



Appeal Decision

Site visit made on 9 December 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/W1145/W/20/3258520

**Whitcott House, Road from Downland Cross to Bucks Cross, Bucks Cross
EX39 5DT**

- 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 & Mrs D & T Morgan against the decision of Torridge District Council.
 - The application Ref 1/0416/2020/OUT, dated 5 May 2020, was refused by notice dated 30 July 2020.
 - The development proposed is erection of 1 no. dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 1 no. dwelling at Whitcott House, Road from Downland Cross to Bucks Cross, Bucks Cross, EX39 5DT, in accordance with the terms of the application, Ref 1/0416/2020/OUT, dated 5 May 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was made in outline form with all matters reserved for future consideration. Other than the site location plan, all aspects pertaining to the scale and layout have been treated as indicative.

Main Issues

3. The main issues are:
 - whether the location of the development accords with local and national policies in respect of the accessibility of services and minimising the need to travel; and
 - whether the development would provide an adequate foul drainage system.

Reasons

Location of development

4. The appeal site is formed from an enclosed surplus garden space to the rear of the host dwelling which is laid to lawn, surrounded by hedging and currently used for the siting of a summerhouse. Agricultural land lies adjacent to one side of the site, and a commercial building and separate residence are situated on the other side. The site lies on the outer edge of a cluster of dwellings forming 'West Bucks', which from the evidence amounts to around 9 dwellings with the addition of the commercial premises and other farm buildings.

5. The main settlement of Bucks Cross lies some approximate 500 metres to the east. It is based on the north-south linear form of the settlement which is intersected by the A39. Other than the bus shelters on either side of the main road, facilities in the area include the small shop and post office and a community hall. A holiday park adjoins the settlement and also includes a small convenience store. Further along the A39 to the east is a secondary school.
6. The site's connection with the main settlement of Bucks Cross is via the A39, along the stretch of approximately 500 metres which is absent of footways and streetlighting. The alternative footpath route which connects to the settlement via the holiday park involves crossing over and traversing a short section of the A39 and walking across two fields. Whilst this alternative footpath route may be used for recreational walking purposes, it is unlikely to present an attractive alternative for regular foot or cycle travel to Bucks Cross. Bus services are available from Bucks Cross to a number of other destinations and the evidence indicates that the appellants and their family are regular bus users. Whilst this suggests that there is some degree of travel choice in this largely rural area, from my wider observations, the occupants of West Bucks are likely to be heavily reliant on the use of private vehicles.
7. The North Devon and Torridge Local Plan (adopted 2018) (Local Plan) includes Policy ST07 which sets out that 'rural settlements', containing at least one prescribed service or community facility, may accommodate appropriately located, modestly-scaled development to meet locally generated needs. The Plan defines Bucks Cross as a 'rural settlement' and its development boundary has a narrow, linear form and excludes the cluster of housing surrounding the appeal site. As identified by the appellants, there appear to be limited infill or additional areas that could realistically enable new housing *within* the development boundary. This is perhaps explained by Local Plan Policy BUC which sets out that only 'minimal' development will occur in Bucks Cross to meet local community needs. The preamble further states that housing outside of the development boundary will only be permitted on an exceptional basis.
8. The appeal site therefore falls within the defined countryside, in relation to which Local Plan Policy ST07 (4) specifically relates. The Policy states that in the countryside, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.
9. No specific 'need' for the proposed dwelling has been put forward with the appeal proposal other than that it is desired by the appellants to provide additional housing for their family. It does not appear to address a particular community, social or economic need for housing. There is nothing exceptional about the proposal that would justify a countryside location, contrary to the spatial aims of the Local Plan. Consequently, the location of the development does not accord with, in particular, Policies ST07 and BUC of the Local Plan.

Drainage

10. The appeal site is generously scaled and mostly laid to grass and does not lie within either an area at high risk of flooding. The Council does not appear to raise issue with the use of a soakaway for surface water run-off, although questions were raised with the ability of the existing non-mains foul drainage solution to cater for the proposed new dwelling.

11. Additional evidence submitted with the appeal indicates that either the capacity in the existing foul drainage solution would have to be upgraded or a separate additional system accommodated elsewhere within the site. The ground conditions and constraints in relation to the drainage field, distances from dwellings and respective parts of the systems have been assessed and it appears that an adequate solution could be devised to submit under a planning condition to make the development acceptable in this regard.
12. As such, subject to adherence to specific conditions relevant to the necessary drainage infrastructure, this matter is capable of being resolved prior to the construction and occupation of the dwelling. On this basis, the scheme would achieve compliance with DM02 of the Local Plan, which relates to environmental protection and, amongst other things, seeks to ensure that development avoids polluting surface or ground waters.

Other Matters

13. At the present time, the Council accepts that it cannot demonstrate a five year supply of housing land¹. Where such a situation occurs due to a shortfall in housing delivery, Local Plan Policy ST21 (2) provides principle support for residential development outside of the defined settlement limits.
14. Considered against the requirements of Policy ST21 (2) (a), the proposal is in a location that is not ideally suited to new housing due to the dependency of future occupiers on cars for a number of everyday facilities and services. However, due to the proximity of the site to Bucks Cross, the facilities therein and the range of additional facilities and larger settlements relatively close by, additional car journeys would at least be moderately short.
15. Whilst the scale of the deficit is much larger than the one dwelling proposed, it would still represent a valuable contribution. The appellants have indicated that a shortened timescale for submission of an application for reserved matters could ensure a timelier delivery than if the standard timescales were applied. This factor, the absence of other obvious impediments to delivery and the appellants' control of the site are factors that weigh in favour of the development in respect of ST21 (2) (b).
16. The proposal raises a degree of conflict with the achievement of the plan's overall spatial vision and settlement vision for Bucks Cross because it is outside of its development boundary and is not promoted as an exceptional or other development for which there is an identified need. However, the modest scale of the proposal should be considered in the context of the relatively modest distance from the identified settlement boundary and broader range of facilities in the wider area. These factors, considered in the context of paragraphs 78 and 103 of the National Planning Policy Framework (the Framework), temper the degree of conflict with the spatial strategy of the Local Plan.
17. In terms of (d), the proposal is physically contained within an existing area of domestic curtilage, in an existing cluster of development, without other associated harms, landscape or otherwise, and thus accords with other Local Plan Policies.

¹ following the issuing of appeal decision APP/W1145/W/19/3238460 in March 2020

Planning balance and conclusion

18. Notwithstanding my findings in respect of Local Plan Policy ST21 (2), the presumption in favour of sustainable development set out in paragraph 11 (d) of the Framework, otherwise known as the 'tilted balance', is engaged. The tilted balance requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against Framework policies taken as a whole.
19. In terms of the benefits of the proposal, there would be a short-term economic benefit from the construction phase of the development and longer-term benefits from the future residents' continued reliance on local facilities and services. The addition of a dwelling to the local housing stock is also a benefit of the proposal, particularly given the current housing land supply deficiency. The potential benefits of electric car usage, an energy-efficient house and biodiversity benefits are not aspects that are sufficiently detailed in the proposal and as such, I cannot ascribe them any weight. The absence of other harms is a neutral factor in the overall balance.
20. Taking these factors together, the harm from the degree of conflict with the spatial and settlement strategies, Local Plan Policies ST07, BUC and ST21, is not so significant or demonstrable that it outweighs the benefits of the proposal in this case. The tilted balance is therefore a material consideration of such magnitude that it indicates that a decision should be taken other than in accordance with the development plan.
21. The appeal is therefore allowed for the reasons set out.

Conditions

22. Given the outline nature of the proposal, it is necessary to impose conditions relating to the submission of reserved matters and relevant timescales for commencement of the development. The submission of reserved matters within a shortened timeframe is necessary to help secure a timelier delivery.
23. It is necessary to specify the approved plan to define the extent of the site.
24. In the interests of protecting the environmental quality of the area, it is necessary to impose a condition requiring the submission and subsequent implementation of a drainage scheme to address both surface and foul water.
25. In the interests of the character and appearance of the area, it is necessary to require details pertaining to the finished floor level of the dwelling and boundary treatments within any future reserved matters application.
26. Whilst the Council has suggested a condition removing householder permitted development rights, the use of such conditions to limit small scale domestic alterations rarely meet the tests of reasonableness. Given the findings in relation to the absence of harm to the undesignated landscape or living conditions of neighbouring occupiers, there is insufficient justification for the removal of permitted development rights in this case.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan:
 - Location Plan (dated 7 November 2017)
- 5) As part of any subsequent Reserved Matters application/s, a full Drainage Strategy setting out the details of both surface water and foul drainage systems shall be submitted for approval by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.
- 6) As part of any subsequent Reserved Matters application/s, a plan identifying the finished floor level of the proposed dwelling and the finished garden levels in relation to an identifiable datum point shall be submitted for approval by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.
- 7) As part of any subsequent Reserved Matters application/s, details of the proposed boundary treatments to the boundaries of the application site shall be submitted for approval by the Local Planning Authority. The proposed development shall be implemented in accordance with such approved details.