



Appeal Decision

Site visit made on 17 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/U1105/W/22/3303809

Land At SY 22647 92588, Colyton Hill, Colyton

- 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 & Mrs R & H Bennett against the decision of East Devon District Council.
 - The application Ref 22/0817/FUL, dated 11 April 2022, was refused by notice dated 31 May 2022.
 - The development proposed is siting of shepherd's hut for holiday accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the location of the site for tourism accommodation purposes accords with local and national policies with regards to the accessibility of local services and facilities minimising the need to travel by private transport; and
 - whether the proposed development makes adequate provision for foul sewage treatment.

Reasons

Location

3. The appeal site is in a rural hillside location lying outside of the settlements of Colyford, Colyton, Seaton and Beer. Although the distance to the nearby settlements provided by the main parties do slightly vary, I observed by travelling to these settlements by car that distances vary from approximately 1.5miles to Colyton, 1.7miles to Colyford, 2.3miles to Seaton and 2.6miles to Beer. The site itself is located at the end of an uneven and unlit track, with the site laid to grass and enclosed with fence to three sides, and earth bund to the fourth side.
4. Although there is a tourism use directly to the north of the site, and further tourism uses I observed in the wider area, there is no disagreement between the parties that the site lies in the countryside for the purposes of planning policy. Strategy 7 of the East Devon Local Plan 2013-2031 (LP) concerns development in the countryside and supports development in such locations where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the

distinctive landscape, amenity and environmental qualities within which it is located.

5. LP Strategy 5B relates to sustainable transport and aims for development to contribute to the objectives of promoting and securing sustainable modes of travel and transport. This is reflected within LP Policy TC2, which is an overarching policy that aims to direct new development to locations that are accessible by pedestrians, cyclists, and public transport, and are well related to compatible land uses to minimise the need to travel by car. The Policy supporting text explains that Policy TC2 promotes development in the most sustainable locations, where people can make realistic and viable alternative choices to the use of the private car.
6. In terms of the need to locate the proposal where it would minimise the need to travel by private car, aside the uneven and unlit access driveway, I observed that the surrounding rural roads are not conducive to walking or cycling due to topography, the absence of footways and streetlighting, and distance to surrounding settlements. Furthermore, public transport would not be within easy reach due to the distance to the nearest bus stops and the character of the rural roads described above.
7. Paragraph 81 of the National Planning Policy Framework (Framework) refers to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 84 also supports the sustainable growth of rural business and tourism. Furthermore, Paragraph 85 recognises that sites to meet local business and community needs in rural areas may have to be found outside settlements, and in locations that are not well served by public transport. Paragraph 105 also seeks to actively manage growth in support of sustainable transport, although acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
8. However, while this may be so, the Framework advises that development should exploit any opportunities to make a location more sustainable (for example, by improving the scope for access on foot, by cycling or by public transport). Although my attention has been drawn to footpaths in the area, no such measures to improve scope of access have been put before me and I find that, for most journeys, the occupants of the holiday accommodation would be reliant on the use of a private car.
9. Another appeal decision¹ that is cited by the appellant differs from the current proposal in several ways. It concerns a differing type of development, of differing scale and a different site. Also, the full details of the other case are not before me. Therefore, notwithstanding support or otherwise of car use in rural areas within that appeal, the equivalence of the other case to the current proposal are limited. Furthermore, although planning permission for a tourism use at the neighbouring site has also been drawn to my attention, and the policy context the Council considered it under, this again related to a proposal of a differing scale, and moreover the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
10. Consequently, I conclude that the location of the site for tourism accommodation would result in future occupants being reliant on private

¹ APP/Q1153/W/18/3206945

transport, with no easy alternatives in order to access local services and facilities. The proposal would therefore be contrary to LP Policy TC2, and LP strategies 5B and 7, which seek to limit development in the countryside, and to ensure that new developments, are accessible, to minimise the need to travel by car. The proposal would also be contrary with the provisions of the Framework in relation to promoting sustainable transport and associated guidance within the Planning Practice Guidance (PPG).

11. Policy Coly11 of the Colyton Neighbourhood Plan 2020 -2031 (NP) supports tourism development subject to certain circumstances. Although I have found that the location of the site would result in a reliance in private vehicle use, the circumstances outlined within NP Policy Coly11 include that traffic, access and highway matters are satisfactorily addressed as opposed to a requirement to be in a location easily accessible to local services and facilities. No unacceptable impacts on highway safety have been put forward by the Council, or conflict with any other part of this NP Policy, and I have no reason to find otherwise. I therefore find no conflict with NP Policy Coly11.

Foul sewage

12. LP Policy EN19 requires that a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the proposed development. The PPG seeks a hierarchical approach to wastewater, and where a connection to a public sewage treatment plant is not feasible, a septic tank or package sewage treatment plant can be considered².
13. I note the appellant's intention is that foul waste will be managed by sealed cassette containers, or the use of a compost toilet at the site in a 'wooden hut', although detail of such a compost toilet proposal is not before me.
14. I further note a 'letter of agreement' between the appellant and a third party, indicating that occupiers of the proposal may have access to waste disposal and to obtain drinking water. However, even if such an informal agreement were to legally secure access to neighbouring waste disposal, and notwithstanding the proposed use of cassette containers, on the evidence before me, an appropriate method of foul sewage to serve the proposal has not been formally secured and no details of a system proposed at the site have been provided to me.
15. Consequently, I conclude on this main issue that the proposed development does not make adequate provision for foul sewage treatment contrary to LP Policy EN19 which seeks, amongst other things, to ensure the adequacy of foul sewers and sewage treatment systems, and guidance provided within the PPG relating to wastewater.

Other Matters

16. Reference is made to a fallback position of a temporary use of the land provided by the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Even if it is the case that the GPDO permits a temporary use of the site, given the restricted time allowance of such a permitted use, I do not find that such a temporary use outweighs the conflict with the development plan I have identified.

² Paragraph: 020 Reference ID: 34-020-20140306

17. I have had regard to nearby tourism accommodation, and related tourism businesses in the area, and acknowledge that the proposed development would provide economic benefits and support businesses in rural areas, including future spend of occupants in the local area and local employment opportunities.
18. Notwithstanding, I find that the benefits of the proposed scheme would be limited in scope and scale. In my view, such matters either individually or in combination do not outweigh the identified harm and the associated development plan conflict described above, to which I attach significant weight.

Conclusion

19. Whilst I have found that the proposal would accord with NP Policy Coly11, this would be neutral in the planning balance. As the proposal fails to minimise the need to travel by private vehicle, or make adequate provision for foul sewage treatment, there would be conflict with LP strategies 5B and 7 and LP policies TC2 and EN19 and the development plan, read as a whole.
20. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR