



Appeal Decision

Site visit made on 20 February 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/U1105/W/22/3307458

Land west of 8 Mill Lane, Alfington EX11 1PF

- 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 and Mrs Russell and Helen Hayman against the decision of East Devon District Council.
 - The application Ref 22/0961/FUL, dated 3 May 2022, was refused by notice dated 14 July 2022.
 - The development proposed is described as "erection of 2no. two storey 3-bed detached dwellings, erection of 2no. detached single garages, means of access and associated works."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was originally submitted with the location erroneously described as 'land east of 8 Mill Lane'. However, during the application process the location description was altered to correctly reflect the site as being 'land west of 8 Mill Lane'. I have used this address which is also in the appeal form and the decision notice.

Main Issues

3. The main issues are : (i) whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities; and (ii) the effect of the proposal on the character and appearance of the area.

Reasons

Location of development

4. Strategy 7 of the East Devon Local Plan 2016 (EDLP) sets out the strategy for development in the countryside, which is defined as areas outside Built-Up Area Boundaries (BUAB) or site-specific allocations. In the countryside, the policy, amongst other things, only permits development that would accord with a local or neighbourhood plan policy that explicitly permits such development.
5. The appellant refers to infill Policy NP3 of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill 2017-2031 (NDP) as being of particular relevance. This policy is supportive of small housing developments

subject to certain criteria that, amongst other things, includes the effect of development on the character and appearance of an area. The supporting text clarifies that the policy should be applied specifically to development within the defined BUAB and rural exception sites. It goes on to say that development outside these areas is considered to be in the open countryside which is controlled by Local Plan Strategy 7. This would follow the Framework's requirement that neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers the area.

6. It is accepted that the supporting text does not have the force of policy, though it explains the aims of the policy. In this case the text does not contain a criterion but merely clarifies where the policy applies, not what it seeks to achieve. Having paid regard to Cherkley¹ and the appellant's other judgement examples, Policy NP3 is not determinative to the proposal in respect of this main issue.
7. In light of the above, the appeal site is not isolated and is located between properties on the outer periphery of the village of Alfington, which is outside any designated BUAB or allocation. Although the properties would not generate a sprawl of development into the open countryside, the appeal site is however within the countryside for planning purposes and would consequently not comply with Strategy 7 of the EDLP.
8. Turning to the accessibility of services and facilities, Policy TC2 of the EDLP says that new development should be located so as to be accessible by pedestrians, cyclists and public transport so as to minimise the need to travel by car.
9. The site is accessed off the end of a narrow road (Mill Lane) which has some street lighting. It is on the northern edge of the village where access by foot to the local bus stop, shop, hall and church from Mill Lane would largely require negotiating a substantial and narrow stretch of grass verge along a main road where I observed a regular flow of vehicular traffic. An alternative permissive path connects to the village, though this is unlit and as a result, neither route would be likely to be inviting options for pedestrians or cyclists to have to navigate, particularly in the dark or during inclement weather conditions.
10. Connections are available from Alfington village and Fenny Bridges to Feniton with its primary school and train station, and better served settlements beyond. However, access by cycling or foot to Fenny Bridges with its employment sites and limited services and facilities could be gained via an unlit and lengthy public footpath (where I noted a section of which was particularly uneven) and public bridleway route before reaching a stretch of grass verge on a busy road. Consequently, future occupants would be likely to be largely dependant on private vehicles for access to the limited facilities found in Alfington and Fenny Bridges, and beyond to the larger and better served settlements to meet their day-to-day needs. In this respect, the proposal would fail to give priority first to pedestrian and cycle movements, facilitating access to high quality public transport. Thus, it is not in a location where it would enhance or maintain the vitality of this rural community.
11. Drawing these matters together, I therefore conclude on this main issue that the site is not a suitable location for the proposed development having regard

¹ Cherkley Campaign Ltd, R (on the application of) v Mole Valley DC & Anor [2014] EWCA Civ 567 (07 May 2014).

to the provisions of local and national policy and the accessibility of services and facilities. For the above reasons, the development would be in conflict with Strategy 7 and Policy TC2 of the EDLP which together in this respect direct housing to the most accessible locations, reducing the need to travel by car. There would also be conflict with chapter 9 of the Framework which, amongst other things, gives priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.

Character and appearance

12. The site forms part of a large and expansive agricultural field on the northern extremity of Mill Lane on undesignated land. Notwithstanding any annotated viewpoint within the NPD, at my visit I was able to observe short and long distant views towards the rising and scenic open countryside to the north from the highway, but not at the point where the footpath leading north starts, due to existing vegetation. I consider this view and the gap to be a publicly valued view as referenced within Policy NP6 of the NDP, where it says that proposals that would affect these views should demonstrate that the design has taken this into consideration and public views can be protected for public enjoyment. Despite being set between properties, the site is characterised by the presence of the field with its views, rural tranquillity and established boundary trees and hedges.
13. The proposed dwellings and their garages would be of an acceptable design being constructed from sympathetic external materials and fenestration detail and would not be visible from the main Alfington Road. However, the proposed scale, mass and siting of the properties would introduce a prominent and imposing addition of built form that would consume most of the width of the plot. Furthermore, although hedges to the entrance to the site may provide more screening in the summer months than I observed at my visit, they are equally capable of being cut back, whereas the introduction of the proposed buildings would permanently erode the publicly valued short and longer distanced views of the countryside.
14. Therefore, I conclude on this main issue that the proposal would cause significant harm to the character and appearance of the area. As such, the proposed development would be in conflict with Strategy 7 and Policy D1 of the EDLP and Policy NP6 of the NDP, which together in this respect seek to respect key views and landscape characteristics, ensuring that the scale and massing of buildings relate well to their context. The proposal would conflict with chapter 15 of the Framework which amongst other things says that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Other Matters

15. The site is located close to the Pebblebed Heaths and its European Habitat designations where mitigation would be required as a result of the impacts of increased recreation arising from residential development.
16. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an

Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites. I would also have assessed whether the appellant's financial contribution secured through the signed Unilateral Undertaking would have provided suitable mitigation.

17. However, as the main issues regarding the suitability of the location for housing and character and appearance provide clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision since any findings on this issue would not change the appeal outcome.
18. The appellant refers to several appeal decisions of which I am not aware of their detailed site-specific characteristics. However, having paid regard to the decisions at Plymtree, Clyst Honiton and Colaton Raleigh, they are materially different to the scheme before me in that their locations were deemed to have good access to a better range of services and facilities. As such, I afford these decisions limited weight. Additionally, I have determined this appeal on its merits taking into account all the evidence before me and my own observations.
19. I note the appellant's and local resident's comments on matters including residential amenity, trees and landscaping, biodiversity, flooding, the narrow lane, parking arrangements and the loss of agricultural land. However, as I am dismissing the appeal on the above main issues, I have no need to consider them further.
20. Had I been minded to allow the appeal, matters of archaeological investigation and tree protection measures could have been addressed through appropriately worded conditions.

Planning balance

21. In the context of the development plan, I have found that the proposal would conflict with Policies TC1, D1 and Strategy 7 of the EDLP and Policy NP6 of the NDP. In this respect, I have found these policies to be generally consistent with the relevant aims of the Framework, where it says that housing should be located where it will enhance or maintain the vitality of rural communities. Additionally, it says that decisions should give priority to pedestrian and cycle movements, and they should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Therefore, I give the conflict to these policies substantial weight.
22. The proposal would provide high-quality, well-designed properties that would make a positive contribution to the supply of housing, albeit the benefits of two dwellings would be very modest. It would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. The proposal would not accord with the development plan when considered as a whole.
23. The Council agrees that they cannot presently demonstrate a five-year housing supply. Therefore, the presumption in favour of sustainable development set out within paragraph 11 of the Framework applies. I have already found that there would be modest economic and social benefits through a contribution to a

shortfall in housing supply and the construction and occupation of the properties.

24. However, against these benefits I need to balance the adverse impacts. The need to deliver sustainable patterns of growth and the conservation and enhancement of the natural environment are important considerations and ones which are embedded in the Framework. The harm arising from the poor access to services and facilities and to the character and appearance of the area would compete with the social and environmental objectives of sustainable development.
25. Consequently, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

26. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR