



Appeal Decision

Site visit made on 30 January 2023

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

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/Q1153/W/22/3292581

Higher Wilminstone Farm, The Milking Parlour, Road Past Wilminstone Farm, Wilminstone, PL19 0JT

- 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 Ms I Chambers against the decision of West Devon Borough Council.
 - The application Ref 1673/21/FUL, dated 4 May 2021, was refused by notice dated 2 December 2021.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposed development is in a suitable location for housing, with particular reference to the accessibility of services and to the reliance on motor vehicles,
 - The effect of the proposed development upon housing mix,
 - The effect of the proposed development on the living conditions of nearby residents with regards to overlooking and loss of privacy; and,
 - The effect of the proposed development on Protected Habitats.

Reasons

Location of Development

3. The appeal site comprises land associated with the dwelling known as the Milking Parlour. The site is adjacent to a small number of buildings which comprise agricultural and storage units, as well as buildings ancillary to the residential use of the Milking Parlour.
4. There is dispute between the main parties as to whether the appeal site is located within Tavistock or would be situated outside of that settlement and within the countryside for planning purposes.
5. Based on the evidence before me and on observations made on my site visit, whilst the appeal site is not isolated given its proximity to other buildings and people as described above, the site is located a significant distance from the built-up area of Tavistock. By reason of its separation from the built-up area of

Tavistock by agricultural land, in my view the appeal site is not located within Tavistock, nor would the site be situated adjacent to that settlement. The appeal site is therefore located within the countryside for planning purposes.

6. Policy TTV1 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (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 – which includes 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. Policy TTV27 of the Local Plan concerns meeting local housing needs in rural areas and, given that the proposal is not advanced as for affordable housing, that policy does not apply in this instance.
7. 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. That policy, which is in two sections, seeks to protect the special characteristics and role of the countryside. Given the proposed dwelling would be adjacent to existing buildings as described above, it would not strictly be in an isolated location. Therefore, the appeal proposal does not require assessment against the first section of Policy TTV26 of the Local Plan.
8. However, the second part of Policy TTV26 of the Local Plan concerns all development in the countryside as defined by the development plan, and is applicable to the appeal scheme. In this regard, the appeal scheme does not propose the reuse of a traditional building or would respond to a proven agricultural, forestry or other occupational need that requires a countryside location. Policy TTV26 of the Local Plan does not provide support for the proposal.
9. 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.
10. Whilst I acknowledge that there are pedestrian footways and bus stops on the A386 highway as well as access to a cycle route, access to services and facilities contained within Tavistock, as well access to business parks and bus stops, would predominately be via rural roads which are unlit, and which are very narrow and steeply inclined in places. Consequently, future occupants would have difficulties in accessing services and facilities by walking or cycling.
11. Therefore, in my view and while acknowledging that opportunities to maximise sustainable transport solutions vary between urban and rural areas, future occupiers of the appeal scheme would be likely to be heavily reliant upon private motor vehicles in order to access services and facilities reasonably required on a daily basis. I have noted the submission regarding the potential

for electric cars to mitigate any concerns. However, the use of such vehicles cannot be guaranteed nor required.

12. For the above reasons, I do not consider that the proposed development would have reasonable access to a vibrant mixed use centre which may be required on a day to day basis such as shops and schools, as per criterion 1 of Policy SPT2 of the Local Plan. Furthermore, given the distance and nature of rural lanes that connect the site to the nearest bus stops, it cannot be said that the proposed development would be well served by public transport. In light of these matters, the appeal scheme would therefore conflict with policy TTV1 of the Local Plan as it has not been adequately demonstrated that it would support the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2 of the Local Plan.

Housing Mix

13. 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 have put it to me 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.
14. Based on the evidence before me, whilst it appears that there is under provision of one bedroom dwellings within Tavistock and the wider area, provision of two and three bedroom properties appears to be in excess of properties of four or more bedrooms. Whilst I note the submissions of the main parties in this respect, the appeal scheme would only have a marginal impact on the balance of local housing stock. As such, I do not find that the proposal would fail to accord with the aims or provisions of Policy DEV8 of the Local Plan.

Living Conditions

15. Policy DEV1 of the Local Plan concerns protecting health and amenity and, amongst other matters, seeks to ensure that new development provides for satisfactory privacy for both new and existing residents.
16. The Council maintain that by reason of the height of the proposed dwelling, the orientation of openings and the elevated position of its associated garden space, that the appeal scheme would overlook existing residential units located east of the site, resulting in unacceptable living conditions for future residents of those nearby properties.
17. In terms of the proposed dwelling, while noting the orientation of openings and the proposed position of a balcony, given the separation distance between the respective properties, I find that there would not be any significant degree of overlooking. Whilst I agree that parts of the garden space would provide opportunities for overlooking into the nearby property, concerns regarding unacceptable loss of privacy could be overcome by additional planting at the boundary, and which could be secured by condition that would also include requirements for maintenance of any such boundary planting. Subject to such a planning condition, the proposal would not conflict with Policy DEV1 of the Local Plan.

Protected Habitats

18. The site falls within the zone of influence of the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area). The proposed scheme would be likely, in combination with other plans and projects, to have a significant effect on the internationally important interest features of these areas due to additional recreational pressure.
19. The Council's officer report confirms that a scheme to mitigate the adverse effects on these protected sites can be secured by Unilateral Undertaking (UU), but that at the time of the Council's assessment of the proposed development, no such planning obligation had been received. Nonetheless, it is noted that a UU was submitted during the appeal which, it is maintained by the Appellant, would provide the necessary financial contribution to overcome the Council's reason for refusal regarding adverse effects on the integrity of the Tamar European Marine Site.
20. Whilst I have noted the submission of the UU and have considered its contents, given that I am dismissing the appeal on other grounds and for the reasons given above and below, it has not been necessary for me to consider these matters further with regards to an appropriate assessment in this instance.

Other Matters

21. I acknowledge the Appellant's submissions regarding the preservation of permitted development rights at the site. However, in my view the presence of such rights does not justify a new dwelling at this location.
22. The appeal scheme would provide benefits in terms of a contribution towards local housing and in terms of economic benefits through employment opportunities during construction and through the future spend of residents. It is also acknowledged that the scheme would represent a self-build opportunity. Whilst the proposal would not have an adverse impact on the living conditions of nearby residents, would be likely to provide adequate mitigation in respect of Protected Habitats, and would not have an adverse effect on the character and appearance of the surrounding area, such matters are neutral in the planning balance.
23. In my view and by reason of the scale of the appeal scheme, the benefits associated with the proposal would be limited and would not outweigh the significant weight that I attach to the harm and development plan policy conflict as identified above in respect of the location of the appeal site with regards to accessibility of services and facilities without heavy reliance on private motor vehicles.

Conclusion

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

Mr A Spencer-Peet

INSPECTOR