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# Appeal Decision

Site visit made on 22 March 2022

**by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 April 2022**

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**Appeal Ref: APP/Q1153/W/21/3278874**

**Kimber View, Road from Patchacott Cross to Baileys Farm, Patchacott EX21 5AR.**

- 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 and Miss Josh and Jess Ware and Wonnacott against the decision of West Devon Borough Council.
  - The application Ref 4154/20/FUL, dated 15 December 2020, was refused by notice dated 7 May 2021.
  - The development proposed is the change of use of equestrian barn to a residential dwelling (Use Class C3) with minor alterations.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr and Miss Josh and Jess Ware and Wonnacott against West Devon Borough Council. This application is the subject of a separate Decision.

## Main Issues

3. Although West Devon Borough Council (the Council) has given three reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify two main issues
4. The main issues in this appeal are:
  - The effect of the proposed development on the character and appearance of the surrounding area,
  - Whether the proposed development would be in a suitable location with regards to local planning policy, reliance of future occupiers on private motor vehicles and in respect of whether the proposed development would meet local housing need.

## Reasons

### *Character and Appearance*

5. The appeal site comprises land and a substantially scaled building situated at the periphery of the hamlet, and positioned at a sensitive location that marks the transition between the buildings at Patchacott and the open countryside. The appeal scheme seeks the change of use of the building to a dwelling.

6. Policy DEV10 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan), amongst other matters, provides that housing developments should be designed to be integrated with the adjacent developments and not appear to be an unrelated addition to the rest of the town, village and neighbourhood, and that this is to be achieved in the quality of the building design, materials and layout.
7. Policy DEV23 of the Local Plan concerns landscape character which, amongst other things, seeks to ensure that developments conserve and enhance landscape character and scenic visual quality, avoiding significant and adverse landscape or visual impacts.
8. Planning history for the site indicates that the construction of the appeal building for equestrian use was granted by the Council in November 2015 with later minor amendments being approved by the Council in 2019. As I observed on my visit, the appeal building with its somewhat simple functional form and design, with largely blank elevations with a very limited number of windows, has the character and appearance of an agricultural building that does not look incongruous within the rural setting of Patchacott.
9. However, whilst the main parties' submissions regarding whether use of timber cladding would be in keeping with nearby development are acknowledged, and notwithstanding the submitted structural report for 'conversion for use as a stable block, tack room and dung pile area', the appeal proposal would result in a significant change to the character and appearance of the building through the installation of substantial areas of glazing and through the domestication of this agricultural site with all the paraphernalia that that would entail. In my view, the appeal proposal would not result in a building that retained the appearance of an equestrian or agricultural barn, but rather would appear as a substantial residential addition unrelated to the hamlet at Patchacott that would fail to integrate with the residential buildings therein.
10. By reason of the design and materials used and given the likely domestication of the site which would be highly visible from within the wider surrounding landscape, in my view the appeal scheme would appear as an incongruous addition to the built form of the hamlet, being a harmful encroachment into the countryside. The domestic use and appearance of the building to include large areas of glazing would draw the eye, detracting from the intrinsic character and beauty of the countryside, being harmful to its landscape quality. The proposed development would not conserve or enhance the landscape character of the area and, consequently, the appeal proposal would conflict with Policies DEV10 and DEV23 of the Local Plan.

#### *Location of Development*

11. Policy TTV1 of the Local Plan provides details of the distribution of development across the area based on a hierarchy of sustainable settlements. The appeal site would fall within category four - smaller villages, hamlets and the countryside, where Policy TTV1 of the Local Plan provides that development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2 of the Local Plan, including as provided for in Policies TTV26 and TTV27 of the Local Plan.

12. Policy SPT1 of the Local Plan identifies a range of principles of sustainable development. Policy SPT2 of the Local Plan details a number of principles of sustainable linked neighbourhoods and sustainable rural communities. This policy amongst other matters, requires development to support the creation of neighbourhoods and communities which have reasonable access to a vibrant mixed use centre, which meets daily community needs for local services such as neighbourhood shops, health and wellbeing services and community facilities.
13. From the evidence before me and from observations made on my visit, the hamlet at Patchacott does not provide access to services and facilities that may be required on a day to day basis and walks to the nearest bus stop would be along narrow unlit roads without the benefit of pedestrian footways. It is therefore likely that occupants of the appeal scheme would be heavily reliant on private motor vehicles in order to access even basic services, such as a village shop. Whilst dependence on private vehicles may be expected in a rural location such as this, the proposal would only exacerbate this level of reliance. It would contribute to a pattern of development that would cause environmental harm as a result of increased car journeys and hence carbon emissions.
14. Policy TTV26 of the Local Plan which concerns 'Development in the countryside' is of direct relevance to the appeal proposal for the reason given above in relation to the location of the site adjoining Patchacott. That policy, which is in two sections, seeks to protect the special characteristics and role of the countryside.
15. The first section of Policy TTV26 of the Local Plan seeks to restrict 'isolated development in the countryside' unless there are exceptional circumstances, such as provision of a dwelling for a rural worker, securing the future of a significant heritage asset, securing re-use of redundant or disused buildings and brownfield sites, or be of a truly outstanding or innovative sustainability and design. These criteria are consistent with paragraph 80 of the National Planning Policy Framework (July 2021) (the Framework) which concerns isolated homes in the countryside.
16. There is dispute between the main parties as to whether the appeal site is isolated, and both the Council and the Appellants refer to case law on this point.
17. It has been established through the Braintree DC v SSCLG judgment<sup>1</sup> that the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand. The City & Country Bramshill Limited v SSHCLG judgment<sup>2</sup> endorsed this approach.
18. The Framework does not define what is meant by a "settlement". The Braintree judgment confirmed that whether a group of dwellings constitutes a settlement for the purposes of the policy is a matter of fact and planning judgment for the

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<sup>1</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

<sup>2</sup> City & Country Bramshill Limited v SSHLG and others [2021] EWCA Civ 320

decision-maker. It also established that a settlement does not necessarily have to have any services or public transport in order to be considered a settlement.

19. As noted above, the appeal site is located at the periphery of the hamlet. Whilst that settlement does not provide any services and facilities that could be reasonably required on a day to day basis, the site is not remote or physically separated from that settlement. Consequently, the appeal proposal would not be isolated development and, therefore, the first section of Policy TTV26 of the Local Plan does not apply to the scheme.
20. Nonetheless, the second part of Policy TTV26 of the Local Plan is applicable to the appeal scheme. In this regard, the appeal scheme does not propose that it would respond to a proven agricultural, forestry or other occupational need that requires a countryside location. The proposed development is not advanced as being for the improvement or protection of public rights of way and the proposal would not be complementary to agricultural operations.
21. However, the Appellants have put it to me that the proposal would reuse a traditional building that is structurally sound for conversion, in compliance with criterion 2ii of Policy TTV26 of the Local Plan. Whilst the Appellants' submissions are noted, in my view the modern block constructed building would not represent a traditional building in the sense intended by Policy TTV26 of the Local Plan. The proposal would not accord with any exceptions provided under Policy TTV26 of the Local Plan and would conflict with the aims and provisions of that policy.
22. Policy TTV27 of the Local Plan provides that in meeting local housing needs in rural areas, exceptions will be provided where development proposals would meet local affordable housing needs. The Appellants maintain that the appeal scheme accords with the definition of affordable housing contained within the Framework. In this respect, whilst I note the submissions of the main parties as to whether the scheme would represent affordable housing, there is no mechanism before me which would secure the resulting dwelling as affordable housing in perpetuity. Even in the event that the scheme would represent affordable housing, for the reasons given above, the proposal would fail to accord with criterion 4 of TTV27 of the Local Plan and, consequently would conflict with that policy when taken as a whole.
23. Policy DEV8 of the Local Plan seeks to achieve a mix of housing sizes, types and tenure appropriate to the area, and as supported by local housing evidence. The Council's submissions indicate that there is overprovision of detached dwellings with four or more bedrooms within the area and that the proposal would add to the imbalance in housing stock.
24. Whilst the details of overprovision are not disputed by the Appellants, I have been referred to the Joint Local Plan Supplementary Planning Document which, amongst other matters, confirms that where a proposal would exacerbate an identified imbalance and would thereby conflict with Policy DEV8 of the Local Plan, a local connection requirement may be sought through a planning obligation. In this instance, it is apparent that the proposal for five bedroom detached house would exacerbate the imbalance in local housing stock, and whilst it is acknowledged that the Appellants have local connections, there is no suitable planning obligation before me that would secure that form of connection in respect of future occupants.

25. I have considered whether a planning condition could be applied for securing a completed planning obligation in respect of affordable housing or for local connection requirements. The Planning Practice Guidance advises that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence, may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. The appeal proposal is not a complex or strategically important development. Consequently, the use of a planning condition to require the submission of a completed planning obligation would not be appropriate in this instance.
26. The appeal site is located within the countryside for planning purposes and is situated some distance from any meaningful services and facilities that may be required on a day to day basis. The proposal would not accord with any of the exceptions for development within the countryside as provided for within the Local Plan. For these reasons, the appeal scheme would therefore conflict with Policies SPT1, SPT2, TTV1, TTV26 and TTV27 of the Local Plan.
27. Furthermore, the appeal scheme would exacerbate the imbalance of large, detached dwellings within local housing stock and there is no suitable or enforceable mechanism that would secure a local connection requirement in respect of the proposed dwelling. Consequently, the scheme would also fail to comply with Policy DEV8 of the Local Plan.
28. It is noted that the Council's decision notice refers to conflict with Policy DEV32 of the Local Plan, which concerns delivering low carbon development. In support of the appeal, the Appellants have provided a sustainability statement which proposes measures to be incorporated in the development phase of the proposal. In that regard, and subject to a planning condition to secure those measures, I do not find conflict with the aims and provisions of Policy DEV32 of the Local Plan.

### **Other Matters**

29. The appeal scheme would provide benefits in terms of a contribution towards local housing, through potential biodiversity enhancement from additional planting, and in terms of economic benefits through employment opportunities during construction. I recognise that new housing can contribute to the vitality of rural communities by helping to support local services. As such, I accept that an additional household at the appeal site could play a small part in supporting the viability of services within the wider area.
30. However, in my view and by reason of the scale of the appeal scheme, the benefits associated with the appeal scheme would be limited and would not outweigh the harm as identified above regarding the effect on the character and appearance of the area and in respect of the location of the appeal site with regards to accessibility of services and facilities without heavy reliance on private motor vehicles, and would not outweigh the conflict with the development plan when taken as a whole.
31. The Appellants have put it to me that the appeal proposal would allow for on-hand care to be provided to a relative residing in Patchacott, and that the appeal scheme would result in less trips taken by the Appellants to provide that care, when compared to current arrangements.

32. Whilst I sympathise with the Appellants' desire to be located within Patchacott to provide that care, in my experience granting planning permission solely on grounds of personal circumstances will rarely be justified in the case of permission for the development of a permanent dwelling. Furthermore, there is no substantive evidence before me which confirms that there are no suitable existing properties within the surrounding area that could be used to accommodate the Appellants in order to provide close by support and care.

### **Conclusion**

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

*Mr A Spencer-Peet*

INSPECTOR