
Appeal Decision

Site visit made on 26 April 2021

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

an Inspector appointed by the Secretary of State

Decision date: 05 May 2021

Appeal Ref: APP/U1105/W/20/3264705

Land Opposite Exton Lane, Exmouth Road, Exton EX3 0PL

- 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 Mrs N Bayliss against the decision of East Devon District Council.
 - The application Ref 20/1149/FUL, dated 5 June 2020, was refused by notice dated 11 November 2020.
 - The development proposed is the construction of two dwellings and creation of new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The submissions before me indicate that the main parties have agreed a change in the description of the proposed development. Accordingly, I have used the amended description in the banner heading above.

Main Issue

3. The main issue in this appeal is whether the proposed development is in a suitable location for housing, with particular reference to the accessibility of services and facilities and to the reliance on motor vehicles.

Reasons

4. The appeal site comprises land on the eastern side of the A376, located at the edge of the settlement at Exton. The site has a gated access point onto the adjacent highway and is situated adjacent to recent residential development south of the site. There is further residential development on the opposite side of the A376, with the site being enclosed to the north and north east by more open areas of agricultural land.
5. Strategy 27 of the East Devon Local Plan 2013–2031 (the Local Plan) relates to development at small towns and larger villages which have a defined Built Up Area Boundary (the BUAB). Whilst there is residential development close to the appeal site, Exton is not a settlement that is listed in Strategy 27 of the Local Plan and the site is located outside of the BUAB.
6. Whilst noting that the appeal site is located outside of the BUAB, the Appellant has put it to me that the services and facilities on offer within Exton compare favourably with a number of settlements listed within Strategy 27 of the Local Plan. In this regard, while the Appellant's submissions are acknowledged, it is

not a matter for me under this section 78 appeal to consider matters relating to the inclusion of certain settlements within this policy of the development plan.

7. Strategy 7 of the Local Plan provides that parts of the plan area outside the BUAB and site-specific allocations shown on the Proposals Map, are considered to be in the countryside. This policy seeks to restrict development outside of the BUAB unless it accords with a specific Local or Neighbourhood Plan policy which explicitly permits it and where there would be no harm caused to the amenity and environmental qualities of the distinctive landscape in which it is located.
8. Policy TC2 of the Local Plan confirms that new development should be located so as to be accessible by pedestrians, cyclists and public transport as well as being well related to compatible land uses, so as to minimise the need to travel by car. In this regard, from the observations made on my site visit and from the evidence before me, Exton does contain a limited range of services and facilities which include, amongst others, a train station, public house, petrol filling station with associated convenience store, bus stops, church and village hall.
9. Notwithstanding the above and the presence of some very limited services located relatively close to the appeal site, access on foot to services and facilities contained within the settlement such as the train station, would predominately require crossing the busy A376 and then would be along narrow lanes which do not benefit from dedicated pedestrian footways and which provides only very limited street lighting. Given that the settlement's facilities are located on the opposite side of the busy highway without pedestrian crossing points close to the site, it cannot be said that the access on foot or by bicycle to the facilities and services contained within Exton would be accessible to all, and particularly during hours of darkness and during adverse weather conditions.
10. In light of the above, I find that it is likely that future occupiers of the proposed dwellings would be heavily reliant on private motor vehicles in order to access the range of services and facilities that could be reasonably required on a day to day basis. Whilst the limited facilities close to the site are acknowledged, in my view it is likely that the appeal proposal would contribute to a pattern of development that would cause environmental harm as a result of increased car journeys and hence carbon emissions.
11. In summary of the above, whilst the appeal site is located at the edge of the settlement at Exton, for the purposes of the development plan the site is located within the countryside. I have not been provided with details of how the development would accord with specific Local or Neighbourhood Plan policies which support development at this location, and I have found that future occupants of the appeal scheme would be likely to be reliant on private vehicles to access services that could be reasonably required on a day to day basis.
12. Consequently, the proposed development would conflict with Strategies 7 and 27 of the Local Plan and would be contrary to the provisions of Policy TC2 of the Local Plan. Accordingly, the appeal scheme would conflict with the Local Plan when taken as a whole and I attach significant weight to this conflict in the determination of this appeal. For the same reasons, the appeal scheme would fail to accord with those parts of the National Planning Policy Framework which

- concern actively managing patterns of growth in support of, among other things, the promotion of opportunities for walking, cycling and public transport.
13. 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.
 14. The Appellant has referred me to a number of appeal decisions which concern development proposals within Exton. In respect of the appeal for development at Foye¹, the Appellant has provided details of distances to certain services located within Exton and the surrounding area, and has compared those distances to the present appeal site. Notwithstanding the details provided in relation to certain facilities which are located in the nearby village at Ebford and at Lympstone Commando, the submissions indicate that the appeal proposal would be located closer to certain services such as bus stops and the petrol filling station than the development at Foye, but would be at a greater distance from facilities such as the train station. In this respect, whilst the relative distances are acknowledged, access to those services from Foye would not predominately require crossing the busy A376.
 15. In respect of development at Orchard Cottage², I have only been provided with limited information. Nonetheless, from the limited details before me it appears that the Inspector in that appeal found that that site did have suitable access to the services and facilities contained within Exton. I have not been provided with a copy of the full appeal decision, nor any details regarding that particular development. Similarly, I have only very brief details of the development at The Last Resort³ as referred to me by the Appellant. Consequently, whilst the relative distances to certain services is acknowledged, I cannot be sure that the circumstances of the cited appeals are comparable to the position in relation to the appeal proposal. For the above reasons, I have found that the appeal site is not suitably located with regards access to services, and I have, in any event, determined this appeal on its own merits.
 16. The main parties have also both referred me to the appeal decision for development at Exton Lodge⁴ which is located on the same side of the A376 south of the appeal site. From the evidence and submissions before me, that appeal was dismissed by reason of the lack of suitable access to services and facilities and that there would be a reliance on private motor vehicles. The Appellant has put it to me that, whilst the appeal was dismissed on those grounds, the present appeal proposal would provide a differing level of benefits when compared to the scheme at Exton Lodge.
 17. The appeal scheme would provide benefits in terms of additional units towards housing supply, and it is acknowledged that the proposal would contribute to a wider choice of houses within the area. By reason of the scale of the proposal, the additional housing units could be constructed within a short timeframe. Additional benefits would arise in terms of employment opportunities during the construction phase and through the future spend of residents within local businesses.

¹ Appeal Reference: APP/U1105/W/15/3139662

² Appeal Reference: APP/U1105/W/15/3196758

³ Appeal Reference: APP/U1105/W/15/3003548

⁴ Appeal Reference: APP/U1105/W/19/3226312

18. The above described benefits are materially positive and weigh in favour of the scheme. However, I attach only limited weight to these considerations in the determination of this appeal by reason of the scale of the proposal.
19. Weighed against these matters, the appeal proposal would conflict with the development plan when taken as a whole as identified above. The conflict with the development plan and the identified harm that results from that conflict, weighs significantly against the proposal. The appeal proposal would not be suitably located with regards to services and facilities that would reasonably be required on a day to day basis and, therefore, future occupants are likely to be reliant on private motor vehicles for most trips. This would conflict with the environmental dimension of sustainable development. I conclude, therefore, that the significant weight to be attached to the proposal's conflict with the development plan and the resulting identified harm, would outweigh the limited benefits that the scheme would provide.

Other Matters

20. The Council Officer's report indicates that the proposed development would be located in close proximity to the Exe Estuary and Pebblebed Heath Special Protection Areas. While an important issue, I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above, I am dismissing the appeal.
21. Interested parties raise additional objections to the proposal on the grounds of the effect of the proposal with regards highway safety and to loss of privacy. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue above, these are not matters that have been critical to my overall decision.

Conclusions

22. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR