



Appeal Decision

Site visit made on 13th June 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/K1128/W/23/3313997

**Land to the South of Care House Cross, Stokenham, Kingsbridge,
Devon TQ7 2SL**

- 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 William Costeloe against the decision of South Hams District Council.
 - The application Ref 1187/22/OPA, dated 2 April 2022, was refused by notice dated 10 October 2022.
 - The development proposed is described as "The applicant is a T11 paraplegic and therefore, a full time wheelchair user who respectfully proposes to construct a self-build/custom-build single family dwelling designed specifically to provide a safe and functional home environment for his access needs and his family".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Despite the application form noting that all matters are for consideration, both main parties have confirmed that the appeal should proceed on the basis that appearance, landscaping and layout are reserved matters and that access and scale are for consideration. This is also set out within the Council's decision notice. Therefore, I have assessed the submitted plans as illustrative insofar as they relate to the reserved matters.

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; (ii) the effect of the proposal on the character and appearance of the area; (iii) highway safety; and (iv) biodiversity.

Reasons

Location of development

4. There is some peripheral housing development near the northern tip of the appeal site, though this forms a low-density transition between settlement and countryside. Despite not being isolated from the nearest settlement, the appeal site stretches a considerable distance uphill and away from it. It is also predominantly surrounded by fields and is located on a narrow wedge of greenfield land that consequently feels separated from the settlement.

5. Both main parties agree the appeal site is outside the built up area of the Key Village of Stokenham, as defined by the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP). Although Policy TTV1 of the JLP is supportive of the growth of Key Villages, commensurate with their roles in supporting the small villages and hamlets, it advises that development outside built up areas will be considered in the context of Policy TTV26 of the JLP, which aims to protect the special characteristics and role of the countryside.
6. The test for truly outstanding or innovative design is set out in part 1. of Policy TTV26 of the JLP, though as the site is not isolated, part 2 of the policy applies. In that context, even if part 1 of the policy were to apply, the appeal is made in outline form with appearance, landscaping and layout reserved for later consideration. Furthermore, the illustrative drawings are not part of the application and it is therefore possible that an alternative scheme could be progressed at the reserved matters stage. Therefore, even if a high standard, functional, ecologically sensitive, energy efficient, sustainably constructed and adaptably designed property could conceivably be delivered, in the absence of a consideration of these detailed reserved matters, the development could not be defined as being of truly outstanding or of innovative design.
7. Part 2. of Policy TTV26 says, amongst other things, that in the countryside, development proposals should respond to a proven agricultural, forestry and other occupational need that requires a countryside location. Whilst the appellant's personal circumstances including their search for a suitable home is noted, no occupational need for a property in this specific location has been demonstrated. Additionally, the development would not deliver affordable housing as set out in the National Planning Policy Framework (the Framework).
8. The development would adjoin an adjacent public footpath which avoids what I observed at my visit to be a busy access lane with fast vehicle movements and limited visibility for both pedestrians and drivers. Even with suitable wheelchair connections established for the footpath, a permeable driveway or increased visibility splays, access to the limited services found in the settlement would either be via a long stretch of unlit and uneven field ground, or along a lower section of the aforementioned busy access lane. Consequently, either option would be uninviting for pedestrians, cyclists or wheelchair users to have to negotiate, particularly in the dark or during inclement weather conditions.
9. Although there are regular bus services nearby, I nevertheless find that future occupants would be likely to be largely dependent on private vehicles for access to these limited local services and its towns beyond to meet daily community needs.
10. 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 national and local policy and the accessibility of services and facilities. For the above reasons, the development would be in conflict with policies TTV26, DEV29, SPT1 and SPT2 of the JLP which, together in this respect, direct housing towards locations that are well served by secure walking and cycling opportunities, with reasonable access to a vibrant mixed use centre, meeting daily community needs for local services; and that deliver affordable housing or respond to a proven agricultural, forestry or other occupational need that requires a countryside location. 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.

11. I have paid regard to the overarching strategy and requirements of the JLP, and in particular to the appellant's reference to Policy SPT3 and Strategic Objectives 6 and 8 that collectively, and amongst other things, seek to deliver a suitable number of houses within the district, prioritising access to homes whilst maintaining the vitality and viability of Key Villages that meet the needs of all people living in the towns and villages. However, this does not affect my overall conclusion in respect of the main issue above.

Character and appearance

12. The appeal site is within a long and overgrown wedge of greenfield land on rising ground where views of it and the surrounding open countryside are available from the settlement. Although there is a row of properties nearby, the immediate area surrounding the site is primarily rural where high hedgebanks, expansive fields and trees of varying maturity form a strong characteristic of the area that is designated as being within an Area of Outstanding Natural Beauty (AONB).
13. The proposed scale of the development would cover a large footprint over a sloping site which is shown on the indicative plans to be positioned partially outside the red line area. Despite the existing boundary screening, even if an additional or set back hedgerow, new trees, shrubs, a landscaped garden, suitable materials, other design solutions including a green roof, or an alternative siting were to be conditioned alongside or progressed as part of a reserved matters application, the development would nevertheless introduce a comparatively large scale, permanent built form into the rural landscape. This, together with the comings and goings of a residential use, would have the effect of urbanising and eroding an undisturbed and established greenfield. Therefore, the development would appear out of place. For the above reasons, the proposal would fail to conserve and enhance the landscape and scenic beauty of the AONB, to which the Framework attaches great weight.
14. Therefore, I conclude on this main issue that the development would cause significant harm to the character and appearance of the area. As such, the proposed development would be in conflict with policies TTV26, DEV20, DEV23, and DEV25 of the JLP which, collectively in this respect, seek to conserve and enhance landscape and scenic beauty in the protected landscapes. The proposal would conflict with chapter 15 of the Framework which, amongst other things, attaches great weight to the protection and enhancement of valued landscapes.

Highways safety

15. The appellant's submission includes a visibility plan as part of their response to the Council's highways objection, which demonstrates 35m of visibility either side of the proposed entrance and forecourt area that would be large enough for a vehicle to turn. Although not formally listed as a plan on the Council's decision notice, the Council had the opportunity to comment on it. Therefore, I do not consider that any party would be unfairly prejudiced and I therefore have had consideration to the submitted drawing in determining this appeal. Consequently, in the absence of any evidence to the contrary, I have no reason

to find that permeable and suitable visibility for vehicles entering and exiting the appeal site and turning within it, would not be achieved.

16. However, even with visibility splays for the proposed vehicular entrance, access to the site from the highway is on a steep, unlit and unpaved, narrow country lane where visibility for pedestrians and drivers of vehicles or cyclists would remain restricted. As already discussed, accessibility options for pedestrians or wheelchair users would be severely hindered by the unlit and uneven nature of the footpath, and the unlit and busy road. Furthermore, I observed the nearby mini roundabout to be busy with limited visibility for all road users. Although my observations only represent a snapshot in time, accepting there may be quieter periods, I find no reason to disagree with the Council's highways officer that the scheme would not be likely to work well as a shared surface street when assessed against the guidance set out in Manual for Streets 2007.
17. I therefore conclude on this main issue that the proposal would have a harmful effect on highway safety. As such, it would be in conflict with Policy DEV29 of the JLP which, in this respect seeks to ensure developments achieve a safe transport system by locating new homes in locations that can enable safe, secure walking and cycling access. There would also be conflict with chapter 9 of the Framework which, amongst other things, says that it should be ensured that a safe and suitable access to the site can be achieved for all users.

Biodiversity

18. No landscape plan accompanies the appellant's submitted evidence. However, their Preliminary Ecological Assessment sets out a number of possible mitigation and enhancement works, which I have no reason to find could not be achieved. Furthermore, although greenspace would be diminished by the property, the development would push back approximately 70m of hedgerow rather than see its wholesale removal. Also, it is conceivable that the development could proceed without encroachment into the submitted tree root protection areas. Therefore, in the absence of any substantive evidence to the contrary, had I been minded to allow the appeal, the use of a suitably worded condition would have been appropriate in order to secure gains in biodiversity.
19. Therefore, I conclude on this main issue that the proposal would not cause harm to biodiversity. As such, the proposed development would accord with policies SPT1 and DEV26 of the JLP which collectively in respect of this issue seek to achieve net gains in biodiversity by protecting and enhancing habitats.

Other Matters

20. The appellant has brought to my attention their difficulty in finding a suitable and affordable property in the area, including at the nearby development allocation and their registration with the Council in respect of The Self-build and Custom Housebuilding Regulations 2016. However, I have determined the appeal on its planning merits and the above matter does not overcome the harm I have identified above.
21. The possible future installation of air tight construction methods, solar PV panels and ground source heat pumps would deliver public benefits through cutting emissions. However, any such benefits would be limited and would not outweigh the harm I have identified above.

22. There is a grade II listed building near the site and consequently there is a statutory duty to pay special regard to the desirability of preserving the building or its setting. Forge Cottage and Rest Cottage's significance is derived from its probably medieval origins and was divided into cottages probably in the C18 or C19, with C20 alterations. My observations on site were that the listed building would not be readily visible from the appeal site and consequently, it is conceivable that an appropriately designed house could avoid harm to the setting and significance of Forge Cottage and Rest Cottage.

Conclusion

23. In the context of the development plan, I have found the proposal would conflict with policies TTV26, SPT1, SPT2, DEV20, DEV23, DEV25 and DEV29 of the JLP. I have also found there to be conflict with the Framework in the main issues above.
24. The proposal would provide an additional property that would make a positive contribution to the supply of housing, albeit the benefits of a single dwelling 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. Additionally, the scheme could be delivered without causing harm to biodiversity. However, I have found conflict with a number of policies in the LP and, although it may comply with other policies, that means the proposal would not accord with the development plan when considered as a whole.
25. 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