

Appeal Decision

Site visit made on 12 October 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/U1105/W/20/3254084

Land adjacent Valley View, Budlake Cross, Farway, Honiton EX24 6EE

- 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 L White against the decision of East Devon District Council.
 - The application Ref 19/2374/FUL, dated 24 October 2019, was refused by notice dated 26 March 2020.
 - The development proposed is described as the erection of a three-bedroom residential cabin.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be in an appropriate location, having regard to development in the countryside, its effect on the character and appearance of the surrounding area, and access to services and facilities; and
 - whether the proposed development would be suitably located in relation to flood risk.

Reasons

Location

3. Situated in a rural setting, the appeal site is bounded by vegetation and hedging and contains, amongst other aspects, some single-storey buildings with a rustic, agricultural appearance. With the exception of the varied collection of properties at Valley View, the area immediately surrounding the site consists of farmland. Although the buildings on the site may have seen better days, they do not appear to be particularly dilapidated while their rustic appearance reflects the site's rural setting and means that they do not read as unexpected or negative features in the locality. The surrounding highway network, which connects the site to Farway and other settlements, generally consists of narrow, winding, unlit rural lanes with no separate footways.
4. Located on the footprint of the existing barn, the proposed single-storey timber-clad building would be relatively unobtrusive and has been designed to continue the agricultural appearance of the existing barn and site. However, it would have a residential appearance due to its fenestration and the domestic use of the site would be evident due to the parking spaces, garden area and

the domestic paraphernalia that would be likely to ensue. While existing and additional hedging and soft landscaping would limit views of the site from the public realm, the proposed development would nevertheless be visible in the locality, including through the site entrance and above hedges in longer distance views. With the proposed cabin also being higher than the existing barn, as shown in the submitted elevations, it would thus also be more visible despite its set back from the highway.

5. Given the presence of Valley View, the proposed development would not be isolated and would be seen in the context of the cul-de-sac from some vantage points. Its profile has also been designed to respect the hipped and pitched roofs of the adjacent housing. However, with the different scale, form and design of the proposed cabin to nearby properties, it would appear as a somewhat unrelated feature to the residential context of Valley View and would not be seen as completing it. Furthermore, and irrespective of its scale, form and design, the degree of separation to those properties and the separating presence of existing boundary treatment means that the proposed development, with its domestic appearance, would also be experienced as extending the residential built environment into the rural landscape. Accordingly, and despite it not dominating the site, it would erode the character of its rural surroundings and neither reflect its context nor positively contribute to its setting. In coming to this view, I have taken account of the site's previous use by South West Water and the remaining concrete slab, which it is asserted means that the site is brownfield land.
6. The conditions on the local highway network and the distance to settlements with services and facilities necessary for day-to-day living indicate that walking or cycling to and from the site would be not particularly realistic, appealing or safe. Although there is a local bus service to Honiton and the appellant's wife is said to make extensive use of it, the evidence before me indicates that it only runs once a week. Accordingly, the site's situation is not conducive to accessing the development except predominantly by private car.
7. I accept that this may be the case for rural areas in general and that the National Planning Policy Framework (Framework) recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, occupiers of the development would be highly reliant on one mode of transport – the private car – for the majority of their journeys and to serve their daily needs. Although this would not harm highway safety, the development cannot therefore be described as minimising the need to travel by car and the site's location would not promote its accessibility by pedestrians, cyclists and public transport.
8. I recognise that the appellant and his wife live in Valley View and they intend to move into the proposed development. However, it seems to me that that their existing property would likely be occupied by others once the appellant and his wife moved into the cabin. The proposed development would therefore lead to an increase in residential movements which, as I have found above, would be reliant on the private car. The lack of objection from the Highway Authority, the previous use of the site by South West Water and the traffic movements associated with that previous use and with the site's current agricultural use do not lead me to a different conclusion.

9. The main parties agree that the site is located within the countryside as defined by the East Devon Local Plan 2013 to 2031 (EDLP). Accordingly, EDLP Strategy 7 is relevant to the acceptability of the development. Amongst other aspects, it restricts development in the countryside to that which is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive qualities within which it is located. However, it has not been put to me that the appeal proposal would be in accordance with such a policy. Furthermore, while the Council has not alleged that the proposed development would harm the landscape and scenic beauty East Devon Area of Outstanding Natural Beauty, I have found that it would harm the character and appearance of the surrounding area.
10. For the above reasons, I conclude that the proposed development would not be in an appropriate location, having regard to development in the countryside, its effect on the character and appearance of the surrounding area, and access to services and facilities. I therefore find that it conflicts with EDLP Strategies 7 and 46 and Policies D1 and TC2. Amongst other aspects, these: restrict development in the countryside to certain circumstances; require development to relate well to its context and conserve and enhance the landscape character of the area; and set out that development should be located so as to be accessible by pedestrians, cyclists and public transport and to minimise the need to travel by car. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places and promoting sustainable transport, while the harm I have identified above means that neither can the proposal be described as making effective use of land.

Flood risk

11. According to the Council's mapping and the Environment Agency consultation response to the planning application, the site is partly located within Flood Zone 2 due to a risk of fluvial flooding. Although there was no Flood Risk Assessment accompanying the planning application, the appellant has submitted detailed flood risk information with the appeal.
12. Amongst other aspects, the submitted details set out that the nearest source of potential fluvial flooding – the stream that runs through the village – is some 15 metres below the level of the site. Although the adjoining highway is shown in the Council and Environment Agency mapping as being covered by a linear stretch of Flood Zone 2 which extends from the south-west, runs along the lane and finishes towards the northern extent of the site, the measurements submitted with the appeal show that the site itself is between 1.2-1.6 metres above the highway. Land levels in the surrounding area are also provided, indicating that any flooding from the stream would flow through a field gate on lower ground on the opposite side of the highway from the site. It appears that flooding from fluvial sources would thus not reach the site and instead flow into an area of land which is not shown to be at risk of flooding.
13. Accordingly, site-specific flood risk information show that the development would be at lower risk of flooding than the Council's smaller-scale flood mapping indicates. As per the submitted Environment Agency Flood map for planning, the site can therefore be considered to fall within Flood Zone 1. On this basis, a sequential test is not required.
14. For the above reasons, I conclude that the proposed development would be suitably located in relation to flood risk. I therefore find that it accords with

EDLP Policy EN21 which sets out a sequential approach to new development in the district. The proposal would also be consistent with the provisions in the Framework in relation to planning and flood risk.

Planning Balance

15. The appeal proposal would create accessible single-storey accommodation that would provide the facilities needed for the appellant, who has severely restricted movement following a stroke and, with no care package in place, is now reliant on his wife, family and neighbours. With its narrow doorways, internal and external steps and lack of bedrooms and bathrooms on the ground-floor, his existing house is ill-equipped to provide for his needs. The submitted appeal documents set out that consideration has been given to amending the appellant's existing property to allow him to remain there. However, it is stated that it would not be possible to gain adequate ground-floor space, that the ability to have full disabled access through internal changes is restricted and that major external works would be required to provide suitable access to the property.
16. At least three generations of the appellant's family have lived in Farway and the appellant has lived in his present property in Valley View for his entire life. His friends and family, who visit and help care for him and are on hand should any problems arise, also all live within walking distance in the village. A search for alternative accommodation has not identified any suitable properties in the locality. The appellant's appeal statement sets out that the proposed development would provide him with a good quality of life and that if he were to move away from Farway, he and his wife would, amongst other aspects, be further away from friends and family and it would take longer for family to reach them to provide care. On this basis, the submitted Planning, Design and Access Statement sets out, amongst other aspects, that traffic movements to and from the village would also be required if the appellant were forced to move to Honiton to the only suitable nearby accommodation.
17. It has been put to me that the appeal proposal has a unique set of circumstances that do not neatly fit into the policies of the local plan and that the appellant's physical needs have driven the submission of the planning application and subsequent appeal. I have given the appellant's personal circumstances careful consideration and I acknowledge that the proposed development would provide him with an accessible home near to friends and family who also help care for him. However, I am mindful of the advice contained in Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the appellant's personal circumstances cease to be material and future use of the cabin would not necessarily entail a similar situation.
18. I note that the Planning, Design and Access Statement refers to a fallback position of converting the barn. However, I have little substantive evidence that it is anything more than a theoretical scenario and it is said that the conversion would cost a considerable sum of money which the applicant does not have available. Accordingly, the fallback position does not appear to be particularly likely and I therefore place only limited weight on it.

¹ Paragraph: 008 Reference ID: 21b-008-20140306 – 'What is a material planning consideration?'. Revision date 06/03/2014.

19. The Framework seeks to deliver a sufficient supply of homes, in-line with the Government's objective to significantly boost housing supply, and avoid the development of isolated homes in the countryside. By providing an additional dwelling that would not be isolated, the proposed development would therefore be consistent with these parts of the Framework, while the residents of the cabin would contribute to the local economy and community. Furthermore, the Council has not alleged that the proposed development would harm the living conditions of adjoining occupiers, nest boxes and a bat box incorporated into the cabin would provide some ecological enhancement, and I have identified that it would be suitably located in relation to flood risk.
20. However, the evidence before me does not indicate that the proposed development is needed to maintain a sufficient supply of housing in the locality and I have found that it would not be in an appropriate location with regard to development in the countryside, its effect on the character and appearance of the surrounding area and access to services and facilities. The appeal proposal therefore conflicts with policies in the local plan and provisions in the Framework that relate to these matters.
21. The harm arising from the appeal proposal, which could not be overcome by the imposition of planning conditions, is therefore not outweighed by the above considerations and the proposal's modest benefits – given the limited scale of the development – do not provide justification for development that conflicts with the development plan. With little substantive evidence to indicate that the policies that are most important for determining the proposal are out of date, the approach to decision making set out in paragraph 11d of the Framework is not applicable in this case.

Conclusion

22. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR