



Appeal Decision

Site visit made on 20 January 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2022

Appeal Ref: APP/P1133/W/21/3278169

Land at College Lane, Ide, Exeter EX2 9TE

- 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 Mr M Stevens against the decision of Teignbridge District Council.
- The application Ref 20/00615/FUL, dated 8 April 2020, was refused by notice dated 23 March 2021.
- The development proposed is the erection of five dwellings and the creation of a new access.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the suitability of the site for the proposal, having regard to the development plan's approach to the location of housing, with reference to the accessibility of services;
 - the effect of the proposal on the character and appearance of the area, with reference to the Area of Great Landscape Value (the AGLV); and,
 - the effect of the proposal on biodiversity, with reference to protected species.

Reasons

Suitability of the site

3. The appeal site comprises the upper part of a fairly large sloping field, bound by a substantial hedgebank which separates it from College Lane and a row of houses to the north, with a separate field and the single dwelling Tree Tops to the west. The village of Ide is located approximately 1.5km to the east.
4. The Teignbridge Local Plan 2013-2033 (adopted 2014) (the TLP) Policy S22 provides that sites beyond identified settlements are within open countryside, where development will be managed to provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. To that end, the policy limits development to certain specified circumstances.
5. The site is not within any of the TLP's identified settlements and is within the open countryside. The proposal would not fulfil any of the given circumstances within Policy S22 and would therefore conflict with the policy. The scheme is also not proposed as a Rural Exception Site and therefore finds no support from Policy WE5 of the TLP. The site is not within Ide, and this leads to conflict with

Policy IDE01 of the Ide Neighbourhood Plan 2016-2033 (made 2018) (INP), which supports new windfall housing within the confines of its settlement limits.

6. Policy S1 of the TLP requires, subject to the aforementioned policies, for schemes to perform well against a number of criteria. This includes, amongst other things, the accessibility of a site by walking, cycling and public transport for main travel purposes, particularly work, shopping, leisure and education.
7. Ide has a fair range of facilities. However, it is a lengthy walk from the site down College Lane, which is a single track largely without lighting or dedicated pedestrian space. Sunken and narrow in places, the lane provides very little space for pedestrians or cyclists to take refuge from passing motor vehicles. Access to Ide by motor vehicle requires one to undertake the lengthy fording of Fordland Brook, which is unlikely to appeal to everyone or be a suitable option for every vehicle on a regular, day to day basis. I am not aware of any significant public transport provision within reasonable access of the site. As such, the site has poor accessibility to services, in conflict with Policy S1.
8. The appellant states that the site is not isolated under the terms of the National Planning Policy Framework (the Framework) and that the scheme finds support under Paragraph 78, which relates to development within smaller villages. In my opinion, the houses around the site do not form a settlement but are simply a small, anomalous collection of remote buildings with little more in common than a shared vista. The site is outside of their linear pattern in any event, within farmland sloping down to the Fordland Brook. As such, and with regard to the referenced case law¹, I find the site to be isolated within the countryside.
9. The appellant has suggested an inconsistency between the TLP and Policy IDE01. However, both identify Ide as suitable for limited development, albeit Policy IDE01 goes into detail about the circumstances where new housing is likely to be delivered. There is also no clear evidence to endorse the speculative argument that the appeal site is a preferable place for housing because infill development at Ide will invariably come at the expense of Ide's historic environment. On the contrary, the INP identifies there to be opportunities for enhancing redevelopment within the Ide Conservation Area.
10. I have also been referred to the site at Pynes Farm. That site is allocated for housing pursuant to the neighbourhood plan making process, adjoins Ide and is accessed almost directly from the village. Its circumstances are therefore very different to the appeal site, and it carries little influence on my assessment.
11. Drawing my findings together, I conclude on this issue that the site would not be suitable for the proposal, having regard to the development plan's approach to the location of housing, with reference to the accessibility of services. The proposal would conflict with the relevant aims of Policies S1, S2, S22 and WE5 of the TLP, Policy IDE01 of the INP and the Framework.

Character and appearance

12. The site is inside an AGLV and the West Exeter Slopes Landscape Character Area (LCA). This part of the AGLV draws its value from its tranquil atmosphere and undulating topography, from exposed ridges down to more secluded and sylvan river valleys. College Lane runs close to one such ridge. Whilst land to its north adjacent to the site has been developed for housing, the land to the

¹ Braintree DC v SSCLG [2018] EWCA Civ 610

south is far more undeveloped, and offers scenic views across the Fordland Brook valley, with Tree Tops cutting a solitary figure. As such, the site is quite distinct from the housing to the north. Instead, as an exposed, sloping and elevated area of arable field, it forms an integral part of the valuable swathe of AGLV to the south. The site's stout and dense boundary hedgerow along College Lane is also an important element of green infrastructure.

13. The scheme would introduce five large dwellings with their domestic grounds and paraphernalia. I note that the dwellings are intended to take reference from the design and layout of adjacent housing and would be partly set into the land. Even so, the scheme would have a highly urbanising effect on a prominent and exposed hillside, to the detriment of the tranquil and open qualities of the AGLV. I note that the avoidance of development on slopes such as this is a direct recommendation of the LCA assessment to prevent landscape harm.
14. The harm would be notable on approach to the site from the west along College Lane and glimpsed through both its existing field gates and the site entrance itself. The harm would also be very appreciable from the rural Haynes Lane to the southwest, from where the existing housing is well screened by greenery, but the appeal site is exposed. From here, the full scale of the dwellings, complete with expansive glazed openings, would be imposed upon the AGLV. Whilst the site entrance would be modest, it has not been disputed that, in order to provide safe access, visibility splays are also required. In my view, this may well necessitate the substantial translocation and/or loss of further hedgerow, which would also be to the detriment of the quality of the AGLV.
15. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area. It would conflict with the landscape aims of Policies S1, S2, EN2A and EN12 of the TLP and the Framework.

Biodiversity

16. The Framework states that if significant harm to biodiversity cannot be avoided, mitigated, or, as a last resort, compensated for, then permission should be refused. Circular 06/2005 advises that the presence of a protected species is a material consideration when a proposal would be likely to result in harm to the species or its habitat. It also states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected, is established before permission is granted, otherwise all relevant material considerations may not have been addressed. I am required by the Habitats Regulations² to consider the potential effect on protected species in such cases.
17. The proposal is accompanied by a Preliminary Ecological Assessment (PEA). It informs the reader that, where the information within the PEA is insufficient to allow a full description of the nature conservation features of the site along with a robust assessment of the potential effects on these features, further survey work will be recommended. The PEA identifies the roadside hedgerow to qualify as a Local Biodiversity Action Plan Habitat and a Habitat of Principal Importance. It goes on to provide that, because the hedgerow contains plants associated with Dormice, and because it is connected to the ideal Dormice habitat Chillies Copse to the east, it is reasonably likely that Dormice are present within the hedge. Dormice are a European Protected Species (EPS).

² Conservation of Habitats and Species Regulations 2017

18. The PEA recommends that, if more than 5m of this hedgerow is to be removed, further survey work is required. Given the absence of certainty regarding the likely extent of the translocation or removal of the hedgerow in order to provide visibility splays, I cannot be certain as to the extent of Dormice habitat that may be harmed. Given my responsibilities under the Habitats Regulations and pursuant to Circular 06/2005, this issue cannot be left to a condition.
19. As such, I cannot be satisfied that the proposal would not have an unacceptable, harmful effect on biodiversity, with reference to protected species. The proposal would therefore conflict with the biodiversity aims of Policy EN11 of the TLP and the Framework in this regard.

Other Matters

20. The Council's fifth reason for refusal relates to an absence of information about respective strategies for the discharge of surface and foul water from the site. However, given the size of the land within the appellant's control, I am satisfied that these matters would have been most suitably addressed by planning conditions, if I had been in a position to allow the appeal.
21. The site is within 10k of the Exe Estuary Special Protection Area (SPA). I understand it to be agreed between the main parties that the scheme would have likely significant effects on the integrity of the SPA, with mitigation to be secured by a Unilateral Undertaking, which is not before me. If minded to allow the appeal, I would have needed to address this matter within an Appropriate Assessment. As I am dismissing the appeal for other reasons, I have not.

Planning Balance

22. The unsuitability of the site for housing, the harm to the AGLV, and the likely harm to an EPS, draw the scheme into conflict with the development plan when read as a whole. The appellant has referred to the presumption in favour of sustainable development set out within the Framework, but this has not been expanded upon. Nonetheless, given the issue of habitat loss alone, I can conclude that Paragraph 11 d ii) of the Framework does not apply in this case.
23. The Government is seeking to significantly boost the supply of housing and small and medium sized sites can make an important contribution to this objective. The scheme would provide five dwellings to the local housing supply. In doing so, occupants would likely support facilities and services in the area. I have no reason to doubt that the scheme would be developed quickly.
24. Given the modest number of homes that would be delivered, these benefits of the scheme are limited and do not outweigh the significant harm that would arise. It follows that there are no other considerations, including the Framework, that outweigh the conflict with the development plan in this case.

Conclusion

25. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR