

Appeal Decision

Site Visit made on 16 November 2021

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2022

Appeal Ref: APP/U1105/W/21/3279130

Land South of Pump Field Close, Dunkeswell EX14 4XX

- 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 WIMS UK Ltd against the decision of East Devon District Council.
 - The application Ref 21/0162/FUL, dated 19 January 2021, was refused by notice dated 18 June 2021.
 - The development proposed is the erection of affordable dwelling (bungalow) and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. Insofar as it is relevant to this appeal, I have taken the Framework into account in reaching my decision.

Main Issues

3. The main issues are:
 - whether the appeal site is an appropriate location for affordable housing having regard to the proximity of services and the character and appearance of the area; and
 - whether there is an identified need for affordable housing and, if so, whether there is an effective means of securing its provision in place.

Reasons

Location

4. The East Devon Local Plan 2013-2031 (LP) sets out the Council's strategy for the distribution of development within the district. Strategy 27 of the LP contains a list of settlements which offer a range of accessible services and facilities to meet many of the everyday needs of local residents and have reasonable public transport services. The identified settlements have a Built-up Area Boundary (BUAB) within which some development will be permitted reflecting paragraph 79 of the Framework which promotes sustainable development which would enhance and maintain the vitality of rural communities. Dunkeswell is not included within the list of settlements in Strategy 27 and as such, does not have a BUAB.

5. The appellant has provided details of the services, facilities and recreation space in close proximity to the appeal site, including details of public transport provision to other settlements, which they argue means that the appeal site is in a sustainable location. They also refer to a previous appeal decision (Ref: APP/U1105/W/14/3001024) relating to the erection of eight dwellings at Pump Field Close (2015 appeal) in which the Inspector stated that, 'there is clearly a good level of local services and facilities within Dunkeswell.' I have been mindful of that decision and the need to decide like cases in a like manner, in reaching my decision.
6. However, the 2015 appeal was some six years ago now. It was considered at a time when the Council could not demonstrate a five year housing land supply and, as a result, their policies in relation to the supply of housing were considered out of date. In any event, the Inspector went on to say (at paragraph 14 of his Decision) that there would be a reliance on the private motor car for future occupiers in accessing employment opportunities and that consequently the proposal ran contrary to the emerging policies which were consistent with the Framework.
7. The Inspector in that appeal was required to carry out what was known as the 'tilted balance' and concluded that planning permission should be granted as the adverse impacts did not significantly and demonstrably outweigh the benefits. I am not required to carry out such a balance as the LP is up-to-date (adopted January 2016), the Dunkeswell Neighbourhood Plan 2014-2031 (DNP) has been made (December 2017) and there is no dispute between the parties in respect of housing land supply.
8. I do however find, like the previous Inspector, that access to employment opportunities and the facilities and services in larger settlements would be difficult by anything other than a private car and, as such, future occupiers of a dwelling on the appeal site would be reliant on the private car such that the proposal is contrary to Policy TC2 and Strategy 5B of the LP which seek to minimise the need to travel by car.
9. Areas which do not have a BUAB are defined as countryside in Strategy 7 of the LP. Strategy 7 states that development in such areas will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.
10. One such development, referred to in Strategy 35, is the provision of affordable housing, reflecting paragraphs 60 and 62 of the Framework in respect of boosting the supply of housing and assessing local need. Strategy 35 permits up to or around 15 dwellings in villages without a BUAB provided that it is well related and sympathetic to the built form of the village, with access to a range of community services and meets a proven local need. These are commonly known as rural 'exception' housing schemes. Specifically, in a village with a population of under 3,000 (which the DNP confirms is the case in respect of Dunkeswell) there is a requirement for the village to have a range of community services and facilities, including four or more of either a school, pub, village hall, shop/post office, doctor's surgery, place of worship and public transport service.

11. Within walking distance of the site, on Culme Way, is a collection of shops and services including a community hall, pre-school, general store, hairdressers, doctors surgery, restaurant, social club with a garage and petrol station on the main road. In this respect, I find that future occupiers of the appeal site would have access to the four or more of the community facilities and services set out in Strategy 35 of the LP.
12. The appeal site comprises part of a relatively level, uncultivated field with close boarded fencing around its boundary. It is located to the rear of existing residential development on Pump Field Close and Powells Way, with access from Pump Field Close. There is an extant planning permission on part of the field for 3 affordable dwellings and a substantial tree boundary along the south eastern boundary.
13. The appeal proposal comprises a two bedroom bungalow which would be largely screened by the existing development of Pump Field Close from the north, Powells Way from the west and set against the existing development when viewed from the south. The tree screening along the south eastern boundary would also mean that views of the site in the wider landscape would be extremely limited.
14. The site lies within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the Framework attaches great weight to the need to conserve and enhance landscape and scenic beauty in AONBs. For the reasons I have identified I find that the proposal would have a neutral effect and thereby conserve the landscape character and scenic beauty of the AONB.
15. Taken together, I find that the accessibility of the site to community services and facilities and its neutral effect on the character and appearance of the local area and wider AONB, results in the appeal site being in an appropriate location for a rural exception housing scheme in accordance with Strategy 7 and Strategy 35 of the LP and paragraphs 60 and 62 of the Framework, the provisions of which I describe in detail above.

Need

16. Policy HP1 of the DNP reiterates the requirements of Strategy 35 of the LP for exception schemes to demonstrate and evidence how they are responding to a local housing need. Explicitly, the policy requires an up-to-date survey or housing needs assessment and encourages dialogue with interested parties at an early stage. In this respect, the Council has also drawn my attention to the East Devon Affordable Housing Supplementary Planning Document November 2020 (SPD). The SPD reinforces the approach in Strategy 35 of the LP which permits exception schemes outside BUABs.
17. A Housing Needs Survey (HNS) has been carried out and the results were published in June 2018. The document titled, 'Parish of Dunkeswell Housing Needs Report' identified a need for nine affordable dwellings within a five year period. There is no dispute between the parties that planning permissions have subsequently been granted for nine affordable dwellings. However, the appellant argues that a HNS provides a snapshot in time and that changes in circumstance since the HNS was carried out such as the Coronavirus pandemic and a rise in unemployment, mean that the HNS is now out of date.

18. The SPD recognises that HNS can become out of date and therefore states that an up-to-date survey is one which has been carried out within the last five years, unless there has been a significant development of housing on exception schemes in which case it advises that an update of the survey is likely to be required.
19. The appellant argues that Devon Home Choice (DHC) should be the starting point for assessing local housing need. This is the method by which properties for rent by councils and housing associations are allocated to people in housing need. It requires people to register with DHC and the appellant argues that this provides up to date data of housing need and as such, is a proportionate approach to providing evidence of housing need for a single dwelling, rather than an updated survey. The appellant has pointed out that the SPD points to DHC as a key source of evidence regarding the affordable housing need in East Devon.
20. The data provided by the appellant from DHC clearly indicates that 55 people are registered as seeking homes in the parish of Dunkeswell and I accept that there is an indication of an upward trajectory of district-wide affordable housing need since the HNS in 2018, with an increase in the number of households in East Devon registered with DHC.
21. Despite this, I am not persuaded that data from DHC alone constitutes robust evidence of a particular housing need in Dunkeswell. The district-wide upward trajectory shows a general trend but does not demonstrate a particular need in Dunkeswell. Whilst the HNS is a snapshot in time, so too is the data from DHC, with the latest data I have been provided with included in a Design and Access Statement dated January 2021. However, not everyone in housing need will be registered with DHC and equally those who have found suitable accommodation may not have updated their records, both of which indicate the difficulty of building up an accurate picture from DHC alone. In addition, it includes thirty people in band E who have been identified as not in housing need. There are extant planning permissions in place for nine affordable dwellings, which when taken together would indicate that there are sixteen people on DHC with an unmet housing need.
22. However, in relation to this appeal there is only one household registered with DHC for a two bedroom property and whilst I have not been provided with details of the housing mix of the nine affordable dwellings with planning permission, I am also not satisfied that this single household would not be accommodated within one of those properties. The appellant has directed me to the SPD which states that 40% of the affordable housing need is for two bedroom properties but this relates to the district-wide need, not specifically Dunkeswell and given my findings in respect of the accessibility of the site to employment opportunities and the facilities and services in larger settlements, this is not an appropriate location to meet a district-wide need for affordable housing.
23. The HNS should not be dismissed purely because it was carried out over three years ago. Carrying out housing needs surveys is a recognised and robust mechanism of assessing the nature and extent of housing need in a local area and should not be dismissed when the identified affordable housing need has been secured.

24. The appellant has drawn my attention to the benefits of the proposal including the creation of jobs during construction and then through employment and purchase of local services and facilities during construction and operation. The appellant also considers this proposal to be a logical completion of affordable housing provision of the wider site. I have also been mindful of paragraph 69 of the Framework which recognises that small sites can make an important contribution to meeting the housing requirement of an area and can often be built out quickly.
25. However, I am not satisfied that the appellant has demonstrated a proven local housing need for the appeal proposal. Consequently, the proposal is contrary to Strategy 7 and Strategy 35 of the LP which permit dwellings in the countryside where ordinarily residential development would not be acceptable, in instances where a local affordable housing need has been demonstrated. This is also set out in paragraph 78 of the Framework which supports opportunities to bring forward exception schemes to meet identified local needs.
26. The appellant has provided a signed copy of a unilateral undertaking in respect of securing the appeal property as an affordable dwelling. The Council have expressed concern that the undertaking has not included details of a named registered social landlord or housing provider and as such cannot properly secure the development as a unit of affordable housing. Given that I have concluded that the proposed scheme for a unit of affordable housing is contrary to policy, it is not necessary for me to go on and consider the submitted unilateral undertaking in any detail.

Other Matters

27. The parish council and interested parties have raised a concern about the size of the property and that the appeal site was designated as a play area in the 2015 appeal. Both of these issues have been dealt with in detail in the Council's officer report and I have not been provided with any further information relating to either of these issues which would lead me to take a different view.
28. The appeal site is in a "designated rural area" as defined in section 157(1) of the Housing Act 1985 (the Act). Whilst I am aware of this provision in the Act, I have not been directed to the reasons why this is material to my consideration of this appeal.

Conclusion

29. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alison Fish

INSPECTOR