



Appeal Decision

Site visit made on 8 June 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/W1145/W/21/3269210

Land South of 1 North Town, Petrockstowe EX20 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission in principle.
 - The appeal is made by Mr Grahame Phillips against the decision of Torridge District Council.
 - The application Ref 1/0699/2020/PIP, dated 17 August 2020, was refused by notice dated 23 September 2020.
 - The development proposed is construction of a single dwelling and associated works.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a maximum of one dwelling on Land South of 1 North Town, Petrockstowe, EX20 3HD, in accordance with the terms of the application, Ref 1/0699/2020/PIP, dated 17 August 2020.

Preliminary Matters

2. The proposal is for permission in principle (PiP). The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or PiP stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent (TDC) application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and amount of development.

Reasons

Location

5. The appeal site is located to the south of a short terrace of dwellings and in a prominent position adjacent to a crossroads. The site is clearly within the built limits of the village of Petrockstowe.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

6. Under the North Devon & Torridge Local Plan (NDTLP) (adopted 2018) Policy ST07, Petrockstowe qualifies as a 'Rural Settlement' due to the existence of a limited number of facilities, including its public house and village hall.
7. Policy ST07 (3) indicates that in such rural settlements, appropriately located development of a modest scale will be enabled to meet locally generated needs. I return to the scale of the proposal below. In terms of the location of the development, as it falls within the built limits of the village, it must be regarded as 'appropriately located'.
8. In terms of the enablement of development to meet locally generated needs, the preamble explains that this links with Policy DM24: Rural Settlements. Policy DM24 indicates that dwellings in Rural Settlements should be proposed to meet affordable housing needs or for local occupancy housing and should be restricted as such in the long-term.
9. The appeal proposal does not appear to be proposed on the basis of a specific locally identified need. The appellant does however claim that the site is underused garden land and that it could accommodate a small dwelling to contribute to the local housing stock. I observed that much of the village housing stock is made up of detached dwellings in good sized plots, traditional terraced cottages and a modest range of other house types. There are few obviously smaller dwellings within the surroundings, which might suggest a need for such. However, in the absence of substantive evidence to the contrary, whilst in locational terms the proposal accords with Policy DM24 and ST07 (3), in terms of its speculative nature, it would conflict with the same.
10. Even if the dwelling were proposed as either an affordable dwelling or one to meet a local occupancy need, the PPG details² that it is not possible to secure a planning obligation until the TDC stage, rather than at the PiP stage.

Land Use

11. The proposed land use is for residential purposes which is compatible with the mainly residential surroundings. Although there are farm buildings in close proximity of the site, there are numerous other dwellings in close proximity that are already affected by the general noise, disturbance and odours of living next to such buildings.
12. As such, the proposed land use is acceptable in principle.

Amount

13. It is claimed that the site extends to 270 sqm in area and it is proposed to construct a single dwelling on it. There are a number of constraining features of the site, including: its adjacency with the road and crossroads, which dictate the feasible positions for a new access; the building lines set by the front walls of No 1 North Town and 'Ferrenghi'; and the raised ground level relative to the floor levels of the adjacent dwelling, No 1 North Town. These factors, along with the desire to achieve a well-designed dwelling which complies with the Nationally Described Space Standards³ and has a good quality outdoor amenity space substantially limit the way in which the site could be developed to make use of the 270 sqm.

² Paragraph: 022 Reference ID: 58-022-20180615

³ DCLG: Technical housing standards – nationally described space standard (2015)

14. There is a degree of doubt about whether a scheme could be designed to achieve all of the above without appearing cramped and contrived. However, these matters would fall to be properly considered as part of the TDC stage. Whilst it is reasonable to assume that no more than one dwelling could fit onto the site, it could not be assumed with the same certainty that the site is insufficiently scaled to accommodate just one dwelling without sufficient detail.
15. Thus, the amount of development proposed, i.e. a single dwelling, is the maximum that could be accommodated on site. Whether one dwelling is excessive relative to the scale of the site and the context of its surroundings is to be determined at the subsequent TDC stage.

Highways

16. I note the concerns of interested parties and the Council's Highways Consultee that there could be a degree of risk in introducing a new access in close proximity to a crossroads and that there is limited information on which to assess whether satisfactory visibility splays can be achieved. Further concerns relate to the management of surface water that may run onto the highway.
17. The limited information provided with the appeal application is commensurate with the nature of the PiP stage process, which purely seeks to determine whether the location, land use and amount is acceptable in principle. These highways aspects are more appropriately determined as part of the TDC stage, and there can be no guarantee that just because the PiP has been granted, that the TDC *will* follow. It takes approval of both stages for a planning permission to be secured.
18. Thus, whilst I accept that there is limited information provided to indicate that a safe access, appropriate parking provision and associated surface water management measures can be delivered, these details would come forward as part of a TDC application in any event.

Other Matters

19. The Council has suggested that in the event I allow the appeal, that a condition should be imposed seeking for the technical details application to be submitted within three years. The PPG⁴ indicates that it is not possible to impose conditions as the terms of any permission in principle must only include site location, type of development and amount. Without having to specify such by way of a condition, the default duration of permission in principle is 3 years, with any TDC to be determined during this period.

Planning balance and conclusion

20. The Council accept that following the Burwood appeal⁵, it cannot demonstrate a five year supply of housing land (5YHLS), with around 4.23 years' worth capable of being demonstrated. In these circumstances, the 'tilted balance' set out in paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged unless specific policies indicate that permission should be restricted. No such Framework policies are applicable to the appeal site.
21. The tilted balance requires that where the policies most important for determining the application are out-of-date, permission should be granted

⁴ Paragraph: 020 Reference ID: 58-020-20180615

⁵ Appeal ref: APP/W1145/W/19/3238460

- unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The conflict with the development plan, namely NDTLP Policies ST07 (3) and DM24, stems from the speculative nature of the proposal in the context of its location in a rural settlement. I regard these policies as being out-of-date at the present time due to the absence of a 5YHLS.
23. I am mindful that until TDC is granted to achieve a planning permission, any PiP for any number of houses is incapable of meaningfully contributing towards the 5YHLS shortfall. Nevertheless, the location of the proposal within a Rural Settlement is acceptable in principle. The benefits of providing a speculative, as opposed to an affordable or local occupancy-specific dwelling, would not result in significant or demonstrable harm that would outweigh the in-principle benefits of delivering a dwelling in such a location, when assessed against the Framework as a whole.
24. As such, on the face of the currently available evidence, I consider that the tilted balance forms a consideration of such materiality that it dictates that a decision should be made other than in accordance with the development plan.
25. Furthermore, should the 5YHLS position and the status of the relevant development policies change, it is possible that a planning obligation could be secured at a future TDC stage, provided that it were to meet the tests set out in the Framework and Community Infrastructure Levy⁶ in relation to the development plan policies at such a point in time.
26. For the reasons set out above, I conclude that the appeal should be allowed.

Hollie Nicholls

INSPECTOR

⁶ Community Infrastructure Levy Regulations 2010, as amended