



Appeal Decision

Site visit made on 9 May 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/Q1153/W/22/3309883

Widdacombe Barns, Mobile Home, Road from Huddispitt Cross to Springacre, Lewdown EX20 4EA

- 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 Mrs D O'Neill against the decision of West Devon Borough Council.
 - The application Ref 3252/21/FUL, dated 18 August 2021, was refused by notice dated 6 May 2022.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the lodging of this appeal planning permission has been granted under application reference 1841/22/FUL for the replacement of a lawful mobile home with a new dwelling, and I will return to this matter below.

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 its accessibility to services and facilities; and (ii) whether the proposal constitutes a replacement dwelling.

Reasons

Location

4. The site forms part of an exposed, expansive field near a small cluster of properties and buildings that are tightly grouped and contained within their close field boundaries. The cluster is in the countryside and is some considerable distance from the nearest settlement, with access gained to it via a long informal track. With reference to paragraph 80 of the National Planning Policy Framework (the Framework), the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Therefore, in this context, the site is "isolated".
5. Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP) sets out the settlement hierarchy which is to focus development on the main towns which provide a broad range of services. Beyond the towns and villages, development is only permitted where it would support the principles of

sustainable development set out in policies TTV2, SPT1 and SPT2 of the JLP. Together these policies, amongst other things promote business growth and optimise the use of previously developed sites, thus reducing the need for greenfield development. They also support proposals that have reasonable access to a vibrant mixed-use centre, and that are well served by public transport, which in this respect is consistent with the Framework.

6. Policy TTV26 of the JLP says that isolated development in the countryside will only be permitted in exceptional circumstances and, amongst other things, that development proposals should respond to a proven agricultural, forestry and other occupational need that requires a countryside location. There is no dispute between the main parties that none of these exceptional circumstances apply to the proposal.
7. Although paragraph 105 of the Framework says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, access to Lewdown, Bratton Clovelly or other centres would nevertheless be gained via long stretches of unlit country lanes. Therefore, future occupants would be likely to be largely dependent on private vehicles for access to services and facilities to meet their day-to-day needs, which would not maintain the vitality of the rural community. For these reasons, there would be conflict with the JLP settlement strategy.
8. Therefore, I conclude on this main issue that the site is not a suitable location for the proposed development having regard 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 Policies SPT1, SPT2, TTV1, TTV2, and TTV26 of the JLP. 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.

Replacement dwelling

9. Policy TTV29 of the JLP supports residential extensions and replacement dwellings in the countryside in specific circumstances including in situations where the existing dwelling is lawful, where the scale is not significantly larger, where there is no net gain in the number and where the replacement is positioned on the footprint of the existing unless a more appropriate location can be agreed. Additionally, the Council's JLP Supplementary Planning Document 2020 (SPD) adds that *in most cases the relocation of a dwelling will not meet the requirements of policy TTV29 if it is not substantiated by a sound planning or engineering reason.*
10. There is no dispute between the main parties over the lawfulness of the existing mobile home or the scale of the appeal proposal. Although the proposal would be sited further away from the converted barn than the site of the mobile home, I observed at my visit that the lower land level on which the mobile home sits, the intervening natural screening and good distance between these units, these features would not give rise to conflict in terms of residential amenity. Furthermore, although there are trees close to the southern boundary of the mobile home, I have not been provided with any substantive evidence to demonstrate a suitably designed replacement dwelling could not be constructed without causing significant damage to the health, root systems or stability of trees; or that overshadowing, or a reduced effectiveness of PV panels would ensue.

11. Planning permission has, subsequent to the lodging of this appeal, been granted under 1841/22/FUL for a replacement dwelling, and therefore any minor economic benefits associated with the construction phase and through the occupation of the dwelling, or a better quality of living standard when compared with the mobile home would be linked to that permission rather than the proposal. Even if a legal agreement could be used to rescind the Lawful Development Certificate for the mobile home and for the replacement dwelling which has subsequently been granted, I am not satisfied that it has been adequately demonstrated that the site proposed for this larger dwelling would be a more appropriate location for a replacement dwelling. In any event that agreement which has been submitted though partially completed, is not in a form which would effectively secure its provisions.
12. Therefore, I conclude on this main issue that the proposal would not meet the criteria for a replacement dwelling in the terms set out in Policy TTV29 of the JLP and consequently, it would be in conflict with it along with the provisions of the Council's SPD in respect of a replacement dwelling.

Other Matters

13. There is a grade II listed building near the site and consequently there is a statutory duty under the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving the building or its setting. The building's significance relates to its C17 origins as an example of a rendered cob on stone rubble farmhouse with an interior through passage plan.
14. Whilst the proposal would be constructed using locally sympathetic materials including slate ridge tiles, slate hanging, stonework and render, and would be approximately 13m to the west of the red line of the mobile home site, I observed there were a number of structures and buildings between the mobile home and the nearby listed farmhouse, and that the mobile home is not readily visible in terms of the setting of the listed building. Although the proposal would allow for a greater degree of separation between the converted barn and nearby listed building, neither the mobile home nor proposal site competes with the listed building and there would consequently be no demonstrable environmental (heritage) benefits associated with the proposed siting.
15. In reaching my conclusion, I have had regard to the case law cited by the appellant which emphasises that the development plan should be considered as a whole. However, these cases do not lead me to a different conclusion, due to the conflict I have found with a number of policies, which means the proposal would not accord with the development plan as a whole.
16. I acknowledge the appellant's comments in relation to costs and the stress caused to her and her daughter through the processing of the planning application. However, these are matters for the Council and are not within the remit of this appeal.
17. The access track serving the site with planning permission granted under 1841/22/FUL would remove more hedgerows and would be longer than that associated with this proposal. However, despite there being a greater than theoretical possibility that the 1841/22/FUL scheme will be constructed, that site has a closer physical relationship to the mobile home than the appeal

scheme. In any event, the Council accepted that the smaller proposal was not harmful, and therefore in accordance with Policy TTV29.

18. Although closer to the listed building than the appeal proposal and within an orchard with a larger garden, I observed that the approved scheme would be in a more compact plot closely related to the mobile home site. In comparison, this appeal proposal would be outside the close field boundaries, encroaching into a wide and expansive field. Consequently, the permission granted under 1841/22/FUL would be less harmful than the appeal proposal and in any event, the fact that a similar development has been granted permission is not a reason, on its own, to justify this appeal proposal which I have found unacceptable for the reasons set out above.

Conclusion

19. 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