



Appeal Decision

Site visit made on 17 January 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/K1128/W/22/3302074

Land North East of Hartlands, Lodge Lane, Brixton PL8 2AU

- 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 Joanne Burgess against the decision of South Hams District Council.
 - The application Ref 1844/21/FUL, dated 25 August 2021, was refused by notice dated 13 May 2022.
 - The development proposed is new dwelling.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Joanne Burgess against South Hams District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal has been accompanied by a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. This seeks to make a financial payment to mitigate the recreational impacts from future occupiers on the Tamar European Marine Site comprising the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA). This is a matter I will consider later.

Main Issues

4. The main issues are:
 - Whether the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national planning policy in respect of the location of development; and,
 - The effect of the proposal on the character and appearance of the area.

Reasons

Location of development

5. The site is located within open countryside and is outside of the settlement boundary for Brixton as defined by the Brixton Parish Neighbourhood Plan 2014-2034 (NP) that was 'made' on the 28 November 2019.

6. The proposal is for an open market dwelling in the countryside, accessed via narrow unlit roads with no footpaths up an incline that would make walking or cycling, particularly in the dark on colder months, unattractive. In light of this and given the distance from public transport and services and facilities is not insignificant as they are located nearer to the centre of Brixton, the site is not in a location that is easily accessible by means other than by the motor vehicle.
7. The parties agree that the site is not isolated. I see no reason to disagree. Paragraph 79 of the National Planning Policy Framework (the Framework) indicates that new housing should enhance or maintain the vitality of rural communities and enable villages to grow and thrive. Although adjacent to the edge of this village, the lack of access other than via motor car limits the likely contribution of the development to the village.
8. The appellant references Policy TTV27 of the LP. This policy relates to local housing needs in rural areas and states that proposals for residential development may be permitted provided that it demonstrates it meets a proven need for affordable housing for local people. As the proposal is not seeking to provide affordable housing, the proposal finds no support from this policy. In addition, I have not been made aware of any other local need for this development to gain support under Paragraph 78 of the Framework
9. In light of the above, I conclude that the proposal would not constitute an acceptable form of development with particular regard to the provisions of local and national planning policy in respect of the location of development. As a result, the proposal would not accord with Policies SPT1, SPT2, TTV1, TTV2 and TTV26 of the LP which require development to be accessible to transport modes other than private cars, and that provision is made for safe alternative modes of travel.

Character and appearance

10. The appeal site is located near to the highest point on Lodge Lane. It is a former paddock area accessed off the existing access off Lodge Lane that serves the site and four other recently constructed properties.
11. There is a recently constructed bank to the site frontage onto the access with the side boundaries adjoining one of the newly constructed dwellings and a further paddock on rising land.
12. The proposed dwelling would be single storey with rooms in the roof and set down within the site and set back from Lodge Lane. It would be of a design and materials to complement the four other dwellings off the shared access.
13. The site is screened in views from the north by the rising level of the adjoining paddock and screened from Hilltop Cottages by existing hedgerows. Views from the south are screened by existing planting and built development. There are no clear views of the site from the junction of Hilltop Cottages with Lodge Lane due to the changing levels.
14. The main wider views towards the site are at a distance from the west and north-west. From these positions, the site is viewed from a considerable distance in a wider context with intervening planting and buildings providing some screening. In light of this, and despite the dwelling being slightly higher than the adjacent dwelling, it would be viewed alongside existing dwellings. It would also be viewed against the backdrop of the 28 new dwellings and other

development to the east of the site on higher land. As a result, I do not find the visual effects of the dwelling significant or adverse in the wider landscape.

15. From the access off Lodge Lane, the proposed dwelling would be set down and viewed in association with the adjoining dwelling and the associated hard-surfaced junction and access road. It would be of an appropriate design set down from the rising level of the adjoining paddock, outside the Brixton Strategic Countryside, and therefore provide an appropriate transition from the built form to the countryside beyond. I note that a dwelling in this location was withdrawn from a previous proposal due to concerns relating to the character and appearance of the area, but I have limited details of this, and it does not alter my findings in relation to this main issue.
16. For the reasons stated above, I conclude that the proposed development would not harm the character and appearance of area. As a consequence, it would accord with Policies DEV20 and DEV23 of the LP that, amongst other things, state that development should meet good standards of design, contribute positively to the landscape and character of the area, and avoid significant adverse landscape or visual impacts.

Other Matters

17. The appellant points out that the dwellings adjoining the site were considered by the Council to be close to the established settlement boundary with easy access to public transport routes, local services, and amenities at the time that it determined that planning application in 2019. Whilst this may be the case, at that time the Council did not have an up-to-date development plan. Since the grant of the dwellings on the adjoining site, the LP has been adopted and the NP has been 'made'. Following their adoption, these documents now provide a different development plan policy framework against which I am required to assess the proposals.
18. Appendix 1 of the appellants statement of case shows the LP Proposals Map entitled 'Thriving Towns and Villages'. An extract of this map in relation to Brixton is also provided. However, this map shows key designations across the area and does not, when considered alongside the relevant development plan policies, alter my findings above. Nor does the acknowledgement of the fact that the site is not within the Brixton Strategic Countryside, that the Council have formally declared a 'Housing Crisis', or that the proposal would add to the housing stock and create a number of jobs during construction in particular.
19. The proposal would not unreasonably imbalance the overall housing mix of Brixton or the wider area. It would provide a unit of self-build housing. As a result, the proposed dwelling would be supported by policies DEV8 and DEV9 of the LP.
20. I note that the proposal would not harm the living conditions of nearby occupiers, would not result in any harm from construction or to highway safety, drainage or wildlife considerations and could be constructed to achieve low carbon levels. I will take these into account in coming to my decision.
21. A Unilateral Undertaking has been submitted with the appeal in relation to the potential effect of the development on the qualifying features of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA). It seeks to provide a financial

contribution towards the mitigation of any effects on the integrity of the SAC and SPA from this development. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

Conclusion

22. For the reasons given above, I conclude that the proposal conflicts with Policies SPT1, SPT2, TTV1, TTV2 and TTV26 of the LP in relation to the location of the development. However, it would comply with, or be supported by, other policies in the LP, including Policies DEV8, DEV9, DEV20 and DEV23, and the NP. Nevertheless, on balance I consider that the proposal would conflict with the development plan when taken as a whole. There are no other considerations referred to above or in relation to the Framework that outweigh this finding.

C Rose

INSPECTOR