



Appeal Decision

Site visit made on 13 October 2020 by Christian Ford BA (Hons) BTP MRTPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/K1128/W/20/3255390

Wash House, Buckfastleigh TQ11 0LD

- 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 & Mrs R Hanlon against the decision of South Hams District Council.
 - The application Ref 3677/19/FUL, dated 11 November 2019, was refused by notice dated 12 March 2020.
 - The development proposed is single storey wheelchair accessible dwelling in garden.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a Planning Decision Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is whether the occupants of the proposed development would have adequate access to shops and services by sustainable transport modes.

Reasons for the Recommendation

4. The appeal site forms part of the garden to Wash House which is located within the hamlet of Wash. Policy TTV1 of the 2019 Plymouth & South West Devon Joint Local Plan (JLP), prioritises growth through a defined four tier hierarchy of settlements within the Thriving Towns and Villages Policy Area (TTV). Wash falls within the lowest tier of the hierarchy which is described as, 'Smaller villages, Hamlets and the Countryside – where development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27'. Policy TTV2 also supports development proposals in the TTV which reinforce the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development.
 5. Policy SPT1 seeks a sustainable society where sustainable and health promoting transport options are available to access local education, services and jobs. Policy SPT2 sets out that development should support the overall spatial strategy through the creation of communities which; have reasonable access to a vibrant mixed use centre, which meets daily community needs for
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local services such as neighbourhood shops, health and wellbeing services and community facilities, and; are well served by public transport, walking and cycling opportunities.

6. In assessing the accessibility of the site, the main parties have referred to different measures of walking distances. The appellants refer to the Institute of Highways & Transport guidelines which suggest an acceptable walking distance is 800m, with a preferred maximum of 1.2km. In contrast, the Council refer to the walking distances set out in Figure 3.2 of the JLP. However, the latter are set out as aspirational outcomes related to settlements within the top two tiers of the hierarchy.
7. Using the appellants' measure, there is a restaurant (200m) within an acceptable walking distance and a farm shop (1.2km) within the preferred maximum. However, the nearest bus stop (1.3km) is beyond the preferred maximum. Additionally, it must be recognised the proposed site is located in a rural area that is generally characterised by narrow, unlit, undulating roads which are bounded by high Devon banks and with no specific provision for pedestrians or cyclists. The conditions are therefore not conducive to walking or cycling to local services and facilities, even if the distances themselves are not prohibitive.
8. While the appellants emphasise that 'Newton Abbot Ring and Ride' is available to Wash, such community transport serves to connect people who already experience poor access to shops or public transport and it should not be relied upon to justify building more homes in such locations. Also it is acknowledged the appellants' context map highlights the site is closer to a number of services than the nearest third tier Sustainable Village within the hierarchy. Nevertheless, public transport serves the Sustainable Village which provides access to a wider range of services and facilities available in higher tier settlements.
9. Consequently, notwithstanding the proximity of the restaurant and farm shop, the proposed site does not meet the expectation of Policy SPT2 that development should have reasonable access to a vibrant mixed use centre which meets daily needs for local services and facilities. Also, the location is not well served by public transport, walking or cycling opportunities and future occupants would thereby be heavily reliant on the use of a private vehicle.
10. While the appellants note the proposed solar PV panels would be sufficient to provide charging for an electric car or mobility scooter, future occupants cannot be required to use an electric vehicle. A private vehicle would also add to congestion on roads with its associated adverse environmental and economic impacts.
11. Although the appellants have drawn attention to paragraph 84 of the National Planning Policy Framework ('the Framework') and its acknowledgment that sites in rural areas may have to be found adjacent to or beyond existing settlements, the paragraph forms part of a section that specifically relates to the rural economy and not rural housing.
12. In conclusion, the appeal site is not a suitable location for the proposed development as future occupants would have inadequate access to shops and services by sustainable transport modes. It would fail to accord with the JLPs over-arching spatial strategy expressed in Policies SPT1, SPT2, TTV1 and TTV2,

as set out above. It would also conflict with paragraph 8 of the Framework which seeks the achievement of sustainable development.

13. While the Council's reason for refusal also referred to JLP Policy TTV26, as the proposed dwelling would not be isolated development in the countryside, there would be no direct conflict with that policy.

Other Considerations

14. The appellants have a future need for a wheelchair accessible dwelling and a desire to remain in the same community of which they have been longstanding members. Although I sympathise with their situation and the lack of success in finding a suitable property to date, granting planning permission for a permanent dwelling on grounds of personal circumstances will rarely be justified as the development will outlast the personal circumstances used to justify it.
15. While attention has been drawn to Appeal Decision APP/W1715/W/18/3216696, the disabled need in that case was immediate and the implications of not granting planning permission, the Inspector noted, were 'very serious indeed'. In this case the implications of dismissing the appeal would appear to be that the appellants would continue to live in their existing house, albeit in a smaller part of it which, whilst not ideal, is not considered to be a comparably serious hardship. Furthermore, as friends, family and support networks extend beyond the hamlet itself, suitable opportunities in the wider local area may become possible. In this regard, it is noted the Neighbourhood Plan (NP), albeit at an early stage, is seeking to make provision for around 40 new dwellings of which some would most likely be accessible, as sought by Policy DEV9.
16. In support of the proposal, the appellants have also put forward a series of suggested positive benefits which are considered below.
17. The proposed development may be regarded as a self-build dwelling with JLP Policy DEV9 providing the relevant policy support. The development would assist the Council in meeting its statutory duty to give enough suitable permissions to meet the identified demand on its self-build and custom housebuilding register, with the evidence presented indicating there is currently a shortfall. Nevertheless, at the same time, it must be acknowledged the proposal would conflict with Policy DEV9 because the support it offers to self and custom build housing is subject to the requirement that it meets the over-arching sustainable development policies of the JLP which, as set out above, it does not. In any case, the submitted unilateral undertaking, which seeks to ensure the house is a self-build, has not been signed by the mortgagee so is incomplete.
18. The development would provide an additional market dwelling and, as a two-bedroom wheelchair accessible bungalow, it would beneficially widen the local housing mix in providing a house for which there is a particular demand. It would also release an underused family dwelling. However, as it is just one unit, it carries limited weight.
19. There are no services or facilities within the hamlet that the development would help to sustain. However, it would play a small part in supporting the vitality and viability of those found nearby and in nearby settlements. In this regard it would comply with paragraph 78 of the Framework. There would also

- be some limited economic benefits during the construction phase of the development. However, again, the benefit is limited due to the small scale of the proposal.
20. As the appeal site is garden land and not in an urban location, the site can be considered to be brownfield/previously developed land having regard to the Framework's definition. This is a minor benefit.
21. A significant programme of woodland and orchard planting is proposed on an adjoining field to the south east of the site that is in the appellants' ownership. The appellants' suggest that it could be secured by condition. However, the proposal would not meet the 'necessary' test for conditions set out in the Framework. Consequently, while the appellants' past record of environmental enhancement in the locality and future ambitions are both recognised and commended, as a benefit it carries very little weight in the determination of the appeal because it is not required. It is noted that new planting is also proposed within the appeal site, including a new Devon bank planted with native species. This will mitigate the loss of some existing trees and serve to meet a JLP derived requirement for biodiversity net gain.
22. While the building would achieve a near zero carbon standard, this would represent mitigation of the dwelling's environmental impact rather than a positive benefit.
23. Although the Parish Council supported the proposal, it must nevertheless be considered against planning policy. Furthermore, although it is apparent the NP steering group are considering the option of a pepperpot approach, adding small developments onto the hamlets, including this site, the early stage of the NP preparation means this consideration may be afforded very little weight.

The Planning Balance

24. While the development would meet many of the detailed policy requirements of the JLP, for example in terms of biodiversity, the significant conflict with the over-arching spatial strategy means that it would not be in accordance with the development plan when considered as a whole.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
26. As outlined above, the development would provide some material positive planning benefits. However, for the reasons given, these carry only limited weight, often because of the small scale of the development. Even in combination, they amount to no more than moderate weight. Consequently, it is found that the material considerations would not outweigh the identified significant conflict with the development plan.

Conclusion and Recommendation

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

Christian Ford

PLANNING DECISION OFFICER

Inspector's Decision

28. I have considered all the submitted evidence and the Planning Decision Officer's report, and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR