



Appeal Decision

Site visit made on 4 April 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/U1105/W/22/3305402

Land North East Of Clyst William Cross, Plymtree EX15 2LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Rynn against the decision of East Devon District Council.
 - The application Ref 22/1138/OUT, dated 23 May 2022, was refused by notice dated 21 July 2022.
 - The development proposed is the construction of 2 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted as an outline, with all matters reserved for future consideration. I have considered the appeal on that basis.

Main Issues

3. The main issues in this case are:-
 - the effect of the proposal on the character and appearance of the area;
 - whether the location of the site is suitable for residential development; and
 - the effect of the proposal upon archaeological deposits and features.

Reasons

Character and Appearance

4. Positioned upon a gently sloping hillside the appeal site comprises part of a field that is currently laid to grass. In addition to the picnic tables that are within the site, there are also two small animal sheds. Mature hedges delineate the field boundaries with the public highways, and there is an existing vehicular access into the field from the Clyst William Cross crossroads.
5. To the eastern boundary of the site there is a residential property positioned within generous grounds, and to the southern side, beyond

the highway, there is a farmhouse and its associated buildings. Apart from these properties, fields and paddocks surround the appeal site. There are other residential properties in the area, and the disparate positioning of these is such that they form sporadic dwellings within the countryside, being set apart from each other by fields and paddocks. This dispersed scatter of development is characteristic of this rural area. Whilst the appellant considers the proposal would round off and infill the end of the settlement, in this instance the spacious separation of the few nearby houses is such that they visually accord more with the open nature of the countryside rather than forming a discrete group that can be regarded as a settlement.

6. Although submitted as an outline with all matters reserved, the position and shape of the site is such that two dwellings would not infill a gap between existing homes or buildings due to the fields surrounding much of the site. Nor would the two homes round-off an existing settlement, as those proposed would be in a field and they would thereby extend residential development into the open countryside rather than be part of any settlement. Unlike many of the other nearby dwellings, which have associated agricultural and rural uses, those proposed would have no functional link with their countryside setting, thereby exaggerating the incongruity of two homes in this location.
7. Furthermore, the appeal site is on a hillside, and the slope would set the two dwellings apart from those lower down. The provision of dwellings in such a prominent location would serve to erode the openness of the appeal site and the contribution it makes to the undeveloped rural nature of the area. Whilst it may be that the existing hedges could be retained, such screening would do little to mitigate the harmful introduction of residential buildings with their associated domestic uses and paraphernalia.
8. The suggested conditions would not ameliorate this fundamental harm to the character and appearance of the area. Even though the dwellings would be self-build homes, the presence of further dwellings in such a prominent position would serve to unacceptably intensify what is currently a loose knit, scattered positioning of disparate houses and farmsteads in a countryside location.
9. Thus, the dwellings would unacceptably harm the character and appearance of the area, and this would be contrary to Strategy 7 and Policy D1 of the East Devon Local Plan (2016) (LP). These seek, amongst other things that development respects key characteristics of an area, and would not harm distinctive landscape qualities, including patterns of settlement, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Location

10. The location of the dwellings would be such that future occupiers would be some distance away from services and facilities. There is a school

and a shop in the wider area, but the former is over 1.5km away, and the latter over 2km away. It might be that walking or cycling such distances would be acceptable for some people. However, in this case the roads to any nearby facilities and services are narrow, with no footways, nor are they lit. For much of their length the roads are bound by vegetated banks with no verges and very few passing places. The nature of the roads is such that anyone walking or cycling along them, including those familiar with them, would need to be highly alert at all times to the presence of other users to avoid conflict. In such circumstances, walking and cycling would not be attractive alternatives to private motor vehicles.

11. The appellant has pointed out that there is a bus stop nearby, the presence of which is considered to demonstrate that there is a demand for such services. Nevertheless, the Council have referred to the limited nature of the service offered, including that it is not daily. The bus stop would be within the Manual for Streets advised distance of 800m, but the propensity to walk is influenced not only by distance, but also by the quality of the experience. In this instance the nature of the roads would not encourage walking or cycling, particularly during hours of darkness and in the winter during adverse weather.
12. It might be the case that future occupiers could rely on delivery services for shopping. However, such services in themselves rely on motorised trips, and there would still be an environmental harm arising from the proposal. Moreover, future residents would need to undertake journeys to access other services, facilities, and employment, and given the circumstances of this case it is highly likely that such trips would be by private cars.
13. My attention has been drawn to other appeal decisions whereby the presence of a bus stop and the option of walking to a village provided alternative means of travel (references APP/Q1153/W/18/3206945 and APP/D0840/A/14/2223175 respectively). However, the latter case was for two dwellings that would be close to an existing settlement within which there were a good level of services and facilities, including a doctor's surgery and public transport. In addition, there were many places along the road for pedestrians to step off the road to avoid vehicles, which would not be the case for future residents of the appeal scheme.
14. As regards the other case, this was for the erection of thirteen dwellings, four of which would be affordable. The latter would be a significant benefit of the scheme, and the Inspector found that the development would contribute to the objective of enhancing and maintaining the viability of rural communities. Having regard to the circumstances in the case before me, there would be no such benefits in this instance. Consequently, neither this case nor the other, determines that the appeal should be allowed.

15. Although the dwellings would be self-build homes they would not be in a suitable location for residential development, as any future occupiers would be reliant on the private car. This would be contrary to objectives of the Framework that seeks to promote sustainable development and minimise vehicular movements. The proposal would also fail to accord with LP Strategies 7 and 27 and Policy TC2. These policies seek amongst other things, to direct development to small towns and large villages with public transport, services and facilities to meet everyday needs, that proposals should be accessible by pedestrian, cycling and public transport, and to minimise the need to travel by car, thereby reflecting objectives of the Framework.

Archaeology

16. The appeal site lies within an area of archaeological potential with a possible Romano-British settlement and funerary activity nearby, and also a prehistoric funerary monument. Both have been identified through aerial photography and are recorded in the Historic Environment Record, which shows a variety of features near the appeal site. A written scheme of investigation is required to set out a programme of archaeological work and assessment. Such a programme has not been provided with either the appeal nor the original application, albeit the Council have suggested that this could be a conditional requirement, an approach which has been accepted by the appellant.
17. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, the Framework requires that an appropriate desk-based assessment, and where necessary a field evaluation is undertaken. In this case, the presence of any archaeological remains on the site and their significance has not been established. The appellant has provided archaeological papers (ie Blackdown Hills Area of Outstanding Natural Beauty and East Devon Catchment National Mapping Programme Survey, and an extract from a Historic England publication (2018)) for the appeal, and is of the view that the site is not of any particular archaeological interest. However, neither a desk-based assessment of the appeal site nor a field evaluation have taken place to demonstrate this is the case. There are a number of known archaeological features close by and given this there is an uncertainty with regard to the archaeological interest of the site. Having regard to this, the imposition of a condition in the absence of any detail or indeed assessment of the archaeological interest would be premature. It follows that with regard to this uncertainty that the weight to be given to any public benefits arising from the proposal cannot be assessed against the harm.
18. Taking a precautionary approach, for the above reasons the proposal would fail to accord with objectives of the Framework nor with LP Policy EN7, as this policy requires that where development proposals which affect sites that are considered to potentially have remains of archaeological importance, planning permission will not be granted until

an appropriate desk based assessment and, where necessary, a field assessment has been undertaken.

Other Matters

19. Local residents have raised a number of concerns, including highway safety and the impact upon wildlife. Following my findings on the main issues, I have no need to consider these matters further.

Planning Balance

20. The appellant has pointed out that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11 of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
21. The provision of two additional dwellings would be a social benefit arising from the scheme as they would contribute towards the supply of housing, with the added benefit of being self-build homes. The homes would also be low carbon and energy efficient. Weighing against these benefits would be the significant environmental harms arising from the development of the site. The proposal would deliver additional homes, but in doing so would cause significant harm to the character and appearance of the area, and the homes would be in a location where future occupiers would be reliant upon private vehicles. In addition, the impact of the development upon any archaeological interest within the site remains unclear.
22. I have had regard to the case law cited by the appellant and have interpreted objectively the LP policies referred to in accordance with the language used, including noting the differences between policy and supporting text (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13 and *Cherkley Campaign Ltd, R v Mole Valley DC & Anor EWCA Civ 567* (2014)). The LP Policies referred to above are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character, to promote sustainable development, minimise vehicular movements, and to protect heritage assets.
23. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental impacts in this case amount to environmental harm which carries substantial weight, and this thereby significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.

Conclusion

24. The scheme would cause significant harm to the character and appearance of the area, and would be in a location that would increase

vehicular trips. In addition, the matter of ascertaining and mitigating the impact of the development upon any archaeology has not been resolved. For these reasons, the proposal would conflict with the Framework and with the development plan. The adverse impacts arising from the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the development plan when taken as a whole. There are no other relevant considerations that outweigh these conflicts. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR