



Appeal Decision

Site visit made on 3 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2023

Appeal Ref: APP/Q1153/W/22/3304897

Land east of the Clovelly Inn, Bratton Clovelly.

- 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 J Codling against the decision of West Devon Borough Council.
 - The application Ref 4640/21/FUL, dated 13 December 2021, was refused by notice dated 4 March 2022.
 - The development proposed is construction of a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the location of the appeal site is suitable for a new dwelling having particular regard to the effect upon the character and appearance of the area and efficient use of land;
 - whether the proposed development meets local housing need; and
 - whether sufficient information has been provided regarding surrounding trees and hedgerows.

Reasons

Location

3. The appeal site is located to the east of the settlement of Bratton Clovelly. The site is to the west of a field currently laid to pasture, and adjacent an area of woodland. The topography of the site rises steeply from the east and south to a more gently sloping area which is the location of the proposed development.
4. Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (LP) aims to deliver new homes in accordance with a hierarchy of settlements, with Bratton Clovelly being identified as a 'sustainable village' within which development to meet locally identified needs and to sustain limited services and amenities will be supported. In the Countryside, outside of the settlements, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities, including as provided for in LP Policies TTV26 and TTV27. Furthermore, LP paragraph 5.5 details that the plan does not define settlement

boundaries, however development outside built-up areas will be considered in the context of LP Policy TTV26.

5. LP Policy TTV26 seeks to protect the characteristics and role of the countryside and avoid isolated development unless in certain exceptional circumstances. The Policy is divided into two different sets of policy requirement, the first applies to development proposals considered to be in isolated countryside locations, the second aspect applies to all development proposals within a countryside location. According to the Braintree court of appeal judgement¹, the word 'isolated' simply connotes a dwelling that is physically separate or remote from a settlement.
6. Although the appeal site is in reasonably close proximity to the built form of Bratton Clovelly, due to the intervening woodland and surrounding topography, the site is not visually read in conjunction with the existing built form of the settlement. However, while there is visual separation, the site is within reasonably close proximity, and walking distance of the centre of the village and associated facilities. Therefore, the site cannot be regarded as isolated in terms of its spatial or physical relationship to other buildings.
7. I observed other dwellings in the vicinity including those to the north of the appeal site including a recent property at Lowen and the Old Rectory. However, although I find the appeal site would not be 'isolated' in terms of LP Policy TTV26(1), the appeal site, due to its location near the top of a hill, with a wooded backdrop, is seen in the context of the surrounding pastoral and wooded valley countryside landscape, as opposed to the built-up area of the settlement. I therefore find that the relationship of this particular appeal site is sufficiently divorced from the built-up area of the settlement to be within the countryside and not within the 'sustainable village'. As such, LP Policy TTV26(2) is applicable as opposed to LP Policy TTV25 which relates to development in the sustainable village.
8. In this respect, although I note the long association of the appellants family with the village and the intention to remain in the village, I have not been provided with any evidence that the provision of a single dwelling in this location would respond to a proven agricultural, forestry or other occupation need that requires a countryside location.
9. I note other examples of timber clad buildings, bungalows and contemporary architecture that have been drawn to my attention by the appellant. I observed that traditional form and materials of houses in the village significantly contribute to the character of the area. Even if the proposed development were to be painted, or rendered, and despite the design concept as articulated within the appellants Design & Access Statement, I find the overall appearance of the building has a contemporary 'lodge like' form due to a combination of the cut away pitch roof, glazing and materials. Despite the utilisation of a slate roof, and the use of some other materials seen elsewhere in the area such as uPVC windows and timber doors, it would not deliver a locally distinctive design solution, thereby at odds with the local vernacular.
10. Furthermore, due to the appeal site being read within the countryside landscape, it does not relate well to the historic pattern of development of the

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

settlement, and notwithstanding the proximity to other built form, would be seen as harmful sporadic development in the rural landscape.

11. The Council suggest that the appeal site could accommodate more dwellings. I acknowledge that the National Planning Policy Framework (Framework) seeks to promote an effective use of land in meeting the need for homes. However, LP Policy DEV20 does not explicitly require an assessment of the efficiency of use of land but does require development proposals to meet good standards of design, contributing positively to both townscape and landscape, and protect and improve the quality of the built environment.
12. Even if it were the case that a higher density development could provide a better relationship with the historic pattern of development, noting the land within the appellants ownership as illustrated by the blue line on the submitted plans, the proposed development before me is for a single dwelling and the appeal site is that constrained within the red line and must be considered as such. Therefore, I find on the evidence before me that although I have found the proposal does not relate well to the historic pattern of development, the proposal does not result in an inefficient use of land.
13. My attention has been drawn to a number of other appeal decisions in relation to the suitability of the location for housing. While the full details of the other cases are not before me, these appeals differ from the current proposal in a number of ways including relating to differing settlements and are of a differing quantum of development. This limits the equivalence of the other cases to the current proposal. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
14. I conclude on this issue that the proposed development would not be in a suitable location due to the harmful effect on the character and appearance of the area. Although I find that the proposal is not isolated or an inefficient use of land, the proposed development would not respond to a proven agricultural, forestry or other occupation need that requires a countryside location and conflicts with LP Policies DEV20, DEV23 and TTV26 which, amongst other things, seeks to protect the special characteristics and role of the countryside, ensure good quality of design having proper regard to the pattern of local development and to conserve and enhance landscape and townscape character and visual quality.
15. Furthermore, while the proposal would not be contrary to Paragraphs 79 and 80 of the Framework due to the proximity to the settlement and the opportunity for future occupiers to support the vitality of the local community, the proposal would be contrary with paragraphs 130 and 134 of the Framework in relation to achieving well designed development which adds to the overall quality of the area, and is sympathetic to local character including the surrounding built environment and landscape setting.

Local housing need

16. The Council's Officer Report indicates that Bratton Clovelly has a low number of 1 and 2 bedroom dwellings, being 4% and 15% respectively, with an oversupply of 3 bedroom dwellings. Although I note this is from ONS data dating from 2011, there is no other particular evidence to lead me away from the numbers provided by the Council being a reasonable depiction of the need.

17. My attention has been drawn to a Council committee consideration of a differing planning application. I do not have full details of that particular proposal, although note it relates to a three bedroom dwelling with study. Notwithstanding the appellants comments that the proposed development could be considered a 2 bedroom dwelling with study, the proposed development as stated within the application form and detailed on the submitted plans is for a 3 bedroom dwelling.
18. The appellant has stated within the appeal statement that the proposal is for a self-build dwelling and highlights a shortfall in provision of self-build plots. However, section 16 of the application form states that the proposal is for market housing as opposed to self-build and no evidence beyond the use of the term 'self-build' has been presented by the appellant to confirm that the proposal meets the definition of 'self-build' set out in the Framework. Even if it is the case that the proposed development is a self-build proposal, LP Policy DEV9, which amongst other things, supports self and custom build housing, requires that a proposal for self-build must meet over-arching policies including that for design, which I have found conflict with above.
19. On the evidence before me, the proposed development would not meet a demonstrable local need for 1 and 2 bedroom units. The proposed development therefore conflicts with LP Policy DEV8 which, amongst other things, seeks to deliver a wide choice of homes that redress an imbalance within the existing housing stock.

Trees and hedgerows

20. The appeal site is adjacent woodland consisting of mature and more recently planted trees. Although the siting of the dwelling itself is unlikely to result in the loss of any trees or hedgerows, I noted that the proposed accesses, particularly the access track to the south, would inevitably result in the loss of a small number of trees and vegetation.
21. Notwithstanding, any loss of trees or vegetation is unlikely to significantly impact the visual contribution of the wider woodland given the scale of the existing planting and the site provides opportunity to secure appropriate new trees and hedgerow. However, further surveys would be required to ensure the adequate mitigation and protection of retained trees and it would be reasonable for a planning condition to be imposed if the appeal were to be successful.
22. Consequently, I conclude that the submitted information to date gives a suitable degree of certainty that the development would be carried out in accordance with LP Policy DEV28 which seeks, amongst other things, to avoid the loss or deterioration of woodlands. I am satisfied conditions would be reasonable to secure any additional details required prior to construction works taking place.

Other Matters

23. The appellant has quoted LP policies SPT1, SPT2, SPT3, TTV2 and TTV25 as well as paragraphs 8, 11, 12 and 60 of the Framework in support of the proposal. While the proposed development would contribute a single dwelling towards housing supply in a location close to services and facilities, in accordance with the aims of Policy SPT3, I have found conflict with development plan policies and the Framework relating to character and

appearance and local housing need. Therefore, the proposed development does not meet the social and environmental objective of sustainable development and conflicts with LP policies SPT1, SPT2 and TTV2, TTV25 and paragraphs 8, 11 and 12 of the Framework.

24. Even if I were to agree the scheme would not lead to harm with regard to neighbouring occupiers living conditions, and that the proposal demonstrates adequate surface water drainage, this would be a neutral factor in the planning balance.
25. I acknowledge that the proposed development provides benefits in terms of the contribution of a single dwelling towards housing supply and future residents would provide further economic benefits in terms of future spend within local businesses. Furthermore, I acknowledge the proposal includes elements to reduce carbon emissions and the appellants stated wishes that the dwelling be an energy efficient home.
26. 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

27. I note the appellant has drawn my attention to a number of court cases in relation to interpreting the development plan to which I have had regard. However, for the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR