



Appeal Decision

Site visit made on 8 December 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/Y1138/W/20/3259567

Land adjoining and to the east of The Old Shippen, fronting the B3190, Whitehall Farm, Morebath, Devon EX16 9AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr G W Payne against Mid Devon District Council.
 - The application Ref 20/00801/FULL, is dated 27 May 2020.
 - The development proposed is to construct one new dwelling.
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Decision

1. The appeal is dismissed and planning permission to construct one new dwelling is refused.

Main Issues

2. The main issues are
 - (i) the effect on the character and appearance of the area;
 - (ii) the effect on the living conditions of adjoining residents with regard to privacy; and
 - (iii) whether the site is in an appropriate location with regard to local and national planning policy.

Reasons

Character and appearance

3. Morebath has a rural character. Buildings are arranged informally around the highway, some tightly packed and others set away from the highway edge. The site currently contains no buildings and, when exiting the village along the B3190 provides space between the road and 3 new dwellings set at a higher level behind the site. Those dwellings do not relate closely to the highway or other surrounding built form, but the intervening topography and hedges means that the site provides no meaningful setting to them in relation to public views. Nor does it obscure or buffer them. Viewed from this location, the proposed dwelling, with traditional design influences, would relate to surrounding built form and be an appropriate visual addition to the informal village context.
4. Approaching the site on entry into the village, the 3 new dwellings dominate the vista. Hedging screens much of the site such that its undeveloped nature

does not contribute significantly to the appearance of the area in these views. Rather, the more historic built form opposite and a barn to the front of the site are provided with a relatively open setting by a wide grass verge that would be retained by the proposal. Development at the site, behind the line of a hedge to the rear of the verge would not intrude into that setting.

5. I, therefore, find that the proposal would preserve the character and appearance of the area. There would be no conflict with those aims of Policies S9, DM1 or DM2 of the Mid Devon Local Plan 2013-2033 (LP) that seek to reinforce the character and distinctiveness of the built environment and landscape, through development responding to its context and local character.

Living conditions

6. Despite the topography and boundary structures, rear windows would face one of the 3 new dwellings to the rear of the site. The appellant considers the distance between windows of 17-18 metres to be appropriate, but gives no substantive evidence as to how it would be sufficient to preserve privacy.
7. While a bathroom and landing window could be obscure glazed, one of the facing windows would serve a bedroom. It has been suggested that a condition could be imposed to relocate that window to the side. However, insisting on such a change to the appearance of the dwelling outside the formal consultation processes could lead to injustice to interested parties or the Council. Such an option is not, therefore available to me.
8. I, therefore, conclude that the proposal would harm the privacy of the closest adjoining new dwelling to the rear of the site. Such would be contrary to those aims of LP Policy DM1 that seek ensure adequate levels of privacy are secured.

Location

9. LP Policies S1, S13 and S14 together set out a spatial development strategy for Mid Devon's rural area. A limited level of development is allowed in identified villages, that do not include Morebath. The site is, therefore, considered by the LP to be countryside where development should preserve and where possible enhance character, appearance and biodiversity, while promoting sustainable diversification of the rural economy.
10. Under Policy S14, agricultural and other appropriate uses, that do not include new build market housing are allowed. The proposed dwelling may be relatively small and affordable compared to other recent development in Morebath. However, it would not be an affordable house, as defined in the National Planning Policy Framework (the Framework). As such, the proposal is contrary to Policies S1 and S14.
11. The site is a clear part of Morebath and is not isolated. It may also be that rural communities do not exist in isolation, with interdependent social and economic networks developing between groups of settlements. Thus, development in villages with limited facilities can help to support services and facilities in other nearby settlements. Such is recognised by the Framework, which does not place the same blanket restrictions over rural areas.
12. There has been other recent development allowed in Morebath, notably the 3 dwellings to the rear of the site. Whether or not the ability to exercise permitted development rights to construct dwellings at that adjoining site

should have led to the construction of those large houses, with some form of alternative permission available, the circumstances surrounding their permission is different. As too would be other development related to tourist uses. These other developments, therefore, are of limited weight in my decision.

13. Morebath is only a short distance from the larger settlement of Bampton which has a good range of facilities and services. However, while the additional development proposed would be small in scale and would be no more dependent on private transport than other existing and recently permitted development, that does not in itself justify a decision contrary to the development plan as set out above and the aims of LP Policy S1 to reduce the need to travel by car.
14. Therefore, by reason of the conflict with the development plan, I conclude that the site is not an appropriate location for the development.

Planning balance and conclusion

15. The proposal would not harm the character and appearance of the area. However, even if harm to living conditions could be corrected through design changes, the site is not in an appropriate location for the development. It conflicts with the spatial strategy set out in the LP and, although there may be support from a range of other policies, this results in a conflict with the development plan considered as a whole.
16. The appellant advocates a flexible interpretation of policies but my decision must ultimately be made in accordance with the development plan, unless material considerations indicate otherwise. While there may be support for the proposal from some parts of the Framework, Framework paragraph 12 that indicates that where a planning application conflicts with an up-to-date development plan it should not usually be granted.
17. While there would be benefits resulting from the supply of housing, including potential support to local services, facilities and community networks on a site with no clear alternative use, these do not indicate a decision otherwise than in accordance with the development plan.
18. I, therefore, conclude that the appeal should be dismissed.

M Bale

INSPECTOR