



Appeal Decision

Site visit made on 13 July 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/Q1153/W/20/3248731

Land at SX 447 766, site to the east of Summer Green, Lamerton

- 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 M Bassett against the decision of West Devon Borough Council.
 - The application Ref 3404/19/OPA, dated 17 October 2019, was refused by notice dated 13 December 2019.
 - The development proposed is the erection of 5 dwellings and access road.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by West Devon District Council against Mr M Bassett. This application is the subject of a separate Decision.

Procedural Matters

3. The application is made in outline with access for consideration at this stage and appearance, landscaping, layout and scale to be considered at the reserved matters stage. I have noted that the scheme is indicatively for 5 units.
4. At the appeal stage the appellant has submitted a Unilateral Undertaking (UU) to provide contributions in respect of education, open space, sport and recreation, and to mitigate the recreational effects from occupiers of the development on the Tamar European Marine Site. The Council has been given the opportunity to comment on the UU and, as it has made no response, I assume that the UU has addressed its concerns with regard to the issues in the second reason for refusal.

Main Issues

5. The main issues are:
 - the effect of the development on the character and appearance of the area, and
 - whether the information demonstrates that the proposal could meet biodiversity requirements having regard to Policy DEV26 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (adopted March 2019) (the JLP).

Reasons

Character and appearance

6. Lamerton is a reasonable sized village with a fairly dispersed pattern of development. There are some concentrations of buildings, including in the area near the school, but mainly there is a linear form of buildings facing towards and in the vicinity of the roads. The village is located within an undulating countryside setting, with predominantly small to medium sized irregular shaped fields, well established hedgerow and hedgerow trees and, despite the main road through part of the village, has a pleasant rural and fairly tranquil character.
7. The proposed housing site would be accessed via Summer Green, which includes a recent development of 2 pairs of semi-detached houses which face towards the road. The land to the rear of these houses is not very visible from the main road and is separated by a fence from the dwellings. The site forms an open part of the top section of a fairly sizeable field and is bounded from the recreation ground by a substantial hedge and tree boundary.
8. At my visit I looked towards the site and viewed the surroundings from a wide variety of locations. In many views the site is screened or well filtered by established vegetation, topography or buildings. However, from sections of road, broadly to the east and south east, and the adjoining land, there are views across the valley to the site. In these views, the site is seen as an elevated and reasonably open part of the field. There is a backdrop of trees to the recreation ground beyond. The boundary vegetation of most of the adjoining properties means that they have a limited influence on the rural character within these wider landscape views. From these locations to the east and south east, the site has a much greater affinity and merges with the open countryside rather than appearing visually to be associated with the adjoining built development.
9. I appreciate that the proposal is in outline form, that there is indicated to be a mix of 2 storey dwellings and dormer bungalows and that an extensive landscaping scheme could be incorporated into the proposal at the reserved matters stage. This could include a hedgebank and tree planting across the boundary of the site with the field. I also note that the scheme, with an unadopted road would not need street lighting and a more informal layout could be designed. However, the proposal would still entail an encroachment of built development, and related residential presence such as gardens, vehicles and access way, into an open part of the field contrary to the adjoining, generally linear pattern of development. It would be visible in some views from the east and south east where, even with a suitable design, layout and the impact softened by planting details at the reserved matters stage, the dwellings would be a noticeable and urbanising intrusion into the farmed landscape and pastoral field system.
10. The result would be that the scheme would cause harm by diminishing the rural surroundings that help form part of the setting to the village. In those views that I have identified from the east and south east the development would not appear as a natural or organic addition to the existing built form.
11. There are references to the "Green Triangle" in the emerging Lamerton Parish Neighbourhood Development Plan 2014-2034 (the emerging NP) and the

importance that this feature has within the local area. The proposal would result in a very small reduction in percentage terms to the "Green Triangle" area. As the NP is not at an advanced stage the conflict with the approach to protecting the "Green Triangle" in the emerging NP carries limited weight. Nevertheless, the proposal would project into and erode, albeit to a modest extent, the integrity of this area and this adds some minor weight to the case against the proposal.

12. I saw at my site visit the development that has taken place to the south of Kooshti Bok. This scheme also has 5 dwellings. However, it differs from the appeal proposal because the shape of the site has allowed a more linear form with the dwellings facing towards the road, albeit set back, and it appears as an in-fill development. Furthermore, it was considered in the light of the then planning circumstances prior to the adoption of the JLP. I therefore attribute this scheme limited weight as a justification in favour of the present proposal.
13. I also visited the housing at Ashton Court. The Council considered this was an acceptable scheme in relationship to the form of the village and would be read as in-fill development. I saw at my visit that the buildings are reasonably well grouped and some of the development to the rear is seen in the context with the front properties in the immediate street scene. The proposal was also considered pre-adoption of the JLP. As the present scheme is set further back from the road, and on a site that has more affinity with the countryside than the pattern of adjoining development, it would not be seen as in-fill development. Consequently, there are material differences compared with the land at Ashton Court. I therefore attribute this other scheme within the village limited weight in the overall analysis.
14. In the light of the above, I conclude that the scheme would harm the character and appearance of the area. Consequently, it would conflict with Policies DEV20 and DEV23 of the JLP which seeks, amongst other things, to conserve and enhance landscape character. The proposal would also not accord with the approach in the emerging NP to protect the "Green Triangle". Furthermore, there would be conflict with policies in the National Planning Policy Framework (the Framework) to recognise the intrinsic character and beauty of the countryside, and be sympathetic to local character.

Biodiversity

15. The application was accompanied by an Ecological Impact Assessment (July 2019) (EIA). However, the site area referred to within the EIA and the accompanying photographs concern land predominantly beyond the proposed site. The EIA refers to an access track and site of the new barn. While there is a commentary regarding potential overall biodiversity gain, as the assessment also covers land beyond and not including all the residential site, I attribute the report limited weight.
16. Policy DEV26 of the JLP concerns the need to protect and enhance biodiversity. This accords with the Framework policy approach that decisions should contribute to and enhance the natural and local environment by minimising the impacts on, and providing net gains for, biodiversity.
17. There is the potential for the proposed hedgebank and other measures, such as bird and bat boxes, to provide an ecological benefit. However, there is limited detail regarding the existing ecological value of the site. I appreciate that this is

an outline proposal with only access for consideration at this stage. Nevertheless, an indicative 5 units, with accompanying access way, parking and gardens could extend across much of the site. I have only limited information as to ecological protection and enhancement requirements that may be necessary or could take place.

18. Natural England, at the application stage, raised an issue with the potential to deliver a biodiversity net gain as no calculation had been made to quantify what the gains might be or how they might be delivered.
19. With the limited detail and the issue raised by Natural England, I consider that I need to take a precautionary approach. I am not satisfied that a condition attached to an outline approval requiring a Landscape and Ecological Management Strategy would be reasonable in these circumstances. It follows, at this outline stage, that I conclude that the submitted information has not demonstrated that there could be compliance with the requirements of Policy DEV26 of the JLP and the Framework in respect of the need to protect and enhance biodiversity.

Other Matters

20. I have taken into account the findings of the previous Inspector when he considered a larger residential scheme in 2019¹. Part of the present site is the same but there are also material differences that would result from the reduced area and scale of the proposal. There are also other changes since that time, including with the adoption of the JLP, such that the Council can now demonstrate a Framework compliant supply of housing land. The balance of planning considerations is therefore different and I have determined this outline proposal scheme on its merits based on the details before me.
21. Policy DEL1 of the JLP sets out the approach to developer contributions. In this case the provision of the contributions for education, open space, sport and recreation, and to mitigate the recreational effects on the Tamar European Marine Site appear necessary and meet the tests for obligations in the Framework. I have taken them into account but as the obligations would predominantly mitigate the impacts of the development they afford limited weight in favour of approval.

Planning Balance and Conclusion

22. Lamerton is identified as a Sustainable Village in terms of Policy TTV1 of the JLP and with its range of services, and links by public transport to larger centres, is a location where the strategy directs some residential development. The proposal could make a modest contribution towards the 550 homes sought in the Sustainable Villages part of the overall housing supply, of which around 20 units are indicated can be accommodated at Lamerton.
23. The site would be considered a windfall site and would make efficient use of the land. There would be social and economic benefits to the local economy during construction and in subsequent occupation, although these would be to a limited degree due to the scale of the proposal, and in respect of construction would only be for a limited time. The obligations in the UU afford limited weight in favour of the scheme. However, as five units of accommodation would indicatively be provided, and in an area where the Council is able to

¹ APP/Q1153/W/18/3206945

demonstrate a 5 year housing land supply, the cumulative benefits afford only limited weight.

24. I have also found that the scheme would harm the character and appearance of the area and that policy requirements in respect of the protection and enhancement of biodiversity have not been demonstrated. These are matters that are contrary to development plan policies. This identified harm weighs heavily against the scheme and would not be outweighed by the benefits, including that the settlement is a location where some residential development is to be directed.
25. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR