



Appeal Decision

Site visit made on 16 August 2022

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

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/Q1153/W/21/3289369

Land Opposite Wilminstone Industrial Estate, Old Exeter Road, Tavistock, Devon PL19 0FD

- 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 New Homes South West Ltd (Mr C Speed) against the decision of West Devon Borough Council.
 - The application Ref 4257/20/OPA, dated 18 December 2020, was refused by notice dated 19 November 2021.
 - The development proposed is for the erection of 10 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal seeks outline permission with all matters reserved. In so far as the submitted plans and drawings show any details, I have treated those as being purely illustrative.

Main Issues

3. The main issues are:
 - Whether the development of housing in this location is appropriate, within the context of the Development Plan
 - The effects of the development on the character and appearance of the area
 - Whether the proposal contributes appropriately to the affordable housing needs of the wider area
 - The effects of the development on the integrity of ecologically important European Sites.

Reasons

Location of Development

4. The proposal is to develop a field for housing to the north of the centre of Tavistock, which is a large town. A dispute between the parties is whether the site is within or outside this town, with there being no defined settlement boundaries. This is important when considering if the proposed development accords with policies of the Development Plan (Plymouth and South West Devon Joint Local Plan 2014-2034 (the LP)).

5. Following my site visit it is clear this field is a significant distance from the centre of Tavistock. When travelling north from Tavistock the character of the area changes from urban to rural, although there is still some nearby development, albeit more dispersed. Old Exeter Road adjacent to the site, likely to be where the site access would be, has a distinctive character of a rural road, being narrow with limited footways and lighting. The same is true for the road towards the northern boundary of the site which links Old Exeter Road with the A386. These roads around the site, which itself is a sizable field of agricultural appearance, indicates the site is within the countryside rather than within Tavistock itself.
6. There is some adjacent development, particularly to the south with the recent housing development of Trendle Gardens and the Mount Kelly College. However, these are closer to Tavistock centre than the site. There are also some houses along the A386 and also the industrial commercial units in the Wilminstone Industrial Estate. However, in my view these are developments north of Tavistock rather than being within the town.
7. I recognise that the road sign for Tavistock is to the north of the site and also that this site comes under Tavistock Town Council, but these are not determinative factors in establishing whether the site is within the town or outside of its limits, which I have instead based primarily on the character of the site and its setting.
8. It is my view that the site is close to but outside of Tavistock and is outside of the built up areas of this town. There is built up areas, particularly to the south, though these are more dispersed. I would regard the site as being within the countryside for the purposes of planning policy and this appeal.
9. Being within the countryside a key policy is TTV26 of the LP. With this policy it is important to distinguish whether the site is isolated development in the countryside. In this case the development would not be isolated as there are adjacent housing (both old and more modern) and the Industrial Estate. Section 1 of the policy therefore does not apply.
10. Section 2 of TTP26 includes a criteria for development in the countryside and what should be included. These criteria are either not applicable to the proposed development or there is no conflict. However, neither does this list support the proposed development. The policy states in the supporting text (para 5.168) that it needs to be read alongside other policies of the plan, such as policy SPT2.
11. Policy SPT2 (Sustainable linked neighbourhoods and sustainable rural communities) sets criteria requirements for how development and growth should take place in the Plan Area, with a focus on sustainability. This requires that development should be well served by public transport, walking and cycling opportunities (criterion 6). This is reflected in policy SPT1, which is an overarching policy relating to delivering sustainable development. This requires that there should be sustainable and health promoting transport options available to access local education, services and jobs. Therefore, whilst the proposal may not conflict with the relevant criteria under TTV26, there is still the issue of whether the site is accessible and sustainably located for new housing.

12. Access to the housing as proposed would likely be from Old Exeter Road, as indicated on the submitted details. There is no substantive evidence that there are alternative connections to the site. This is little more than a country lane at the point near the site, with a lack of footways and street lighting. The unnamed road that links Old Exeter Road to the A386 is similar, though a bit wider. With the adjacent Industrial Estate and the fact that Old Exeter Road links with Tavistock there could be frequent traffic, which I witnessed also on my site visit.
13. I note the nearby cycle route, but should future occupants of the proposed houses wish to walk to Tavistock or to the bus stops (or a location where they could hail a bus to stop) on the A386 then they would likely have to walk along these roads. This would be particularly difficult in hours of darkness, such as the dark winter evenings for example. This would dissuade people from walking or cycling and likely result in more reliance on private car use due to the location of the site, even if the destination was otherwise of an acceptable distance away. This is also coupled with the significant distance to many shops, services and facilities that future occupants would likely rely on.
14. There has been the development at Tremble Gardens recently. Other development, as allocated sites, to the south are considered, but they have different levels of accessibility. Tremble Gardens for instance is a short distance and has direct access onto the A386 which is more suitable and also closer to both Tavistock centre and the bus stops. I have primarily, however, considered this proposal based on the accessibility of the proposed development from this site to facilities and services.
15. There has also been reference to other appeals in the area, though these proposals differ in their context and location to that of the proposed site. As such, they are not directly comparable.
16. Overall, the proposal is not sustainably located and is therefore contrary to LP policies SPT1, STP2 and TTV1, which requires that development support the principles of sustainable development, and be well served by public transport, with suitable walking and cycling opportunities, amongst other things.
17. However, as the site is not isolated there is no direct conflict with policy TTV26 of the LP that I have established or has been provided in substantive detail with the evidence. Furthermore, policy DEV32 relates to low carbon development, but seems more focussed on the building practices and energy production, for example.

Character and Appearance

18. The proposal is in outline with all matters reserved. However, the proposal is for up to ten houses on an undeveloped field which is within the rural setting of Tavistock. Its undeveloped and open character, surrounded by hedgerows and some trees, contributes positively to the rural setting of Tavistock.
19. The dwellings would come with internal roads, parking areas and other domestic paraphernalia. It would urbanise this field. However, the site has a high level of visual enclosure due to the existing boundary landscaping, though some of this would likely be removed to form the proposed access and visibility splays. There would also be existing housing and other buildings adjacent to the site, which is not isolated, which again mitigates the visual impact.

20. Overall, the proposal would have some adverse impact to the landscape through urbanising this field, though this would be significantly mitigated through the enclosed nature of the site for example. Nonetheless, the proposal would not conserve the landscape, thereby being contrary to policy DEV23, but any harm would be limited.

Affordable Housing

21. The proposal is for up to 10 market houses. The National Planning Policy Framework (the Framework) states that "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)" (para 64). Policy DEV8 states that "Within rural areas with special designations, as defined in section 157 of the Housing Act 1985, all residential developments of 6 to 10 dwellings will provide an off-site commuted sum to deliver affordable housing." I have concluded above that this is a rural area outside of Tavistock.
22. Paragraph 6.30 of the supporting text within the LP explains that in the Thriving Towns and Villages Policy Area the affordability gap ranges from average homes costing 11 times the local wage in West Devon. There has been no substantive argument from the appellant that there is no requirement for affordable housing in this area.
23. As this is a major development (being for up to 10 dwellings) then the Framework suggests that affordable housing could be required. However, the LP has set out that 10 or less dwellings proposed would only trigger a requirement for an off-site commuted sum in 'designated rural areas'.
24. Whilst the site is a field and has rural qualities, there is not the evidence before me that this is within a 'designated rural area'. As such, since I am dismissing the appeal for other reasons I have not pursued this matter further.

European Sites

25. The site is located within the Zone of Influence for new residents to have a recreational impact on the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA). This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). It is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the European Site.
26. The Habitats Regulations require that permission for development may only be granted after it has been ascertained that it will not affect the integrity of the European Site. The SAC/SPA qualifies as a European Site in recognition of its marine conservation importance.
27. This area is also a popular destination for outdoor sports, leisure, and recreational activities, which are identified as a threat to its integrity. The development would result in new households living within the Zone of Influence of the SAC/SPA. In the light of the evidence before me, when considered alone or cumulatively with other schemes, I cannot rule out that the proposal would not have significant effects on its features of interest, due to the resultant increase in recreational use.

28. The Council adopted a mitigation scheme. To fund the mitigation, the Council collects financial contributions from developments, using a formula based on the total cost of the mitigation divided by the expected number of new dwellings. This is through the 'Recreation Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site'. The contributions are pooled, to be spent on the identified projects which will avoid cumulative harm resulting from development in the Zone of Influence.
29. In this case the appellant has submitted a Unilateral Undertaking to provide the financial contribution for the mitigation. This would meet with policies SPT12 and DEL26 of the Local Plan. However, if this appeal was to be allowed I would have followed this matter up with the Council and also consulted Natural England. In these circumstances I have not pursued this further.

Planning Balance

30. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine appeals in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
31. There are benefits with the proposed scheme, particularly the provision of ten dwellings towards local housing supply, with the Council stating there is a housing crisis. There would be economic benefits from the construction of the dwellings, together with the financial boost from future occupiers using local businesses. The proposal could include biodiversity enhancement and the proposal could be considered an efficient use of the site for housing, amongst other potential benefits. Overall, I give all the benefits modest weight when combined.
32. The appellant states that there would be no flood risk issue or harm to neighbour living conditions, for example, but 'no harm' would be neutral in the planning balance.
33. However, the proposed dwellings would be in an unsustainable and relatively inaccessible location, which does not meet with the principles of sustainable development as set out in the LP. There would also be some limited harm to the rural character of the area.
34. There is an extant permission for employment development for this site. This could be a fallback position, though there is no substantive evidence that this is likely to be implemented if this appeal is dismissed. The employment use would also be a very different type of development, though probably of a similar visual impact. There may be less of an adverse impact as a result of lack of access to services and facilities if it were an employment use for example. As such, being that the extant employment use is a very different type of development, I have given this matter limited weight.
35. Overall, the harms significantly and demonstrably outweigh the benefits. As such, there are no material considerations that indicate a decision other than in accordance with the Development Plan policies with this appeal.
36. I have had regard to the other appeal decisions and housing allocations brought to my attention in coming to this decision, but there are differences with this proposal in terms of site location and the circumstances of the cases. I have considered this proposal on its own merits.

Conclusion

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

Mr S Rennie

INSPECTOR