

Appeal Decision

Site Visit made on 12 May 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2021

Appeal Ref: APP/Y1138/W/21/3268891

Footlands, Knowle Lane, Cullompton EX15 1PZ

- 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 John Veysey against the decision of Mid Devon District Council.
 - The application Ref 20/01531/OUT, dated 11 September 2020, was refused by notice dated 5 November 2020.
 - The development proposed is the erection of two detached dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been made in outline, with all matters reserved for future consideration. In accordance with Article 5 (3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the application identifies the area where an access point to the proposed development would be situated. Plans have also been submitted showing an indicative site layout, including an access road and visibility improvements at the access point. As these are reserved matters, I have considered these plans solely on the basis that they have been submitted for illustrative purposes.

Background and Main Issue

3. The application was refused by the Council for two reasons. The second reason for refusal related to a failure to secure air quality contributions made necessary by the development. During the course of the appeal, a Unilateral Undertaking (UU) pursuant to Section 106 of the Act has been completed. The UU obliges the owner to pay an Air Quality Contribution of £15,000 to the Council. The Council has confirmed that the UU overcomes the second reason for refusal.
4. Therefore, the main issue is whether the development would undermine the efficient and effective use of the wider site, or the policy requirements of the allocation.

Reasons

5. The appeal site comprises a level, lawned garden, attached to a large bungalow in a rural location beyond the western built edge of the town. Access to the site is gained via a narrow winding country lane that is confined by hedgerows on both sides. There has been considerable development activity on this side of the town in recent years, with new housing lying to the north and east of the

site. The site is part of a larger area of land known as Ware Park and Footlands, which is allocated for residential development by Policy CU14 of the Mid Devon Local Plan 2013-2033 (adopted 2020) (the Local Plan). The allocation includes the appeal site; the bungalow and the rest of its garden; and the field to the east, which abuts the recent housing development. In view of Policy CU14, there is no dispute that the site is suitable, in principle, for residential development as part of the wider allocation.

6. The site lies within the Settlement Limit that is defined by the Local Plan Policies Map. However, this boundary is drawn tightly around the existing built-up area, and includes land that is allocated for development. The site itself lies some 200 metres to the west of the existing built edge of the town, and is separated from it by an open field. The evidence indicates that the site has only been included within the Settlement Limit because it forms part of a wider allocation of land, rather than because its location makes it suitable for development in isolation. Consequently, the proposal should be considered against the requirements of Policy CU14.
7. Whilst Policy CU14 does not specifically necessitate the entire site to be brought forward at once, it does set requirements that apply across the whole allocation. Consequently, proposals for a part, or parts, of the allocation should demonstrate that they will contribute to meeting the overall objectives. The first is that the allocation should provide 38 dwellings. This would require the entire allocation to be built at a density of 18 dwellings per Hectare. The proposal involves removing 0.2 Hectares of the site to develop two houses at a much lower density (10 per Hectare). This would have implications for the remainder of the site, which would have to be at a higher density to achieve the 38 dwellings required by the allocation policy.
8. The application was accompanied by a plan showing how 36 dwellings could be accommodated on the remainder of the site. However, there is no evidence to show that this layout has been informed by any detailed analysis, or consultation, to establish that it would meet all the necessary technical and policy requirements. For example, there is no Flood Risk Assessment to demonstrate that the drainage basin areas would be large enough, and no expert highway advice to indicate that sufficient space has been set aside for roads, footpaths, and manoeuvring space. It is not clear whether the areas of public open space would meet development plan policies, or whether the gardens would comply with any private outdoor amenity space standards. There is, therefore, insufficient evidence for me to conclude that the appeal site could be developed at a lower density, without compromising the ability of the wider allocation to deliver the quantum of development sought by Policy CU14.
9. The allocation also requires that 28% of the 38 dwellings should be affordable, which equates to 11 dwellings when rounded to the nearest whole number. The proposal would remove 0.2 Hectares of the site, and two dwellings from the total requirement, without any contribution to the required affordable housing. Therefore, even if the remainder of the site could satisfactorily accommodate 36 dwellings, a higher proportion of affordable housing would be necessary to achieve the 11 affordable dwellings required by the policy. No mechanism has been proposed to ensure that this higher proportion could be secured, and no evidence has been submitted to demonstrate that it would be viable. I am therefore unable to conclude, with any certainty, that the proposal to develop

the site in isolation, would not compromise the ability of the wider allocation to deliver affordable housing at the level required by the policy.

10. The evidence indicates that the proposal for two dwellings falls below the threshold whereby infrastructure contributions towards public open space and education requirements would be necessitated by development plan policy. As a result, there would be a shortfall in the necessary contributions from the overall allocation. In the absence of any contributions from the proposal, or a mechanism to ensure that the remainder of the allocation makes up the shortfall, I conclude that the proposal would result in the overall development being unable to fully mitigate its impact on community infrastructure.
11. Paragraph 3.126 of the Local Plan makes it clear that, due to the width and alignment of Knowle Lane, access to the wider allocation can only be satisfactorily achieved through the recently developed site to the east. Whilst the limited traffic from two additional dwellings accessed off Knowle Lane may be acceptable in highway terms, the evidence indicates that the existing access would need to be improved to allow adequate visibility for emerging vehicles. This would result in significant hedgerow loss, which would harm the character of what will become the rural edge of the settlement. This harm would not be an inevitable consequence of the allocation, as criterion e) of Policy CU14 requires access to be from the adjoining development.
12. I am mindful that the appeal site is physically and visually separated from the remainder of the allocation, being domestic garden, rather than an open field. However, the hedgerow that separates the two parcels is largely made up of ornamental species, so there is no real constraint to a vehicular link between the two elements. It may be that any future design proposals for the overall site seek to treat this area differently to the remainder of the allocation. However, the fact that there is some visual distinction between this part of the allocation, and the open field beyond, does not exonerate it from contributing towards the overall policy requirements of the allocation.
13. Criteria b) and c) of Policy CU14 state that the allocation should not be developed until off-site strategic highway works have been completed. Little evidence has been provided of the current position and timescales for these schemes. Furthermore, there is no evidence to demonstrate that traffic movements associated with the two dwellings, would have such an impact on the highway network, that this limited development should be prevented until the schemes are completed. Similarly, I have no evidence to demonstrate that development of a small part of the wider allocation, in isolation, would compromise the likelihood of these schemes coming to fruition. On this basis, I can not conclude that the proposal would be harmful to these particular requirements of Policy CU14.
14. However, for the reasons given above, the proposal would jeopardise delivery of the overall number of dwellings and proportion of affordable housing required by the allocation, as well as the necessary mitigation for the impact of the wider development on community infrastructure. Furthermore, the access proposals would not accord with the allocation criteria, resulting in hedgerow loss. I therefore conclude that, contrary to Policy DM1 of the Local Plan, the development would undermine the efficient and effective use of the wider site. The proposal would also conflict with the allocation requirements set out in Policy CU14.

Planning Balance

15. The Government's objective, set out in the National Planning Policy Framework (the Framework), is to significantly boost the supply of housing. The proposal would provide two homes on part of a site that is allocated for development. Given the small scale of the proposal, the provision of the additional housing attracts modest weight. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment.
16. Conversely, the proposal would undermine the efficient and effective use of the wider site, and would jeopardise delivery of the overall number of dwellings and the proportion of affordable housing. These matters attract significant weight, and outweigh the benefits associated with the proposed development.
17. Consequently, the proposal would conflict with the development plan, and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR