
Appeal Decision

Site visit made on 9 March 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/Y1138/W/20/3253752

Land North of Frog Street, Bampton, Devon EX16 9PX

- 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 outline planning permission.
 - The appeal is made by Land Allocation Ltd against Mid Devon District Council.
 - The application Ref 20/00249/MOUT, is dated 31 January 2020.
 - The development proposed is a mixed use development of Use Class C3 residential and Use Class B1 employment.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Land Allocation Ltd against Mid Devon District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was made in outline with all matters reserved for later determination other than access.
4. On 29 July 2020 the Council adopted the Mid Devon Local Plan Review (LPR). This supersedes the three parts of the previous Local Plan¹ and contains the policies that the proposed development now has to be assessed against.

Main issues

5. The Council failed to give notice of its decision within the prescribed period. They have, however, provided putative reasons for refusal in their statement and from these I consider the main issues to be:
 - a) The effect of the proposed development on the character and appearance of the area,
 - b) Whether or not the proposed development would be in accordance with the spatial strategy for the area, and
 - c) Whether or not the proposed development would make provision for affordable housing and contributions towards education, public open space and play areas and highway safety.

¹ Mid Devon core Strategy, Mid Devon Allocations and Infrastructure Development Plan and the Mid Devon Development Management Policies.

Reasons

Character and appearance

6. The existing built up area of Bampton on its northern fringe currently ends with a housing estate to the south of Frog Street. This section of Frog Street therefore effectively contains the current built form of the village in this direction, and the built form is also contained by the B3190 to the east.
7. The appeal site comprises two fields, laid to grass and interspersed with hedges, located to the north of Frog Street. The easternmost field rises to the north, with views of undeveloped countryside and rolling hills available to the north, east and west. To the south there are further views of a rural landscape over the rooftops of the existing housing estate, which is set at a lower level, thus impacting upon the generally rural tableau to a far lesser extent than it otherwise would do.
8. I have been furnished with a Landscape and Visual Impact Assessment (LVIA) and an addendum to that assessment, both written by AHH planning consultants. The addendum, which was written specifically for the proposed development, informs that during the construction phase the proposed development would result in the loss of a large part of the hedgerow bordering the B3190. Whilst this may only represent a short section of hedgerow within the context of the Character Area, it would nonetheless be a significant loss.
9. The addendum also considers that the introduction of new housing would lead to only minor adverse effects. This is partly justified by the existing presence of housing to the south of Frog Street. As I have shown however, this existing housing is set at a far lower level and barely impacts upon the character and appearance of the area. This would not be the case with the proposed development. To my mind the LVIA and the addendum to it seriously underestimate the impact of the proposal on the character and appearance of the area.
10. The proposed mixed development would effectively extend the built form of the village into a countryside setting, and in doing so would significantly harm the very rural character and appearance of the area. I acknowledge that landscaping could, to an extent, mitigate the impact of the development and that the south-west field could be designated as an amenity area. However, due to the rising land-form and its position this would not be sufficient to reduce the harm caused to an acceptable level.
11. Conflict would therefore ensue with policy S1 of the LPR, which requires that good sustainable design respects, amongst other things, local character and surroundings.

Spatial strategy

12. Policy S13 of the LPR makes clear that Bampton is defined as a village and that development will be limited to proposals within the defined settlement limits of such villages. The proposed development would be outside of the settlement limit of Bampton and therefore conflict would occur with policy S13. In arriving at this conclusion, I am aware that the site was allocated for mixed development within the now defunct Core Strategy. It is however incumbent upon me to assess the proposed development against the currently adopted Local Plan.

Contributions

13. I have been provided with a Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). This would ensure the provision of affordable housing and amenity space and contributions towards healthcare, education, transport, traffic and off site public open space. The provision of the UU therefore overcomes the third putative reason for refusal.

Planning balance and conclusion

14. I have found that the proposed development would conflict with both policies S1 and S13 of the LPR. Notwithstanding this, the appellant considers that the Council cannot demonstrate a five year supply of deliverable housing sites. This assertion stems from the difference in definition of deliverability between the 2012 National Planning Policy Framework (the Framework) and the updated 2019 version, and the fact that the LPR was assessed against the policies of the 2012 version of the Framework.
15. However, whilst I accept that the updated Framework takes a more rigorous approach to the issue of deliverability, I have not been supplied with any significant information to show how any of these differences would result in a lessening of the Council's stated 7.43 year supply of housing, or indeed what this resultant figure would be.
16. The LPR was adopted less than a year ago after a considerable amount of consultation and scrutiny, and the Council's figure of 7.43 years is considerably larger than the required 5 years. In light of the paucity of evidence provided to rebut this figure, I can only conclude that the Council can still demonstrate a 5 year supply of deliverable housing sites and that consequently the 'tilted' balance contained within paragraph 11 (d) of the Framework is not engaged.
17. In arriving at this conclusion I have noted a previous appeal decision² which commented that the Coronavirus Pandemic could result in economic repercussions in the short term. Again however, I have been supplied with no actual evidence to show how this could impact in the local area.
18. I acknowledge that the proposed development would result in the provision of both market and more importantly affordable housing and that benefits would accrue to both the social and economic limbs of sustainability. However, the harm that I have identified towards the environmental limb of sustainability, coupled with the conflict with the development plan, strongly outweigh the benefits of the scheme.
19. Therefore, for the above reasons, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR

² APP/X0360/W/19/3238048