Review (LPR), the development plan consists of the Mid Devon Local Development Framework Core Strategy 2026, July 2007 (CS); the Local Plan Part 3, adopted 2013 (DMP); and the Allocations and Infrastructure Development Plan Document, 2011 (AIP).
3. The description of development above reflects that of the planning application form, however, matters of access are now for the reserved matters. In this outline proposal, all matters are reserved for future consideration and the proposed plans are illustrative.
4. A signed legal agreement, prepared under the provisions of Section 106 of the Town and Country Planning Act 1990 (S106 Agreement), has been submitted during the course of the appeal. I have taken the S106 Agreement into account in reaching my decision.

Main Issues

5. The main issues in this appeal are:
 - Whether, in principle, the appeal site offers an appropriate location for development, having regard to the development plan's settlement strategy;
 - The effect of the proposed development on the character and appearance of the area, including on the setting and significance of heritage assets;
 - The effect of the proposed development on air quality; and,
 - Whether the proposed development would ensure suitable access to services and facilities by transport modes other than private car.

Reasons

Compliance with development plan policy

6. The appeal site comprises a 3.6 ha rectangular parcel of agricultural and paddock land situated on the north side of Higher Road, on the outskirts of the market town of Crediton. The main parties do not dispute that the site is outside of the defined settlement boundaries for Crediton and within the countryside as defined by the development plan.
7. CS Policy COR 12 of the Mid Devon Core Strategy, 2007 (CS) establishes a development focus for the District through which development will be concentrated at Tiverton, Cullompton and Crediton. The explanatory text to CS Policy COR 12 establishes that the distribution of housing is intended to reduce housing development in rural areas and that, in Crediton, due to physical constraints and air quality issues...a relatively limited provision for housing is proposed. CS Policy COR 18 seeks to strictly control development in the countryside, except in certain circumstances. The appeal scheme is not predicated on satisfying any of the listed exceptions (a – f) of COR 18 and therefore runs contrary to this policy and the District's settlement strategy for the location of housing.
8. The proposed development would comprise major development in the open countryside, outside of the defined settlement limit of Crediton, thereby conflicting with CS Policies COR 12 and COR 18. Consequently, appeal site would not offer an appropriate location for development proposed having regard to the development plan's settlement strategy.
9. Within the LPR, the appeal site falls outside of the settlements defined by emerging Policies S12 and the proposal would fail to accord with emerging Policy S14 and the emerging development plan's settlement strategy.

Character and appearance

10. On approach to the appeal site from central Crediton, Higher Road marks a very definite boundary between where the more distinctly urban area of the settlement ends and where its soft, verdant, rural and wooded landscape setting begins. The narrowness of the sunken route, lack of street lighting and formal footways, as well as green gaps between development combine to present a country-lane character along Higher Road. Defined by its mature verdant boundaries, its arable nature and a perceptible absence of development, the character and appearance of the appeal site synthesise wholly with Crediton's wider rolling landscape setting.
11. Above Higher Road's high-banked hedgerows, the appeal site provides open views and unimpeded rural setting towards a band of dense woodland known as Long Plantation. A designated Ancient Woodland and priority habitat, Long Plantation is a prominent feature in the context of the local landscape. From various vantages along Higher Road, Long Plantation is experienced across the open land of the appeal site, making the woodland prominently visible to the public and making a valuable contribution to the character and appearance of the area.
12. The appellants have undertaken a landscape and visual impact assessment (LVIA)¹ that cites various landscape character assessments from national to

¹ AECOM Land Off Higher Road, Crediton Landscape & Visual Impact Assessment, May 2018

local level. For the purposes of the Mid Devon Landscape Character Assessment, the appeal site falls within the Main Cities and Towns landscape character type. However, the specific characteristics of the appeal site do not tally with a landscape defined as mainly dominated by built development. Rather, the appeal site sits within a landscape more readily associated with agriculture, hedge banks containing hedgerow trees, and mature woodlands. In this regard, the appeal site is better compared with the county-scale character assessments of the Yeo, Culm and Exe Lowlands where there is an overall strategy for the character area to, amongst other things, protect the area's rural character.

13. Notwithstanding the reserved matters considerations, the granting of outline planning permission would advance the principal of up to 65 dwellings on the appeal site. Even with the realisation of open space provision, private gardens, and supplementary tree and boundary planting, the scheme would be a serious urban intrusion. All in all, there would be substantial amount of built development across the appeal site, which, in combination with parking, turning, road and footways, would diminish significantly its characteristically verdant, open and undeveloped nature.
14. The LVIA asserts that the proposal would effectively integrate into its setting, reducing the magnitude of the effect to mainly medium or low levels after 15 years. Even with a degree of site containment provided by verdant boundaries, the proposed development would not reflect the existing character of the site or the transitional countryside edge to Crediton. Even if the new housing would not 'break the skyline', the starkly urbanising impact of the scheme would, in my view, be patently obvious along the length of Higher Road, through the site's access point or points; from the viewpoint at the top of George Hill and from public footpaths that run through Long Plantation.
15. The illustrative masterplan shows provision of a 15 metre 'no-build' zone along the northern boundary of the site, as well as green space roughly centrally and at each end of the appeal site. Even with such provisions, the proposed development would be concentrated towards the Higher Road boundary. Whilst layout could be changed, the scheme would clearly encroach upon the setting of Long Plantation. Eroding its prominence in the context of the local landscape, the proposed development would weaken the contribution this Long Plantation makes to the character and appearance of the area.
16. Whilst access is also for the reserved matters, the scheme would require one, or possibly two, new entry points off Higher Road, requiring removal and reprofiling of the hedgebanks to form the site's access. Even with the retention of extant oak trees, the proposals would potentially include partial re-alignment of the route, new footways, dropped crossings and traffic calming measures along Higher Road. Cumulatively, such changes would significantly alter the country-lane character of this part of Higher Road and undermine its function of defining a clear transition between Crediton's settlement edge and the open countryside.
17. The 370-acre Creedy Park is a little distance to the northeast of the appeal site and of local historic value. The significance of the heritage asset stems from its social and historic interest as a high-status, carefully planned estate landscape in a rural landscape setting; as well as a visual association with the Grade II estate at Shobrooke. I did not experience the appeal site as contributing to the rural landscape setting that contributes to the overall significance to Creedy

Park. Even when the Long Plantation trees are not in full leaf, I consider the intervening distances, combined with the presence boundary walls, fields and woodland would prevent the appeal scheme featuring as a prominent development to the hillside ridge. Therefore, the proposal would preserve the setting of Creedy Park and would sustain the significance of heritage assets.

18. Notwithstanding my findings in respect of heritage assets, the proposed development would nonetheless have a serious harmful effect on the character and appearance of the area. Whilst I note the argument in relation to other site that have been allocated for housing, some of which are on elevated ground at the settlement edge. However, the characteristics of each site are inevitably nuanced, and my conclusions have been informed by the site-specific circumstances and on the evidence before me.
19. Overall, conflict would arise with CS Policies COR 1 d), COR 2, COR 15, and COR 18 (d), as well as DMP Policy DM2. Amongst other things, these policies seek to ensure development makes the most efficient use of land appropriate to the local context; sustains the District's distinctive quality, character and diversity, including through the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape; enhances the character and appearance of the countryside; and ensures high-quality design and developments that makes a positive contribution to the local character and are visually attractive and well-integrated with surrounding landscapes. There would also be conflict with the Framework, notably paragraphs 122 d), 127 c), 130 and 170 b), which support development that maintains an area's prevailing character and setting; seek to ensure that developments are sympathetic to local character, including in respect of landscape setting; and recognise the intrinsic character and beauty of the countryside.

Air Quality

20. The appeal site is outside of Crediton's Air Quality Management Area (AQMA). The Air Quality and Development Supplementary Planning Document, 2008 (SPD) indicates that the proposed development warrants submission of an air quality assessment (AQA). Whilst there may have been missed opportunities for the Council to request an AQA, given the scale of the development, the potential for change in traffic flows and the appeal site's proximity to ancient woodland, there is potential for air pollution associated with both construction and operational impacts at the appeal site to contribute to a significant change in local air quality.
21. The S106 Agreement would secure financial contributions towards the costs of carrying out monitoring of, or improvement of, air quality in the vicinity of the appeal site. These contributions would include measures to assist with the flow of traffic at specific locations in line with an action plan to improve air quality in the AQMA. However, the granting of outline permission would establish the principle of development that could result in significant subsequent impacts, including on environmental features such as Long Plantation. Even if in accordance with Natural England's standing advice regarding a minimum buffer of 15 metres to avoid root damage, it remains unclear whether the proposals could cause loss or deterioration of the ancient woodland irreplaceable habitat through changes in air quality.
22. The appeal scheme therefore fails to satisfy Policy DM6 insofar as it requires assessment of the traffic-generated impact on environmental assets including

protected sites listed in Policy DM30, which includes ancient woodlands. Conflict also arises with CS Policies COR1, COR 2 and COR 15, which support improvements to local air quality levels; seek to ensure the protection and enhancement of designated sites of national and local biodiversity importance; and seek to ensure development adjoining or affecting the AQMA take full account of cumulative development impacts based on air quality assessments.

23. The evidence before me is not sufficient to fully assess the air quality impact of the proposed development; if there are wholly exceptional reasons for any loss or deterioration of irreplaceable habitats, or if a suitable compensation strategy exists. Conflict therefore also arises with paragraphs 170 and 175 c) of the Framework, which, amongst other things, seek to prevent new development from contributing to, or being adversely affected by, unacceptable levels of air pollution.

Access to services and facilities

24. Crediton is a hilly town, where the largest concentration of local services and facilities are within the vicinity of High Street. The appellant has submitted evidence detailing a broad range of services and facilities in Crediton, all of which are reasonably close to the appeal site. Given Crediton's topography, accessing those services and facilities would inevitably involve some steeper stretches. Whilst the gradients of some routes would fall outside of the ideals promoted in local guidance, and some journeying by private car would be inevitable, the proposed development would provide feasible opportunities and choices to travel more sustainably.
25. I therefore conclude that the appeal site's proximity to Crediton would ensure access to services and facilities by modes of travel such as walking, cycling or public transport. Therefore, I do not consider there would be conflict with the development plan policies COR 1, COR 9, and DM2 d) and Framework policies, which seek to reduce reliance on the private car.

Planning balance

26. Even considering adjustments for the Covid-19 pandemic, the Council contend that it can demonstrate a 5-year supply of housing land. Although the appellant has questioned the Council's calculations, the emerging LPR will establish a new housing land supply position will be established and policies relating to the distribution of housing will be up to date.
27. In the context of the extant development plan, however, is undisputed that CS Policy COR 18, which influences the scale and distribution of housing, is not consistent with the Framework and rendered out of date and attracts limited weight. Therefore, the 'tilted balance' should be engaged.
28. Whether or not there is up-to-date supply of housing land, the delivery of up to 65 new dwellings, 35% of which would be provided as affordable housing, would make an important contribution towards significantly boosting the supply of housing and choice of homes. The proposal would enable access to services and facilities without undue reliance on journeys by car. There would be economic benefits including those associated with the construction phase, feeding the local economy, and the New Homes Bonus. The sum of economic and social benefits attracts major weight in favour of the proposal.

29. The planning obligations made under the S106 Agreement would be directly related to the development, reasonably related in scale and kind, and necessary to make it acceptable in planning terms. As such, I consider the relevant tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 would be met. The proposals would secure provision of public open space, a play area, as well as highway, landscaping and ecological improvements. However, these would largely be in mitigation and attract little weight in favour of the appeal scheme. An absence of harm in relation to heritage assets, living conditions and flood risk are of neutral weight in the overall planning balance.
30. Weighing against the cumulative benefits the proposed development would be the conflict with the extant and emerging development strategy for Mid Devon. Whilst the conflict with COR 18 carries limited weight, there would be conflict with emerging Policy S14 and in light of the advanced stage of the LPR, I afford significant weight to this conflict.
31. Even in the absence of a 5-year supply of housing land, the support for the delivery of new homes should not be at the expense the character and appearance of an area or the countryside. In this case, I have found there would be very serious environmental harms in respect of character and appearance and the countryside and air quality. The conflict with the development plan and emerging LPR policies, as well as the Framework carries very significant weight against the proposal and indicates that the environmental dimension of sustainable development would not be satisfied.
32. Ancient woodlands are irreplaceable habitats, which are included in the list of protected areas listed under Framework paragraph 11 d) i), footnote 6. To my mind, the harm in relation to Long Plantation provides a clear reason for refusing the development proposed. Even putting that aside and applying paragraph 11 d) ii), I conclude that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

33. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR