



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: 20 April 2022

Appeal Ref: APP/Q1153/W/21/3286032

Land at SX 4445 766, Lamerton

- 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 Baker Estates Ltd against the decision of West Devon Borough Council.
 - The application Ref 1766/21/OPA, dated 6 May 2021, was refused by notice dated 21 October 2021.
 - The development proposed is an outline application with some matters reserved for residential development of up to 20 dwellings, formation of new access and associated works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Baker Estates Ltd against West Devon Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In the interests of consistency, I have used the address for the appeal site as included in the Council's Decision Notice, in the banner heading above.
4. Outline planning permission is sought with all matters reserved except for access. The details submitted include an illustrative site layout. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site might be developed. I have determined the appeal on this basis.

Main Issue

5. The main issue in this appeal is whether or not the proposed development would be in a suitable location, having regard to Local Planning Policy.

Reasons

6. The appeal site comprises an undeveloped and gently sloping agricultural field, predominately bounded by hedgerows. As noted above, the scheme is in outline with all matters, except for access, to be considered at a later stage. Access to the site would be from the main road located northeast, with a further access point onto an unnamed lane which runs adjacent to the north-western boundary of the site.

7. Policy TTV1 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan) provides a hierarchy of settlements for the distribution of growth and development to deliver homes and jobs, to enable each town and village to play its role within the rural area. The supporting text to this policy confirms that Lamerton is a Sustainable Village and, in respect of development within Sustainable Villages, Policy TTV1 of the Local Plan provides that development to meet locally identified needs and to sustain limited services and amenities will be supported.
8. There is dispute between the main parties as to whether the appeal site is located within Lamerton or would be situated outside of that settlement and within the countryside where, in accordance with Policy TTV1 of the Local Plan, development would only be permitted if it can be demonstrated to support the principles of sustainable development and sustainable communities including as provided for in Policies TTV26 and TTV27 of the Local Plan.
9. Amongst other matters described above, the supporting text to Policy TTV1 confirms that the Local Plan does not define settlement boundaries, and that neighbourhood plans may choose to identify settlement boundaries for their towns and villages. The evidence before me confirms that the neighbourhood plan for Lamerton is at a stage where it may be subject to further amendment such that I am only able to attribute it limited weight in the determination of this appeal. Nonetheless, the supporting text to Policy TTV1 of the Local Plan also clarifies that development outside built up areas will be considered in the context of Policy TTV26 of the Local Plan which concerns 'development in the countryside'.
10. Whilst I note from the Council's submissions that the appeal site has been considered to fall outside of a defined settlement boundary included in previous development plan documents, as noted above the provisions of the Local Plan indicate that currently the development plan does not define such boundaries. I therefore only attribute very limited weight to the inclusion of defined settlement boundaries from previous plans. Nonetheless, and consistent with the Appellant's submissions, the assessment of whether the site is located within, or not within, a particular settlement is a matter for the decision maker.
11. As I observed on my site visit, the appeal site is a substantially sized agricultural field which is surrounded to the northwest, west and south by similarly undeveloped substantially sized, predominately open, agricultural fields. To the north of the site is a small parcel of residential development which is accessed from the highway which forms part of the north-eastern boundary of the site. Further nearby development to the southeast is predominantly located on the opposite side of the highway. The appeal site is also located within relatively close proximity to some of the limited level of services and facilities contained within the western part of Lamerton, such as the public house and the village community centre with associated playing field and equipped children play area. Although proximity to these services is a factor in defining the extent of the village, I do not consider it to be determinative on its own.
12. The appeal site cannot be said to be physically remote from Lamerton. However, southwest of the main road the area has an intrinsically rural character where built development, whilst present, does not dominate. By reason of the open agricultural fields that surround the site to the northwest,

west and south and given the depth of encroachment into the predominately undeveloped rural landscape southwest of the adjacent highway, I find the appeal site to be located outside of the village and within the countryside.

13. Consequently, although the appeal site is situated adjacent to the small residential development at The Farriers and the distance to residential dwellings on Green Hill is not significant, in my view the appeal site lies outside of the built up area and, therefore, is located in the countryside in the context of the development plan. As such, given the provisions of Policy TTV1 of the Local Plan, the appeal site is located within the countryside and therefore the appeal scheme should not be assessed against the requirements of Policy TTV25 of the Local Plan.
14. The Appellant has put it to me that Policy TTV25 of the Local Plan also applies to sites which adjoin Sustainable Villages. In this regard, I have been referred to a recent appeal at Folly Gate¹ (the Recent Appeal) and to the Local Plan Supplementary Planning Document (the SPD).
15. For the reasons given above, whilst I have found the appeal site to be located within the countryside, it is not located at a great distance from the built up area of the village and could be considered to adjoin that settlement. However, whilst the information before me concerning the Recent Appeal is limited, I do not agree that the Inspector in that decision concluded that Policy TTV25 of the Local Plan applied to sites which adjoin settlements. Rather it appears from the information provided that the Inspector in the Recent Appeal concluded that the site was within the village. It appears from the details provided by the Appellant, that the site in the Recent Appeal was located between clusters of development within the village and that development of that site would reflect the depth of other development within that village west of the main road that passes through that settlement. I therefore do not consider that the location of the appeal site is comparable to that considered under the Recent Appeal.
16. Paragraph 11.41 of the SPD provides that, "Development-led proposals of 5 or more dwellings will be counted towards the figure of 550 stated in Policy TTV25 where they are within or adjoining a sustainable village, are well related to the built form and benefit from safe access to local services and facilities, along with the other policy considerations of the plan". In this regard, and in consideration of the proceeding paragraphs within the SPD, in my view the provisions of paragraph 11.41 of the SPD do not indicate that Policy TTV25 applies to sites which are outside of but adjoin a settlement, but rather confirms that certain forms of development, for example exceptions sites or other policy compliant development within the countryside that adjoins a settlement, would be counted towards the figure of supplying 550 homes for Sustainable Villages.
17. As noted above, paragraph 5.5 of the Local Plan confirms that outside of settlements, development would be considered in the context of Policy TTV26 of the Local Plan. For the reasons given above regarding proximity of the site to the village, the appeal site is not in an isolated location. Nevertheless, the appeal proposal does not accord with any of the exceptions for development within the countryside as provided for under that Policy and, consequently, the site would not normally be at a suitable location for residential development under Policy TTV26.

¹ Appeal Reference: APP/Q1153/W/20/3257118

18. Nonetheless, Policy TTV27 of the Local Plan supports residential development on sites adjoining an existing settlement where it meets a proven need for affordable housing and can include open market housing providing that open market housing does not exceed 40% of the proposed dwellings. In light of the above findings with regards to proximity to the services contained within Lamerton, the site could be said to be in a suitable location for an exception site under Policy TTV27 of the Local Plan.
19. However, the appeal scheme has not been advanced as being compliant with Policy TTV27 of the Local Plan, given the Appellant's contention that the site is located within the village where it was maintained that the proposal would accord with the provisions of Policy TTV25 described above. As such, and notwithstanding that the proposal may help meet identified needs for housing, the appeal scheme, subject to a submitted planning obligation which seeks to provide 30% of the proposed dwellings to be delivered as affordable housing, would fail to accord with the requirements of Policy TTV27 of the Local Plan.
20. In summary of the above, the appeal site is located outside of the settlement and, consequently, Policy TTV25 of the Local Plan does not apply. The appeal proposal does not accord with any of the exceptions for development in the countryside contained within Policy TTV26 of the Local Plan and, for the above reasons, would conflict with the exceptions policy requirements of Policy TTV27 of the Local Plan.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
22. In respect of the benefits that the proposal would bring, the appeal scheme would provide some economic benefits in terms of employment during the construction phase, which would be temporary and limited, and by reason of the potential contribution new households could make to the vitality of Lamerton or other nearby settlements. In terms of environmental matters, the proposal would provide some biodiversity net gain.
23. From a social perspective the scheme proposes six affordable houses and could provide a mix of dwelling types, which are important matters. I attach only moderate positive weight to the benefit of providing a mix of housing, help address imbalances in local housing stock and by providing housing suitable for specific groups of people, as the Council is able to demonstrate a robust housing land supply across the district and by reason of the scale of the proposed development.
24. Further to the above, the scheme proposes improvements to footways around the site. It is noted that there are concerns regarding highway safety and use of the constrained junction at the Blacksmiths Arms when turning into and out of a lane which runs adjacent to the north-western boundary of the site. I was able to see on my visit that visibility at that junction is extremely limited. However, as noted above, the appeal scheme provides two points of access and it is noted that that would potentially provide alternative access to the adjacent lane for traffic thereby providing an option to bypass that constrained junction. Financial contributions towards the investigation and installation of a means to prevent the passage of vehicular traffic between the site access to the unnamed lane and the crossroads by the Blacksmith's Arms are to be secured

by planning obligation. This is a matter which weighs positively in favour of the proposal.

25. Subject to the completed and submitted planning obligation, the proposal would also provide contributions towards the Plymouth Sound and Estuaries European Marine Sites Recreation and Management Scheme, allotments, education, sports and play facilities and maintenance, and would provide open space. However, these contributions and provisions would largely offset the impacts of the new development proposed and are of neutral consequence in the planning balance.
26. Cumulatively, I attach moderate weight to the benefits of the proposal. Against those benefits, the appeal scheme would conflict with the spatial strategy contained within the development plan. In that context, it would be at odds with the plan-led system to decide that a departure from the development plan was warranted by the scale and nature of the benefits the proposal would bring forward.
27. Consequently, the benefits of the scheme do not outweigh the harm to the spatial strategy that underpins the Local Plan. Accordingly, the material considerations do not indicate that planning permission should be granted and the appeal proposal would undermine the spatial integrity of the development plan and the ability of the Council to deliver a truly plan-led approach to housing.
28. In summary of the above, the proposal's conflict with the development plan when taken as a whole, weighs significantly against the appeal scheme. For the reasons given, I conclude that the potential benefits described above, either individually or in combination, would attract no more than moderate weight and, consequently, would not outweigh the harm identified in relation to the development plan conflict.

Other Matters

29. Interested parties raise additional objections to the proposal on grounds of noise disturbance, the effect on the character and appearance of the area, highway safety, and potential impact on wildlife. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue described above, these are not matters that have been critical to my decision.

Conclusion

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

Mr A Spencer-Peet

INSPECTOR