



Appeal Decision

Site Visit made on 19 October 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/W1145/W/21/3276623

Honnacotts, Bradworthy EX22 7QS

- 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 & Mrs Geoffrey and Margaret Watkins against the decision of Torridge District Council.
 - The application Ref 1/0073/2021/OUT, dated 19 January 2021, was refused by notice dated 21 April 2021.
 - The development proposed is erection of up to five dwellings, along with formation of access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of up to five dwellings, along with formation of access at Honnacotts, Bradworthy EX22 7QS in accordance with the terms of the application, Ref 1/0073/2021/OUT, dated 19 January 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission. Approval is sought for access at this stage. I have, therefore, treated the plans insofar as they depict the access as a firm part of the proposal, but in all other regards as illustrative.

Main Issue

3. The main issue is whether the site is an appropriate location for open market housing, with regard to local and national planning policies.

Reasons

4. The site is beyond defined settlement boundaries. In such locations, Policy ST07 of the North Devon and Torridge Local Plan 2018 (LP) limits development to that which is enabled to meet local economic and social needs. The evidence does not indicate that 5 open market dwellings would meet such needs and the proposal, therefore, conflicts with the development plan in that regard.
5. LP Policy ST18 requires developments of 6-10 dwellings in rural areas to provide a contribution towards affordable housing. I understand the frustration that many developments under the affordable housing policy threshold may be coming forward around Bradworthy, and the feeling that the substantial amount of development within the planning pipeline is increasing demand on services while not addressing perceived high affordable housing needs.

6. The density proposed may be below the 30 dwellings per hectare used within the Strategic Housing Land Availability Assessment, but that has not been shown to be a policy requirement. The Council's officer report indicates that it would be comparable with other recent developments allowed at the periphery of Bradworthy, including on the adjoining land between the site and settlement boundary. It has not been shown that more dwellings could be accommodated while maintaining an appropriate rural fringe to the settlement. Therefore, with regard to the desirability of maintaining an area's prevailing character and setting, I find no substantive evidence that the proposal would make an inefficient use of land.
7. The proposal would use only part of the land owned by the appellant, with a new, somewhat artificial, boundary required to separate the housing from the remaining field that is otherwise enclosed with existing hedgerows. If the whole field were included, more than 5 dwellings could be provided at a comparable density. However, my attention has not been drawn to any particular policy that requires an applicant for planning permission to use all of the land available to them for a proposed development.
8. While the supporting text to Policy ST18 may seek to avoid deliberate attempts to circumvent affordable housing requirement, the policy itself refers to 'proposals for 6-10 dwellings'. This proposal is for 5 and the density on the identified site is suitable. There would, therefore, be no conflict with LP Policy ST18 in that regard.

Other Matters

9. There may well be poor public transport connections to Bradworthy, and a lack of substantial employment opportunities, but there are a range of local services within walking distance of the site. Although there is limited footway provision and the Parish Council receives many concerns about speeding on the road past the site, the highway is relatively straight and wide with good forward visibility. There is no substantive evidence that pedestrian use of the road by existing residents is unsafe and the highway authority have raised no objection to the proposal. Therefore, I find that future residents would have opportunities to travel to services by means other than the private car.
10. Dwellings in converted barns adjoining the site currently form a sympathetic rural transition from the countryside to the settlement. With the proposal developed, they would continue to form the first substantial group of buildings seen on approach to Bradworthy past the site. While any greenfield development would result in an urbanisation of the countryside, with an appropriate density, layout and landscaping, there would still be no abrupt transition from the countryside to a suburban environment. Therefore, I have no reason to find that harm to the character and appearance of the area would result from this proposal.
11. There would be a reduction in available garden space to the occupiers of Honnacotts Cottage. However, there would still be two modest garden areas about the cottage that would meet the needs of residents. Although some windows face the site, the indicative layout suggests that dwellings could be laid out so as to avoid overlooking. Similarly, given the window arrangements in the adjoining barn conversions, and distances and arrangement indicated as achievable on the plans, there would be no harm to the privacy of their occupiers either.

12. A planning obligation would provide contributions to mitigate the effect on local education infrastructure, fund a Traffic Regulation Order to extend the 30mph speed limit beyond the site, and secure management of shared spaces about the development. These matters relate to mitigation and are, therefore, neutral in the planning balance. There is no substantive evidence that other mitigation, such as for pressure on other services suggested by some local residents, is required.

Planning Balance

13. The Council is currently unable to demonstrate a 5 year supply of deliverable housing land. Therefore, paragraph 11(d) of the National Planning Policy Framework (the Framework) falls to be considered. This indicates that planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole. While the Parish Council and local residents may not want to support schemes that are promoted on this basis, that is the balance that I must consider when assessing the proposal under the Framework.
14. Given the ability to access at least some services by means other than the private car, Bradworthy, generally, is an appropriate location for additional housing development. Additional demand on education services would be effectively mitigated. Given the Framework's desire to boost significantly the supply of housing, I find the Framework, taken as a whole, is supportive of the proposal. It, therefore, benefits from the presumption in favour of sustainable development, outlined in Framework paragraph 11.
15. There is conflict with the development plan, read as a whole, given the site's location outside the identified settlement boundary. However, in light of the land supply situation and, given the settlement boundaries' role in constraining development, I give the conflict with LP Policy ST07 limited weight.
16. The Framework, as Government Policy, is of substantial weight and in this case, indicates a decision otherwise than in accordance with the development plan.

Conditions

17. Given the site's historic agricultural use, there is potential for ground contamination. Investigation is required, together with any necessary remediation, in order to protect human health. To prevent any increase in on or off-site flood risk, a drainage scheme is required. There is no need for an additional condition preventing drainage onto the highway.
18. A condition to secure visibility splays at the access is necessary in the interests of highway safety. The Council's suggested condition contains a tension in that it references a drawing where splays are shown extending to a point 1m into the road, but also requires splays to be measured along the carriageway edge. As traffic is unlikely to be travelling at any significant speed wholly within 1m of the edge of this rural lane, I find the arrangement shown in the drawing to be acceptable and my condition reflects the same.
19. To prevent harm to nesting birds, hedgerow removal must take place outside the period 1 March – 31 August. Mitigation in the form of replacement planting, together with any biodiversity enhancement should be considered as part of

the reserved matters. The submitted survey reports indicate that no other mitigation in respect of biodiversity is required. Conditions are not required in respect of road layout, surfacing, finished levels, or boundary treatments, as these, too, relate to the reserved matters.

20. Some of the Council's suggested conditions include lists of required information and reference to specific guidance. I have not included these in my conditions as they allow for appropriate submissions to be agreed between the parties based on the particular circumstances of this case, and avoid the possibility that any relevant legislation and guidance referred to could change before submission. I have made other revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework.

Conclusion

21. With regard to the above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to, or as part of any reserved matters application for layout, a surface water drainage scheme, including for the construction phase, together with a plan for its future maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the construction of the development hereby permitted and shall thereafter be maintained in accordance with the approved plan.
- 5) Prior to the commencement of the development, unless otherwise agreed by the Local Planning Authority, conditions a) to d) below shall be complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination until condition d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment shall be completed, reported and submitted to and approved in writing by the Local Planning Authority in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site, that shall previously have been submitted to and approved in writing by the Local Planning Authority.

b) Submission of Remediation Scheme

If required by a), a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared, submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the

remediation carried out shall be produced, submitted to and approved in writing by the Local Planning Authority.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b). Following completion of measures identified in the approved remediation scheme a verification report must be prepared in accordance with condition c).

e) Long Term Monitoring and Maintenance

Where an approved remediation scheme includes a requirement for a monitoring and maintenance scheme to ensure the long-term effectiveness of the proposed remediation overtime, a report setting out monitoring and maintenance requirements shall be submitted to and approved in writing by Local Planning Authority prior to the occupation of any dwellings.

Within 3 months of the completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be produced, submitted to and approved in writing by the Local Planning Authority.

- 6) Prior to the occupation of the development hereby permitted, visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with Drawing Number 21 012-01 rev A where the visibility splays shown hatched on that plan provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway level.
- 7) Any removal of the hedgerow associated with the formation of a new site access shall only take place outside the period 1 March -31 August.