



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: 18 January 2021

Appeal Ref: APP/U1105/W/20/3258736

Taree, Cownhayne Lane, Colyton, Devon EX24 6HD

- 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 David & Jacqueline Presnail against the decision of East Devon District Council.
 - The application Ref 20/0643/FUL, dated 9 March 2020, was refused by notice dated 10 July 2020.
 - The development proposed is construction of detached dwelling and associated driveway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) The effect on the character and appearance of the area and scenic beauty of the area of outstanding natural beauty (AONB);
 - (ii) the effect of flood risk on the development; and
 - (iii) whether the site is in an appropriate location for the development with regard to local and national planning policy.

Reasons

Character and appearance

3. There is urban development around the site, but the site visually relates closely to Cownhayne Lane which has a generally rural character. The site contains a number of trees that contribute positively the appearance of Cownhayne Lane and the scenic beauty of the AONB generally. While only two low-quality trees need to be removed, the appellants' Arboricultural Impact Assessment indicates that two large trees on the site frontage, that have low spreading canopies, would have to be raised to allow sufficient light to reach the dwelling. There is no substantive evidence to counter the Council's suggestion that as they continue to mature, further pruning would be required to provide adequate living conditions.
4. Policy D3 of the East Devon Local Plan 2013-2030 (LP) requires development to have a harmonious and sustainable relationship with trees. While the presence of a tree preservation order would give the Council control over the extent of

pruning, the need for ongoing works to the trees is likely to result in a degradation in their contribution to the character and appearance of the area and scenic beauty of the AONB. Therefore, the proposal is in conflict with LP Policy D1 and Strategy 46 that seek to preserve and enhance the landscape character of the area and ensure that development does not adversely affect trees worthy of retention.

Flood risk

5. The site is shown on flood maps as lying within flood zone 2. However, the mapped flood zone boundary does not reflect the topography of the site, which would result in the dwelling being sited around 2.5 metres above the indicative flood level. While the Environment Agency has not explicitly confirmed that the site would not flood, it has suggested that residential development may be possible from a flood risk perspective. The Council's officer report indicates that the levels are not necessarily such that the site will actually be affected.
6. On the basis of the evidence before me, I am satisfied that the site is at low risk of river flooding. The flood zone 2 designation suggests that the sequential test set out in the National Planning Policy Framework (the Framework) should be applied. The purpose of the sequential test is to steer development to land with the lowest risk of flooding. The topography is such that the site is amongst such land. Despite the mapping, therefore, I find that the sequential test would be passed. The proposal, therefore, complies with LP Policy EN21 that requires the application of the sequential test and that development is safe from flooding.

Location

7. The site is relatively close to Colyton, where a range of facilities and services would be available following a short walk. This would present opportunities for future residents to travel for some purposes without reliance on private motor transport, weighing in favour of the proposal. It is possible that trends towards home working and online shopping would further reduce the need to travel.
8. It may well be that the site should be considered as previously developed land (PDL). The National Planning Policy Framework and the LP favour the use of PDL for housing. However, that is not to say that all PDL should be developed irrespective of its location. Rather, strategic policies should seek to re-use as much PDL as possible in seeking to address objectively assessed needs.
9. The site is located outside any Built Up Area Boundary (BUAB) within the East Devon Local Plan 2013-2031 (LP) or the East Devon Villages Plan 2018. Under LP Strategy 7, it is, therefore, defined as open countryside. In such locations, development is only permitted where it accords with a specific local or neighbourhood plan policy that explicitly permits such development and where it would not harm distinctive landscape, amenity and environmental qualities. Whether or not the proposal meets the accessibility requirements of LP Policy TC2, it is not explicitly permitted by any specific policy and, due to the effect on trees, would harm environmental qualities. Therefore, it is contrary to Strategy 7 indicating that the site is not in an appropriate location for the development.

Other matters

10. The proposal would provide a dwelling that would improve the quality of life for the appellants and allow them to stay in their own home for as long as possible. As a personal benefit, that is of limited weight. The proposal would contribute to the supply of housing in the area, with associated benefits during its construction and occupation. It may be that recent Government announcements, and the Framework, seek to boost significantly the supply of homes, and LP housing targets are not a maximum, but the benefits from the provision of one dwelling are small. I, therefore, attribute them limited weight.

Planning balance and conclusion

11. The site's location outside the BUABs means that it conflicts with the development plan, considered as a whole. Future residents may not be wholly dependent on private transport to meet all of their needs, but the benefits arising from the development would be small. There may be some support from parts of the Framework, but paragraph 12 is clear that where a proposal conflicts with an up to date development plan, it should not normally be granted. Material considerations in this case do not, therefore, indicate a decision otherwise than in accordance with the development plan.
12. I, therefore, conclude that the appeal should be dismissed.

M Bale

INSPECTOR