



Appeal Decision

Site visit made on 16 May 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/W1145/W/21/3283161

Land at Bloody Corner, Northam, Devon, 245524, 129179

- 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 J Tizzard - LVA Northam LLP against the decision of Torridge District Council.
 - The application Ref 1/0604/2020/OUTM, dated 17 July 2020, was refused by notice dated 11 June 2021.
 - The development proposed is for the residential development of land for up to 39 dwellings with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved except for access. Where there are details of aspects of the proposal other than access, I have generally considered them to be indicative only.

Main Issues

3. The main issues are:
 - Whether the principle of the proposed development in this location is acceptable given local planning policy.
 - The effect of the development on the character and appearance of the area, including the designated 'undeveloped coastline'.
 - The effect of the development on the incremental coalescence of Northam and Appledore.
 - The effect of the development on local biodiversity.
 - Whether the development as proposed would adversely affect the amenities of neighbours to the site.
 - The effect of the development on the existing public right of way (PROW) routes.

Reasons

Principle of Development

4. The application site is outside the defined development boundary for Northam. Whilst adjacent to this designated boundary, in policy terms the site is within the countryside. In this regard, policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP) states that in “the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.” The proposal for a housing development as detailed in the submitted information would not accord with policy ST07. Furthermore, the proposed housing in this location is not supported by policy ST06, which provides a Spatial Development Strategy for Northern Devon’s Sub-regional, Strategic and Main Centres.
5. However, the Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites (5YHLS), which is stated to be at 4.23 years across North Devon. The ‘tilted balance’ as set out in the National Planning Policy Framework (the Framework) paragraph 11 is therefore relevant and I will return to this in the later Planning Balance.

Character and Appearance

6. The site where the housing is proposed is mostly an undeveloped sloping field on the edge of Northam. There are existing houses to the west and south, though given the agricultural appearance of the field it visually relates more to the other fields to the north and east. It is clearly adjacent to, but beyond the settlement of Northam.
7. Given the proposal to develop 39 dwellings on an agricultural field there would clearly be a significant change of character of the site, from undeveloped and rural to being effectively part of the Northam settlement. The site would no longer be part of the countryside setting of Northam but be part of Northam settlement itself. The intrinsic beauty of the countryside in this location would be eroded by this major housing development on this greenfield site, which would be particularly notable from the two adjacent PROW routes and also from longer range views. The proposed dwellings would be set below the dwellings of Windmill Lane, which are prominent, but the residential development would be to the side of this sloping hill and be also prominent from some vantage points, where the change from rural field to housing site would be very apparent.
8. Furthermore, apart from some houses to the south of the site, either side of Windmill Lane, the settlement of Northam generally does not project as far east as the appeal site. This would only increase the impact and prominence of this development of agricultural land and the encroachment into the countryside.
9. However, these impacts are mitigated by the existing housing backdrop of Northam and the intended use of appropriate materials, cut and fill methods to reduce levels of houses, along with limited external lighting. There would also be views across the site, towards the river, together with enhanced landscaping with green spaces incorporated for example. Nonetheless, the field is part of

the open countryside with a rural character that would be significantly lost with the 39 houses proposed.

10. A Landscape and Visual Impact Assessment (LVIA) by Clark Landscape Design has been submitted in support of the proposal. The LVIA points out the proposed landscaping to help integrate the development and soften the visual impact. Many more long distanced views are obscured by the topography and/or intervening trees and buildings. However, as was apparent on my site visit there are relatively clear views, especially from the north, where the visual impacts of the development would be apparent. There are also the closer range views from the PROW routes adjacent to the site and from Greenacre Close for example. It is my opinion that the proposed development would, for the reasons given in this decision, have more of an adverse landscape and visual impact than the LVIA has concluded.
11. The site is also within the Coastal and Estuary Zone, to which policy ST09 of the LP relates. As there is no significant development within the site area then I would regard this land as being a form of undeveloped coastal area. The River Torridge is in close proximity to the east. Policy ST09 states that "Development within the Undeveloped Coast and estuary will be supported where it does not detract from the unspoilt character, appearance and tranquillity of the area".
12. The proposals for this site, which currently is mostly free from development, would mean that the housing would detract from the unspoilt character and appearance of this rural coastal zone, which the site currently contributes towards. It would have an urbanising effect resulting in the site not being part of the undeveloped coastal area anymore. The site is adjacent to housing and near the A386, so it has limited tranquillity, but the site is part of this rural area between settlement and coast which would be eroded by the development. There would be benefits for the Northam community (also covered later in detail with the Planning Balance) but not to the extent that it would outweigh the adverse impacts to the unspoilt character and appearance of this part of the undeveloped coast. For this reason, the proposal is contrary to policy ST09 of the LP.
13. I note that the Coastal Zone extends around much of Northam, which would make it restrictive for new developments to be built on the outskirts of this settlement. However, there is a conflict with the policy and furthermore the site itself is particularly close to the coast (possibly closer than some other areas with the same designation). This only adds to the adverse consequences of developing this field which would result in the loss of part of the undeveloped coastal area, which is a finite resource. There would be views through the site to the coast, but this is not sufficient to outweigh this harm identified.
14. From the evidence provided, whilst I acknowledge that alternative accessible sites within the area would be limited to some extent, I am not persuaded from the evidence before me that the development cannot reasonably be located outside the Undeveloped Coast and estuary area, where such harm could be avoided. From the evidence provided housing is needed which possibly would need to be outside of Development Boundaries, but it is my view that the location of this undeveloped site near the coast would result in it being particularly harmful when considering its location in the Coastal and Estuary Zone, sited as it is in the strip of rural land between Northam and the nearby coast.

15. The appellant has questioned the need and robustness of the Coastal Zones designation, but this is part of an adopted LP and policy. Considering the proximity of the site to the coast I have no substantive reason to question the sites inclusion within this designated area, nor its aims and objectives, which are set out sufficiently with the policy and supporting text.
16. Whilst the proposal would be adjacent to the built development of Northam, it would be a clear encroachment into the countryside, eroding the rural character of this area and would also detract from the unspoilt character and appearance of the undeveloped coastal zone. The proposal is in outline, but nonetheless could result in 39 dwellings in this field which would, in my view, result in this harm. The proposal is therefore contrary to policies DM08A, ST09(7) and ST14 of the North Devon and Torridge Local Plan 2011-2031. These policies seek to ensure development does not detract from the unspoilt character, appearance and tranquillity of the undeveloped coast; protect and enhance local landscape and seascape character; and to recognise the importance of the undeveloped coastal environments.

Coalescence

17. In their reason for refusal the Council state that the proposal would contribute to coalescence between Appledore and Northam. Appledore is a settlement to the northeast of Northam, with an area of countryside separating the settlements. However, the proposed development is primarily to the east of Northam, towards the coast, rather than encroaching towards Appledore. Indeed, there are areas of Northam which are already significantly closer to Appledore than the appeal site.
18. Policy NOR (h) requires that development should not contribute to coalescence between Appledore and Northam. For the reasons given, the proposal would not materially contribute to the coalescence of these settlements and so there is no conflict with this criterion of policy NOR.

Living Conditions

19. The access to the site is proposed from the residential cul-de-sac of Greenacre Close. Many of the dwellings of this street would not be near the proposed access as they are located past this point. However, there are bungalows both opposite and adjacent to the access. These dwellings would see their occupants most effected by the proposal.
20. The development is for up to 39 dwellings and therefore there would be a frequent movement of vehicles entering and exiting the access, together with increased levels of traffic on a section of Greenacre Close (from Windmill Lane to the proposed access), which would result in some increased noise and headlight use for example. However, the number of vehicles likely to use this access would not be at a level which would result in significant levels of increased noise and disturbance above existing levels, with Greenacre Close already being a public highway, albeit a cul-de-sac. There is no substantive evidence to indicate the contrary to this.
21. On this basis the proposed developments would not significantly harm the amenities of any neighbouring occupiers and would be in accordance with policy DM01 of the Local Plan.

Ecology

22. The proposal is supported by an Ecological Appraisal. This Appraisal found that the development of this site would have negligible to low impacts to protected habitats and various species. It does conclude there is the possibility of a 'medium' impact to reptiles, with a recommendation to cut the ground vegetation along a 5m buffer around the edges of the southern field to ensure there are no reptiles present on site during the construction phase of the development. With suitable conditions the recommendations of the Ecological Appraisal could be implemented to safeguard protected species. This could include a site specific mitigation and enhancement plan produced for the site.
23. There would be some hedgerow/vegetation loss, such as with the proposed access, though from the evidence before me proposed landscaping could sufficiently outweigh this loss and provide an overall biodiversity enhancement.
24. On this basis the proposal would accord with policy DM08 of the Local Plan, which requires that development should conserve, protect and, where possible, enhance biodiversity, amongst other things.

Public Right of Way

25. The new access would cross a public right of way (PROW) (Footpath 10) which currently runs down the side of the field. On the access plan it shows the provision for the PROW, which would require those following the route to cross the new road which would form the access.
26. There would need to be a separate agreement under the relevant PROW legislation, but from the details provided I am satisfied that the development and the new access could be implemented without significant obstruction to those following the route. I have no reason to consider that those needing to cross the new access road would be in any particular danger for example. As such, I have no reason to believe it cannot be achieved without adverse impacts to PROW or any obstructions or safety issues, subject to more details being required by condition for example. Enhancements to the PROW adjacent to the site could also be enhanced to potentially provide an overall improvement.
27. On this basis the proposal would be in accordance with policy DM05(2) of the Local Plan, which requires that all development shall protect and enhance existing public rights of way, amongst other things.

Other Matters

28. Near the site there is a stone tablet at 'Bloody Corner' on Churchill Way which is grade II listed which commemorates an historic battle in this area. The stone tablet is already adjacent to a modern development though the proposed development would slightly detract from the setting of this heritage asset. This would be at the lower end of 'less than substantial' harm and this would be weighed against the public benefits of the scheme, which I have considered below.

Planning Balance

29. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.
30. Relevant to this is policy ST21 of the Local Plan, which essentially seeks to help the Council manage housing delivery. Where there is an undersupply of housing the policy does allow for residential development outside of defined settlement limits, subject to criteria. Criterion (2)(d) requires that development must in all respects be in accordance with other Local Plan policies. However, due to the harms I have identified, particularly with regard to the impact to the undeveloped coast (policy ST09), this is not the case with this proposal. As such, the proposal is not in accordance with policy ST21 as it does not meet all the criteria.
31. There are benefits to the proposal. The proposal would provide up to 39 dwellings towards the local housing supply, including a substantial amount being affordable dwellings, all within an accessible location. The appellant states that they will be deliverable to give a housing boost within the coming years. I give this matter considerable weight.
32. There would be economic benefits from the construction of the dwellings and potential economic benefits for local businesses with future occupants spending in the area.
33. A legal agreement with planning obligations has been submitted with the appeal. This includes the affordable housing provision, but also other obligations for the appellant such as provision of improvements towards Northam Swimming Pool, provision of open space and education contributions. Some of these obligations have a mostly neutral effect as they are essentially mitigating the impact of the additional residents within the village if the proposed houses were built, but improvements can be of benefit to existing residents also, such as the swimming pool enhancements for example. I give these obligations and the benefits they would bring modest weight.
34. There could be biodiversity enhancements, as set out by the appellant with landscape planting for example. Existing trees and hedgerows could be enhanced. The appellant states that this could be considered an efficient use of the site, with enhancements to the PROW routes, open space areas, and new path connections to the countryside also, amongst other potential benefits with the proposed development of the site.
35. I would give these economic, social and environmental benefits modest weight, limited to some extent by the scale of the development which while being for up to 39 dwellings is not particularly large in relation to Northam.
36. In terms of harm, whilst the site may have been identified by the Council in a SHLAA assessment, there is harm caused by the development to the Council's

strategy, which does not support this residential development in this location, outside of the settlement boundary. However, I acknowledge that the housing land supply position renders the policies of the strategy out of date. I must, therefore, reduce the weight I attribute to this conflict with those policies.

37. There is the impact to the setting of the listed stone tablet, but as stated above any harm would be at the lower end of 'less than substantial' harm and this would be weighed against the public benefits of the scheme. It is my opinion that the public benefits of the scheme, such as the proposed affordable housing, would be sufficient to outweigh the heritage harm.
38. Notwithstanding the above, I have found that the development fails to accord with Development Plan policies as it would erode the rural character of this area and also detract from the unspoilt character and appearance of the undeveloped coastal zone. This aspect of the development would be significantly harmful. In this regard, the proposal is also contrary to the Framework, in that the proposal would fail to adequately recognise the intrinsic character and beauty of the countryside or maintain the character of the undeveloped coast (paragraph 174).
39. The harm identified would be significant and when assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

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

Mr S Rennie

INSPECTOR