



Appeal Decision

Site visit made on 21 September 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2020

Appeal Ref: APP/Y1138/W/20/3248831

**Crosses Farmhouse, Road From Stag Mill Cross To Lowman Cross,
Upplowman EX16 7DW**

- 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 A Bolt against the decision of Mid Devon District Council.
 - The application Ref 19/00912/OUT, dated 25 May 2019, was refused by notice dated 25 September 2019.
 - The development proposed is the change of use of land and erection of eight family dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application has been made in outline with access for consideration at this stage and matters of appearance, landscaping, layout and scale reserved for later consideration. The application is accompanied by site layout and floor plans of the proposed dwellings and I have had regard to these details as indicative of what the appellant has in mind for the site.
3. The Mid Devon Local Plan 2013-2033 (the Local Plan) was adopted by the Council on 29 July 2020. This was after the date for the submission of final comments. Consequently, the opportunity was given to the Council to set out the most relevant policies of the Local Plan and make any related comments. The appellant considered this information and comments, and made further submissions. As both parties have had the ability to make representations on the implications of the Local Plan for the appeal proposal, I am satisfied that no party would be prejudiced by the consideration of the appeal based on the latest policies and related information.

Main Issues

4. The main issues are:
 - whether the development plan would support the proposed residential development in this location, with particular regard to access to services and facilities, and
 - whether contributions would be necessary for education, open space and affordable housing to make the development acceptable in planning terms.

Reasons

5. The site is located adjoining the built form of Uplowman and includes a series of fields and paddocks, stables and an agricultural-like building all accessed by internal tracks. Access to the site would be achieved via the road that serves Crosses Farm House and a small number of other dwellings, and from an access adjoining The Meadow. Uplowman is a reasonably small settlement surrounded by open countryside. It lies about 2km by road from the larger settlement of Sampford Peverell and about 5km from the town of Tiverton.
6. Policy S1 of the Local Plan sets out the sustainable development priorities for the plan area and this includes a development focus at the larger towns and a limited level of development in identified villages. Policy S13 of the Local Plan lists 22 settlements which are designated as villages suitable for limited development. The supporting text explains that these villages have been identified based on their physical characteristics and the availability of three essential services, namely an educational facility, convenience store and transport service. Uplowman, which has only one of these services, is not identified as a village suitable for limited development in Policy S13 of the Local Plan. Consequently, the site is considered to lie within the countryside for planning purposes and the proposed housing would not meet with any of the allowances for development in such a location as set out in Policy S14.
7. Nevertheless, the appellant seeks to demonstrate that Uplowman is a suitable and sustainable location for the housing. The information indicates that the village includes many local traders, a wealth of local clubs and organisations, a Parish Hall with pitches and courts, a primary school, church and public house.
8. The new housing could contribute to the village community, including supporting school numbers, and spending in the local public house and post office. However, Uplowman does not have a convenience store or a wider range of services. Consequently, it would be necessary to visit other locations to access a reasonable range of services and facilities, even if an allowance was made for changes in shopping habits such as home deliveries. Also, the main local centres for employment are away from the village and include Sampford Peverell, Tiverton and Tiverton Parkway/Junction 27, which may be expanded in the future. Again, in all likelihood, there would be a need to travel for many employment opportunities.
9. The roads from the village are reasonably narrow and are generally unlit and without footways. It is unlikely that occupants of the development would walk or cycle on a regular basis to access the wider settlements given the distances and the nature of the adjoining roads, cycle routes and rights of way¹. The evidence indicates that the bus service is very limited and, consequently, it is likely that future occupants of the proposed housing would be largely dependent on the private vehicle for many journeys.
10. Taking all these matters together, I am not satisfied that the occupiers of the appeal site would be provided with access to a reasonable range of local services and facilities other than predominantly by the private vehicle. This is even when acknowledging that it is necessary to take into account that

¹ I have had regard to all the submissions on this matter including maps of the rights of way network and the location and links to the Grand Western Canal.

sustainable transport solutions will vary between urban and rural areas, as required by the National Planning Policy Framework (the Framework).

11. Given these circumstances, in particular, the likely dependence on the car by future occupiers of the site in many situations, and with the more sustainable locations that housing is directed to in the Local Plan, I am not satisfied that the proposal could be justified on the basis of supporting services in this and nearby settlements as envisaged by paragraph 78 of the Framework.
12. Other decisions for residential development at Uplowman, including appeal decisions, have been highlighted. I accept that not all the decisions, both by the Council and Planning Inspectors, appear entirely consistent as to whether Uplowman is a suitable location for new housing. The Inspector who determined the Jaspers Green² appeal for a single dwelling considered that the balance fell in favour of the location for this dwelling. However, three other Inspectors³ who had previously considered housing at Uplowman came to the view, in summary, that the limited local services and facilities would result in a reliance on private vehicle travel and that this made the location unacceptable in planning terms.
13. My analysis of the situation, for the reasons explained above, generally accords with the three Inspectors although I accept that, as Uplowman has some services and facilities, this is a matter of judgement. In particular, it is of especial relevance that the Inspector who considered 8 dwellings on the same site as this appeal came to the conclusion that the location was not acceptable. It is also relevant that all of these decisions precede the adoption of the new Local Plan and its sustainable development priorities to guide the location of development across the plan area. Consequently, while the previous appeal decisions and the other Council decisions provide background they are not determinative in this appeal.
14. Drawing all these matters together, I conclude that the location for the proposed residential development would not accord with the development plan strategy for the delivery of housing and, in particular, that occupiers of the site would not have access to a reasonable range of services and facilities other than by the private vehicle. Consequently, the scheme would not comply with Policies S1, S13 and S14 of the Local Plan and the Framework which seek, amongst other things, that all development will be expected to support the creation of sustainable communities including promoting sustainable transport by reducing the need to travel by car.

Planning Contributions

15. The evidence demonstrates that financial contributions towards additional secondary school facilities at Uffculme with related transport costs, the provision of sporting facilities at Crossways Playing Field, Uplowman and the provision of/contribution towards affordable housing are all justified. I am satisfied that the levels of contribution specified by the Council are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the

² APP/Y1138/W/18/3213936 (27 March 2019)

³ APP/Y1138/W/17/3189570 (4 May 2018), APP/Y1138/W/15/3133987 (11 February 2016) and APP/Y1138/W/18/3208621 (16 January 2019).

development. Such contributions would therefore meet with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

16. The evidence indicates that the appellant has contacted the Council on a number of occasions to seek to finalise an agreement and has clear intentions to make the necessary contributions as required. The Unilateral Undertaking in respect of the earlier proposal for 8 dwellings on the site has been included as evidence of a willingness to resolve this matter and the appellant has confirmed he would update this document and be bound by the contributions if the appeal was to be allowed.
17. However, while I note all the background, as part of this appeal I do not have a signed and dated planning agreement that would deliver the necessary contributions. Consequently, the impacts of the proposal on education and open space would not be mitigated and the provision of affordable housing would not be secured. Consequently, I conclude that the scheme would not accord with Policies S3 and S8 of the Local Plan in these respects.

Other Matters

18. The construction of the proposed dwellings would provide an addition to the supply of housing in a location close to the centre of the village. There would be economic benefits to the area during the construction phase, particularly if local trade persons were to be employed, and there would be economic and social benefits in subsequent occupation. I have noted the calculations that the appellant has submitted in relation to household income which may circulate from the future occupiers who would also pay Council Tax. The new housing would lead to the receipt of New Homes Bonus.
19. The evidence indicates that the site could be developed quickly and would have straightforward connections to infrastructure, such as the sewer network. The land is explained to have been in equestrian use for many years. Therefore no productive agricultural land would be lost by the proposal and it would make effective use of previously developed land. The scheme would be considered a windfall site that could be delivered by a small builder and add to the overall mix and offer of housing available.
20. These would all be benefits of the scheme, however, as only 8 units would be provided, I consider that cumulatively the benefits would afford limited weight in favour of the proposal.
21. I have taken into account all the local and interested party submissions, both in support and objection to the proposal, including the views of the Parish Council, and have analysed the key issues raised elsewhere in this decision.
22. Other appeal decisions have also been submitted in support of the scheme, such as the proposals at Uffculme⁴ and Silverton⁵. With the first decision, this is a different scale of proposal and relates to the village of Uffculme which the Inspector indicates has a wide range of facilities, including two shops, pre and primary schools, doctor's surgery and bus services with timings suitable for daily journeys to larger towns for work. I consider that the planning circumstances are different to the present appeal.

⁴ APP/Y1138/W/15/3025120 (11 April 2016)

⁵ APP/Y1138/W/20/3244550 (11 June 2020)

23. With the Silverton appeal, that Inspector notes that the village is one where the then policy allowed within the settlement limits minor development and that the village has a convenience shop, school and public transport provision. While that particular appeal site was outside the settlement boundary, overall the proposal was judged acceptable. These are all differences compared with the present proposal where Uplowman does not have the same extent of services and facilities. Importantly both these appeal decisions were determined before the recent adoption of the Local Plan and therefore they both afford limited weight.
24. The appellant has highlighted sections of the Planning for the Future White Paper (August 2020) which it is said supports the proposal. In particular, it is argued that the development would help contribute to the intended virtuous circle of prosperity in villages and allow the 'gentle densification' to the village. The White Paper is a consultation document and it cannot be certain what precise changes will take place to the planning system in the future and, specifically, how they may affect the consideration of the issues on this site. Consequently, I attribute the White Paper limited weight in this case.

Planning Balance and Conclusion

25. The scheme would not comply with the locational strategy for the provision of housing, would be in a location where occupiers would not have access to a reasonable range of services and facilities other than predominantly by the private vehicle and that the necessary infrastructure and affordable housing provision would not be secured. For these reasons the proposal would conflict with the development plan when considered as a whole. These are matters which also conflict with the policy approach in the Framework.
26. The Council's evidence sets out that it can demonstrate a 5 year housing land supply and quote the Local Plan Inspector who considered that the Local Plan Review was well capable of achieving a rolling five year supply of deliverable housing sites. The Council explain that they are working on updating housing supply figures based on a revised trajectory.
27. The appellant argues that as the Council are still working on their housing trajectory, and as they have not been able to show a 5 year housing land supply in the past, the appeal, if not allowed, should be paused to allow the Council to conclusively demonstrate it has the necessary supply. If not, then the appellant argues that the presumption in favour of sustainable development should be engaged.
28. The appeal has been submitted for consideration, and I can see no procedural reason why the decision should not be made based on the submitted evidence. The Local Plan has recently been adopted. There does not appear to be clear and conclusive evidence that demonstrates that the locational strategy for development should be considered out of date or that there is robust and documented evidence that the Council cannot now demonstrate a Framework compliant supply of housing land.
29. Nevertheless, even if this was to be the case, the benefits of the scheme would afford limited weight and the harm that I have identified are matters that attract substantial weight against the scheme. Consequently, 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. The proposal would not, therefore, constitute sustainable development.

30. For the reasons given above, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR