
Appeal Decision

Site visit made on 14 September 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/U1105/W/20/3254025

Land to the rear of The Paddocks, Rousdon Estate, Rousdon, Lyme Regis DT7 3XR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs B Moore against the decision of East Devon District Council.
 - The application Ref 19/2346/FUL, dated 17 October 2019, was refused by notice dated 13 December 2019.
 - The development proposed is described as demolition of 2 existing workshop buildings and erection of a 3-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for the proposed development with regard to whether future occupants could access to services and facilities by means other than using private motor vehicles;
 - the effect of the development on designated heritage assets, including whether the development would: preserve the setting of the Grade II listed kitchen garden walls and lodge (the listed building); preserve or enhance the character or appearance of Compyne Rousdon Conservation Area (the Conservation Area); and conserve the Grade II registered park and garden known as Rousdon (the park and garden); and
 - the effect of the development on the East Devon Area of Outstanding Natural Beauty (the AONB).

Reasons

Location

3. The East Devon Local Plan 2013-2031 Adopted 2016 (the LP) directs residential development to locations within areas defined by Built-up Area Boundaries (BUABs). Strategy 5B of the LP more broadly seeks to ensure that development occurs in locations that would promote and secure sustainable modes of travel and transport. Areas outside BUABs, such as the appeal site, are defined as falling within the 'countryside' for LP purposes.

4. Strategy 7 of the LP sets out the circumstances in which development in the countryside will be permitted. None are applicable in this case. In this regard the Council's concern is that future occupants of the development would be reliant on the use of private motor vehicles to access services and facilities.
5. The site is located within Rousdon Estate (the Estate). This is a small enclave of housing, consisting of modern dwellings and conversions, laid out within the grounds of a former mansion which is now itself subdivided as flats. The village of Rousdon (the village) lies to the north, separated from the main bulk of the Estate by parkland. No services or facilities exist within the Estate.
6. The village contains a bakery/café. This was not operational at the time of my visit, though an outdoor kiosk service appeared to have been established. There is otherwise a garage and village hall, and a bus stop is located close to the northern gateway into the Estate. Services and facilities with the village are therefore very limited, and would not be sufficient to cater for the day to day needs of future occupants of the development. An opportunity for use of public transport to access services and facilities elsewhere would nonetheless exist.
7. The village is however located around 1km from the site. The walk through the Estate and parkland is pleasant in fine sunny conditions. At other times it would be less so. It is also likely that the distance would be off putting for many, particularly if carrying any kind of load, such as, for example, shopping. So too would the lack of pavements, proper lighting, and formal surfacing along some sections of the route, which has a moderate gradient in places. It is therefore unlikely that future occupants would regularly walk into the village to access the limited services and facilities located there, or indeed, in order to make use of the bus.
8. Future occupants could cycle to the village with greater ease. However, this would not facilitate use of the bus, or allow much greater loads to be carried. Furthermore, significant onward and return journeys would then need to be cycled in order to access larger settlements. Cycling would not therefore represent practical means of regular travel. For this and the above reasons future occupants would be most likely to rely on use of private motor vehicles to access essential services and facilities in larger settlements. This would give rise to environmental harm as a result of increased vehicle exhaust emissions. Regardless of the scale of the development, in the absence of any necessity for it to be located on the site, this harm would be unacceptable.
9. My attention has been drawn to paragraphs 77 - 79 of the National Planning Policy Framework (the Framework), which, the appellant argues, provide greater scope for development in rural areas than does Strategy 7 of the LP. In this regard paragraph 77 indicates that support should be given to developments that reflect local needs, placing particular emphasis on affordable housing; paragraph 78 states that in rural areas housing should be located where it would enhance and maintain the vitality of rural communities; and paragraph 79 seeks to restrict isolated homes in the countryside, setting out the circumstances in which their provision is acceptable. However, insofar as Strategy 7 allows for rural communities to plan for development, deferring to other policies in the LP which identify villages where growth can occur, and outline broader circumstances in which development in rural areas can take place, I see no conflict between the LP and Framework. Furthermore, the LP's overarching management of patterns of growth with regard to sustainable

patterns of transport and travel, is broadly consistent with the strategy outlined in paragraph 103 of the Framework.

10. As the proposed development would not meet a specified local need, and would not provide affordable housing, it would not in any case help to deliver either of the objectives set out in paragraph 77 of the Framework. As neither party claims that the dwelling would be isolated, or that any of the exceptions set out in paragraph 79 of the Framework would otherwise be relevant, paragraph 79 itself has no direct bearing on the appeal. In relation to paragraph 78 of the Framework, future occupants of the development might well occasionally make use of the limited services and facilities in the village, making some contribution to vitality. However, as any related social and economic benefits would be very small, they would be insufficient to outweigh the environmental harm that would arise from travel to larger centres. Consequently, paragraphs 77-79 do not lend support for the development.
11. The Council's approval of 2 other dwellings on the Estate during the past 8 years is raised within the submissions. I do not have full details of these developments, however I note that both are located much closer to the village than the appeal site. Therefore, a better level of access to the limited services and facilities located there, including the bus stop, exists than would be the case for the occupants of the proposed dwelling. As such, these developments do not establish the acceptability of development on the appeal site.
12. For the reasons outlined above I conclude that the site would be an unsuitable location for the proposed development due to the environmental harm that would arise due to reliance on use of private motor vehicles by future occupants to access services and facilities. The development would therefore conflict with Strategy 7 and Strategy 5B of the LP, as considered above; Policy TC2 of the LP which states that development should be located so as to minimise the need to travel by car; and relevant provisions of the Framework.

Heritage assets

13. The site is located within both the park and garden, and the Conservation Area, and adjacent to the listed building. The latter forms a key component of the park and garden, which is in turn largely overlain by the Conservation Area. The significance of these heritage assets is therefore interconnected.
14. Insofar as it relates to this appeal, the significance of both the park and garden and the Conservation Area resides in the largely 1870s design, layout and composition of the formal historic landscape surrounding and including Rousdon mansion; as too the interrelationship of the buildings, spaces, planting and other features this contains.
15. In this context, and again insofar as it relates to this appeal, the significance of the listed building lies in the historic role and function the walls played in enclosing the kitchen garden. It also lies in the ornate design, the remarkably robust, and the visually striking construction of the walls themselves. This incorporates elaborate entrances, and what the list description refers to as 'pavilions', and the register as 'gazebos', at the southeast and southwest corners. These serve to provide elevated viewpoints across the surrounding landscape of the park and garden. In these regards the listed building is integral to the design of the park and garden, both visually and functionally,

and also insofar the pavilions/gazebos serve as a key means by which the designed landscape was intended to be experienced.

16. The appeal site is located adjacent and parallel to the east side of the kitchen garden walls, close to the southwest pavilion/gazebo. It is separated from the walls a drive, and a low wall topped by a bay hedge. Reference to the second edition Ordnance Survey map of c.1904 (the OS map), which forms an indication of the historic layout of the park and garden, shows that the site previously formed part of a larger rectangular space fringed by ornamental and garden planting. The latter consisted of fruit trees on the east side, and mixed coniferous and broadleaf trees on the others. Paths were laid out around this and within this space, including one running from the southwest corner of the kitchen garden walls to the coast. As such, the space clearly formed a component of the broader formal landscaping of the park and garden. To this end, the site, which appears to occupy part of the area formerly containing fruit trees, also formed a component of the designed view from the west window of the adjacent pavilion/gazebo.
17. The rectangular space apparent on the OS map remains clearly discernible, and now largely forms the grounds of The Coast House. Though fruit trees have been lost from the east side, ornamental planting on the other sides of the space appears to have survived, or to have been renewed. The path to the coast continues to run along the southern edge of the site, following the proposed access, and other routes shown on the OS map remain in existence. Thus, despite change, including the construction of storage buildings on part of the site, the historic layout and overall composition of the designed landscape surrounding the appeal site remains both appreciable and reasonably intact.
18. If carried out in isolation, removal of the storage buildings could be visually beneficial, helping to re-establish the historic openness of the site in relation to adjoining spaces. Replacement of the storage buildings with the proposed dwelling would however achieve the opposite, as this would entail a substantial increase in the amount of development on the site, a related increase in both its physical and visual presence, and domestication.
19. Notwithstanding the fact that the site forms part of the same designed landscape as its setting, the appeal scheme has been promoted on the basis that the visual presence of the development from outside the site would be limited. It is however likely that the dwelling would be visible above the bay hedge, from the driveway to the west, from adjoining spaces, from along the site access, and from the west window of the pavilion/gazebo. The development would therefore be perceived and experienced within its surrounding setting.
20. I note the proposal to step the roof of the dwelling in line with the top of the kitchen garden wall. However, the 2 structures would not generally be viewed as juxtaposed on the plans, and no meaningful relationship would be created. Instead, the lack of any obvious relationship between the development and the broader historic layout of the park and garden would be appreciable from both inside and outside the site. The lack of integration would be far more pronounced than that of the existing storage buildings, which, though themselves incongruous, are of modest functional character and scale, and occupy a much smaller proportion of the site.

21. Though the Council's assessment of the proposed dwelling appears to have been limited to matters of siting and form, including footprint, height and massing, the proposed building would nonetheless be a recognisably 'contemporary' form. This impression would be reinforced by the way in which the building would be finished externally. In this regard the proposed design would bear little or no resemblance to any nearby building, historic or modern. The degree of difference would be starkly apparent to any observer, and would not be alleviated in any meaningful way by the presence of other dwellings of contemporary design located elsewhere in the Estate. Nor would there be much chance that a suggested connection between the design proposed and that of horticultural buildings would be perceived. The discordant appearance of the development viewed within its setting would draw attention, further emphasising the fact that its siting was otherwise incongruous.
22. The bay hedge, which is a notable feature of the park and garden, forms part of the site boundary. Uncertainty has been expressed in relation to the effects the development would have on its retention, however the more direct effects of the development of the fragile retaining wall which runs inside the site, and above which the hedge grows, do not appear to have received any detailed attention. Whilst an engineering solution could nonetheless presumably be devised which would safeguard the structure, in the absence of any binding legal obligation, there appears to be no secure means of ensuring that the hedge itself would be retained or managed in any particular way over the long term. If removed, if trimmed more heavily than at present, or if the hedge died and was not renewed, the development would become far more visually exposed than is proposed. In these scenarios its adverse effects would be greatly increased.
23. For the above reasons the development would not better reveal the significance of either the park and garden or the Conservation Area. It would indeed fail to conserve the park and garden, and fail to preserve or enhance the character or appearance of the Conservation Area. By intruding upon views across the park and garden provided from the adjacent pavilion/gazebo, and by also providing a visual distraction that would detract from appreciation of the architectural significance of the kitchen garden walls, the development would additionally fail to preserve the setting of the listed building.
24. Residential development has occurred elsewhere within the park and garden, the nearest and most visible example, albeit but not the most recent, being The Coast House. Residential development has also occurred within the former kitchen garden. The Council has summarised the range of different considerations which were relevant in some of these cases, many of which are not applicable to current appeal scheme. Insofar as these sites also occupy different locations within the park and garden, have different settings, and have differing relationships with surrounding historic spaces and structures, their impacts are also likely to have differed. Furthermore, whilst it may be possible to identify harm to heritage assets which has arisen as a result of these previous residential developments, I see no reason why this should be held to justify the harm that would arise in relation to the appeal scheme.
25. In view of my assessment above, I find that the appeal scheme would cause less than substantial harm to the significance of the listed building and the Conservation Area, and in each regard I attach considerable importance and weight to the harm to the harm that would arise. The development would also

cause less than substantial harm to the significance of the registered park and garden, and in this regard I attach great weight to the harm that would arise. In accordance with the Framework it is necessary to balance these harms against the public benefits advanced in favour of the appeal scheme.

26. Aside from the benefit of removing the existing storage structures, which has been considered relative to the proposed development above, the principal consideration advanced in favour of the scheme is that it would provide a single dwelling. In numerical terms this would make a very limited contribution to the local housing stock, and thus I attach very limited weight to the related social and economic benefits. This is not altered by the advice in paragraphs 68 and 118 of the Framework which state, respectively, that great weight should be given to the benefits of using suitable sites within existing settlements for homes, and that substantial weight should be given to the value of using suitable brownfield land within settlement for home. This is because, even were I to accept that the Estate is a settlement, my reasons above establish that the site is not 'suitable' for the development proposed. Consequently, the public benefits of the appeal scheme would be insufficient to outweigh the harm that it would cause to the significance of heritage assets. This is a consideration which provides a clear reason for refusal of planning permission.
27. For the reasons outlined above I conclude that the development would have an unacceptably adverse effect on designated heritage assets; failing to preserve the setting of the listed building, failing to preserve or enhance the character or appearance of the Conservation Area, and failing to conserve the park and garden. Whilst in the first 2 regards the development would therefore fail to accord with the expectations of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the development would otherwise conflict with Policy EN9 and EN10 of the LP, which largely reiterates heritage policy set out in the Framework; and heritage policy as set out within the Framework.

AONB

28. As the site lies within the AONB, I have had regard to the statutory purposes of the AONB's designation, which are most particularly to conserve and enhance the natural beauty of the area. In that regard paragraph 172 of the Framework additionally states that great weight should be given to conserving and enhancing landscape and scenic beauty within ANOBs.
29. As outlined above, the site both has historically and continues to form part of an enclosed landscaped space. It is distinct therefore from the open historic parkland to the west and south, which more directly merges with the broader agricultural and natural landscapes of the AONB. Indeed, despite the proximity of the site to the open landscape to the south, and the partial views which exist towards the open landscape to the west from within it, the level of exposure of the site within the broader landscape is limited. As such, and given that the proposed design seeks to minimise the visual presence of the building, its visibility from within the broader landscape would be very limited. For these reasons, and additionally given the proximity and pronounced visual presence of other buildings nearby, the development would not be perceived as a sporadic intrusion into the landscape of the AONB.

30. I conclude therefore that the development would conserve the natural beauty of the AONB. It would thus comply with Strategy 46 of the LP which seeks to conserve and enhance the AONB; and related provisions of the Framework.

Conclusion

31. For the reasons set out above I find that whilst the development would conserve the AONB, it would nonetheless give rise to unacceptable environmental harm due to its location, and cause unacceptable harm to designated heritage assets. I conclude therefore that the appeal should be dismissed.

Benjamin Webb

INSPECTOR