



Appeal Decision

Site Visit made on 19 January 2021

by Mr A Spencer-Peet BSc.(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/Y1138/W/20/3260408

South Farm, Blackborough, Cullompton, Devon EX15 2JE

- 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 Antony Sweeney against Mid Devon District Council.
 - The application Ref 20/00707/FULL, is dated 22 April 2020.
 - The development proposed is described as for the construction of new dwelling, change full residential consent on Coshes and Cinders cottages to residential use to holiday condition and relinquish planning consent for 2 number one bedroom timber lodges granted at the site, and improvements to access to highway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Appellant has submitted this appeal on the basis of non-determination of the planning application. Following the submission of the appeal against non-determination, Mid Devon District Council (the Council) has identified the reasons the Local Planning Authority would have given to refuse consent. The Appellant has seen these details and has had the opportunity to respond.
3. Whilst the Council's statement identifies five reasons for refusal, in light of all the submissions in this appeal, the main issues are:
 - Whether the proposal is in a suitable location for housing with regards to National and Local Planning Policy; and,
 - The effect of the proposal on the character and appearance of the surrounding area, having particular regard to the location of the site within the Blackdown Hills Area of Outstanding Natural Beauty (the AONB).

Reasons

Location

4. The appeal site comprises undeveloped land at South Farm. The site is located close to the entrance to the holiday complex and away from the concentrated built form of the complex which is accessed further downhill from a narrow winding lane. By reason of the high hedges, surrounding narrow winding lanes and highways, predominately open agricultural land and significant separation distance to the nearest settlement that provides access to services and facilities, the appeal site is located within the countryside for planning purposes.

5. The site is not located within any of the settlements as described under Policies S10 – S13 of the Mid Devon Local Plan 2013 -2033 (July 2020) (the Local Plan). Policy S14 of the Local Plan provides that outside those named towns and larger villages within the district, development will only be permitted where it would preserve and, where possible, enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.
6. Policy S14 of the Local Plan further confirms that specific policies of the development plan will permit agricultural and other appropriate rural uses, subject to certain criteria and which, amongst other things, includes appropriately scaled tourism and leisure related development.
7. The proposal is for a new dwelling. The Appellant has put it to me that the reason that consent for a new unrestricted dwelling is being sought, rather than being a proposal for a building restricted to holiday use, is so that the Appellant can secure funding for the development. Whilst this is noted, the appeal is to be, nonetheless, determined on the basis of the proposal before me which relates to a new unrestricted dwelling in the countryside.
8. The proposed scheme is not for affordable housing, nor concerns renewable energy, agricultural or equestrian development. The appeal proposal does not involve alterations to an existing building and, considering the above with regards to the proposed unrestricted nature of the new dwelling, would not be tourism or leisure related development. Consequently, the appeal scheme would conflict with Policy S14 of the Local Plan with regards to the location of the proposed development.
9. Policy DM22 of the Local Plan concerns Tourism and Leisure development and confirms that proposals for new or expanded tourism, visitor or leisure facilities in locations such as at the appeal site, must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the road network. As noted above, the appeal proposal before me is for an unrestricted new dwelling and is, therefore, not tourism or leisure development. Consequently, the proposed development would not accord with, nor gain support from Policy DM22 of the Local Plan.
10. In light of the above, the proposal is for an unrestricted new dwelling in the countryside and at a location which is not situated close to any services and facilities that would be reasonably required on a day to day basis. The scheme would conflict with Policies S1 and S14 of the Local Plan which, as noted above and amongst other things, requires that development promotes sustainable diversification of the rural economy. The conflict with these policies of the recently adopted development plan weighs significantly against the proposal.

Character and Appearance

11. Policy DM1 of the Local Plan concerns high quality design and provides, amongst other matters, that new development must demonstrate a clear understanding of the characteristics of the site and the wider surrounding area, make a positive contribution to local character and provide visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

12. Policy DM27 of the Local Plan considers protected landscapes and development proposals within the AONB. This policy provides that development proposals must demonstrate that the character, appearance, setting and other special qualities of the protected landscape, will be conserved or, where possible, enhanced. Paragraph 172 of the National Planning Policy Framework confirms that great weight should be given to conserving and enhancing landscape and scenic beauty of AONBs which, along with National Parks and the Broads, have the highest status of protection in relation to those issues.
13. In my view, the appeal site makes a positive contribution towards the landscape and scenic beauty of the AONB by reason of its undeveloped nature and picturesque location. The proposed development is for an unrestricted new dwelling to be positioned on a plot which, as noted above, is remote from the concentrated built form of the holiday complex.
14. As I observed on my site visit, the appeal site is close to the highway and, given the surrounding predominately open agricultural land to the north, the site is prominent in views from within the wider surrounding area. The proposed dwelling would be two storeys in height and would be substantially sized in terms of its bulk and mass. The Appellant acknowledges that the proposed dwelling is of modern design and includes large elements of glazing.
15. The proposed new substantially scaled dwelling would alter the appeal site's character and appearance considerably, changing it from an area of undeveloped land which, as noted above makes a positive contribution to the character and appearance of the area and to the landscape qualities of the AONB, to a more domestic one with all the parking, lighting and other residential paraphernalia that would entail. Given its location away from the main built up form of the holiday complex, the proposed dwelling would appear as a physically discordant and visually incongruous feature within the protected landscape, would erode the rural character of the site and, in my view, would have a significant adverse effect on the character and appearance of this part of the AONB.
16. Consequently, by reason of its scale, mass, spread and inclusion of a high degree of glazing, the proposed new dwelling would be harmful to the character and appearance of the surrounding area and would, therefore, not conserve the character, appearance, setting or landscape qualities of the AONB.
17. Whilst I note the Council's concerns regarding the detail provided in relation to the proposed improvements to the point of access and provision of drainage details, such matters can be adequately dealt with by conditions. In this regard, however, whilst I have considered the potential improvement that could be made to the point of access as part of the proposal, overall, I conclude that the appeal scheme would be harmful to the special qualities of the AONB.
18. For the above reasons, the appeal scheme would conflict with Policies DM1 and DM27 of the Local Plan and I attach significant weight to the proposal's conflict with these policies of the development plan. The harm identified above is a matter of particular importance as the site lies within the AONB, and the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in such locations. The appeal proposal would not accord with paragraph 172 of the Framework.

Other Matters

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
20. The Appellant has put it to me that the proposed new unrestricted dwelling would be justified on the grounds that: the Coshes and Cinders cottages located within the complex would give up their residential use and be restricted to holiday use only, that planning permission for two of five approved¹ holiday lodges at the holiday complex be relinquished and that a precedent has been set by other approvals for planning permission at the complex and near to the site. The Appellant further maintains that the appeal scheme would provide additional benefits in terms of highway improvements, employment opportunities and tourism provision. I shall consider each of these matters in turn below.
21. In respect of the two cottages known as Coshes and Cinders, whilst it is acknowledged that permitted development rights remain, these buildings are located within and have a close physical and visual relationship with the holiday complex. The proposed new dwelling would be located remote from the complex and would have a significant adverse impact on the landscape qualities of the AONB as described above. In my view, the change of use of these cottages to be restricted to holiday use only would not be sufficient to overcome the identified harm that would be caused by the proposed substantially sized, somewhat isolated unrestricted dwelling.
22. In relation to the proposed relinquishment of planning permission for two of the five approved holiday lodges at the holiday complex, the Council have put it to me that there is doubt that development of the lodges had been commenced within the required period and that therefore that planning permission is no longer extant. The Appellant maintains that the relevant planning permission has been implemented as evidenced by the construction of the building known as Blackdown Views.
23. In my view, and even in the event that planning permission to include the provision of five holiday lodges has been implemented, the relinquishment of two lodges which are restricted to holiday use and which are to be located in close proximity to the concentrated built form of the complex, would not provide sufficient mitigation for the significant harm that the proposed unrestricted and incongruous new dwelling would have in relation to the location of development, the harm to the landscape qualities of the AONB and the resulting development plan conflict.
24. It is noted that the Council have raised concerns that no form of planning obligation or legal agreement has been submitted with regards to the change of use of the abovementioned cottages to holiday use only and with regards to relinquishing planning permission for two of the five approved lodges at the holiday complex. I acknowledge that the Appellant confirms that they are in agreement to provide such obligations and undertakings. However, it has not been necessary for me to consider these matters further as, for the reasons given above, even in the event that appropriate mechanisms were before me,

¹ Local Planning Authority References: 09/00975/FULL & 11/01647/FULL

the potential benefits associated with them would not be sufficient to overcome the identified harm arising from the appeal scheme.

25. The Appellant has further put it to me that a precedent has been set by the Council with regards to the previous approval for a building known as Blackdown Views. However, from the very limited amount of information before me, it does not appear that that approval is comparable to the present appeal scheme.
26. Whilst it is acknowledged the appeal scheme would be similar in scale and appearance to the building at Blackdown Views, it is understood that the specific site for Blackdown Views already had permission for the erection of a holiday let. Furthermore, whilst being of a design and scale that does not reflect the buildings at the holiday complex, Blackdown Views is nonetheless not significantly detached from the concentrated built form of the complex and would be seen in the context of that nearby built form from views from within the wider area. As noted above, the same cannot be said for the appeal scheme, where the proposed unrestricted dwelling would be significantly separated from the complex and would have, in my view, a significantly adverse impact on the character and appearance of the surrounding area and the AONB.
27. In addition to the above, I have also been referred to the granting of planning permission for two dwellings at South Combe Waters. However, whilst this is noted, I have only been provided with a very limited amount of information regarding that previous approval and given that I have not been provided with full details of the scheme at South Combe Waters, I cannot be certain that the circumstances of that matter are comparable to the present appeal scheme and I have, therefore, considered the appeal on its own merits.
28. The Appellant maintains that the appeal proposal would also provide additional benefits in terms of increase in tourism offer, improvements to the highway and additional employment opportunities. In these regards, as noted above, the proposal is for a new dwelling which would not be restricted to holiday use. Consequently, the proposal would not add to, or improve, the tourism offer available within the District. For the same reason, the appeal proposal would not provide additional employment opportunities at the holiday complex.
29. However, I do acknowledge that the appeal proposal would provide some very limited economic benefits in terms of employment during the construction phase and, subject to conditions, could provide some highway improvement. Whilst these benefits are positive in nature, they attract only very limited weight in the determination of this appeal by reason of the scale of the proposal.
30. In summary of the above, even in the event that suitable executed mechanisms were before me in relation to the proposed change of use for the Cinders and Coshes cottages and in respect of relinquishing planning permission for two of the approved holiday lodges at the complex, these potential benefits in combination with the other forms of benefit described above and put before me within the Appellant's submissions, would not be sufficient to outweigh the significant harm identified in relation to the adverse impact on the landscape and scenic beauty of the AONB and the resulting conflict with the development plan with regards to the location of the appeal proposal.

31. I acknowledge the time and money which the Appellant has invested in the South Farm holiday complex and I note the Appellant's frustrations with the Council's communication and the way in which it handled the application. However, these matters do not impact on the planning merits of the appeal proposal.
32. Interested parties raise additional objections to the proposal on the grounds of ecology and noise disturbance. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issues above, these are not matters that have been critical to my overall decision.

Conclusion

33. For the reasons given above, the scheme conflicts with the development plan when considered as a whole and there are no material considerations to outweigh the identified harm and subsequent development plan conflict. I therefore conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR