



Appeal Decision

Site visit made on 5 September 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/P1133/W/23/3315894

Rivendell, Sutton Close, Dawlish, Devon EX7 0DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr and Mrs Oliver Gibbins (Oliver Gibbins Planning) against Teignbridge District Council.
 - The application Ref 22/01923/OUT, is dated 19 September 2022.
 - The development proposed is an outline application for an exceptions site with 4 First Homes.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr and Mrs Oliver Gibbins against Teignbridge District Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The appeal relates to an application for outline planning permission with appearance, landscaping and layout identified as reserved matters. As such, where the proposed site plans show any information relating to appearance, landscaping or layout, I have treated this as illustrative for the purposes of making my decision.
4. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, I have had regard to the Council's appeal statement, in so far that it provides clarity on the reasons why the Council would have refused planning permission had it been able to do so. In the absence of any evidence from the Council to indicate otherwise, it would appear that there is no dispute between the parties as to the acceptability of the other elements of the proposal. I shall therefore confine my detailed considerations to the suitability of the site location, highway safety and surface water drainage.
5. The Council's statement refers to the emerging Teignbridge Local Plan 2020 – 2040. However, the Local Plan has not yet been submitted for examination and it is therefore still at an early stage of preparation. I cannot therefore be certain when the plan is likely to be adopted, if any policies are to be modified, or if there are any unresolved objections. I am therefore only able to afford very limited weight to the emerging plan, and as such, it is not a determinative consideration for this appeal.

Main Issues

6. The main issues are: (i) whether the proposed development would be in a suitable location taking account of development plan policies and its effect on the character and appearance of the area; (ii) the effect of the proposed development on highway safety, and; (iii) whether or not adequate arrangements are made for the disposal of surface water from the site.

Reasons

Whether the proposed development would be in a suitable location

7. The appeal site is regarded as being within open countryside, as defined by Policy S22 of the Teignbridge Local Plan 2013 – 2033, May 2014 (LP). The policy sets out that affordable housing is an acceptable form of development in such locations, subject to consideration of the impact of development on the distinctive characteristics and qualities of the Landscape Character Area. The proposed development of four First Homes meets the affordable housing criteria.
8. The Council's Landscape Character Assessment, which identifies that the site is located within the 'Dawlish Hinterland' character area, sets out that among other things, the wider area is characterised by an undulating landscape of steep ridges and river valleys, with a patchwork of irregular pasture and arable fields. It recommends that the landscape setting of Dawlish should be conserved and enhanced.
9. In this instance, the appeal site is a gently sloping undeveloped field that forms part of a hillside that gradually rises above the town to a ridge. As such, it is in a relatively prominent position. The low-density nature of existing development in the surrounding area, in combination with the nearby agricultural fields and the presence of an abundance of mature trees and hedgerows, provides the immediate area with an open, spacious and verdant character. The proposal would introduce a significant amount of built form onto a site where there is currently none, including the provision of a new access road. Being on the immediate edge of the town, it represents a particularly sensitive location where the character of the area transitions from urban to rural. Even taking into account the single storey nature of the proposed dwellings, the extension of the urban form would lead to clear and obvious harm by eroding the open, spacious and verdant character that currently exists.
10. As a whole, the site is relatively well contained and is largely screened by existing vegetation. As such, it can only be glimpsed from nearby public rights of way, and the appellant has also provided evidence to demonstrate that the site is not easily visible as part of longer-range views. However, while this might be the case, the proposed development would be visible via the access on Sutton Close and so the harm would be readily apparent from close range.
11. Furthermore, the site is located within an area designated as undeveloped coast. LP Policy EN2 seeks to protect, maintain and enhance the character of the undeveloped coast and sets out that development will be regarded as inappropriate except where it has regard to the Shoreline Management Plan and where it would constitute a minor alteration in accordance with LP Policy WE8; or is required for the purposes of agriculture or forestry; or requires a coastal location. The policy is in broad alignment with paragraph 171 of the

National Planning Policy Framework (the Framework) which seeks to reduce risk from coastal change by avoiding inappropriate development in vulnerable areas or adding to the impacts of physical changes to the coast. The proposed development would not meet any of the criteria provided in LP Policy EN2 and would result in an erosion of the undeveloped coast, thereby resulting in harm. The harm would be exacerbated by partially isolating the land immediately to the east which also forms part of the undeveloped coast. The fact that the topography of the surrounding land is such that the site would be reasonably well-contained is not sufficient justification for the piecemeal development of the undeveloped coast.

12. I therefore conclude that the proposed development would not be in a suitable location, and it is therefore in conflict with LP Policies S1, S2, S22 and EN2. Taken together, the relevant aspects of these policies seek to ensure that development is located in sustainable locations and preserves character and appearance, including the character of the open countryside and undeveloped coast. It is also in conflict with the relevant aspects of the Framework which have similar aims.

Highway Safety

13. Stockton Hill and part of Gatehouse Hill, both of which are located close to the appeal site, do not benefit from pavements. However, while there is potential for pedestrians to conflict with other road users, the Council has not provided any substantive evidence to suggest that this has resulted in an unusual number of accidents in the area. Moreover, if future occupiers were seeking to travel to local services and facilities on foot, there are safer walking routes available that do have pavements. In particular, Wallace Avenue and East Cliff Road can be utilised to reach the town centre, while there is a pedestrian link into Gatehouse Close from Sutton Close that enables access to facilities to the north of the appeal site.
14. As a result, I conclude that the proposed development would not cause harm in relation to highway safety and therefore does not conflict with LP Policies S1, S2 and S9. Taken together, the relevant aspects of these policies seek to ensure that development promotes the use of sustainable forms of transport and that the safety of all highway users is ensured. There is also no conflict with the aspects of the Framework that encourage the use of sustainable transport and the provision of measures to encourage walking and cycling.

Surface Water Drainage

15. The Council has set out that insufficient evidence has been provided to demonstrate that the proposed development would adequately address surface water runoff, particularly given that the site is partly within a Critical Drainage Area. However, given that this is an outline application with layout being a reserved matter, there is no reason for me to conclude that an appropriate approach to surface water drainage could not be provided as part of the development. Indeed, I am satisfied that this issue could be addressed through a suitably worded condition that requires further details of the intended approach to surface water drainage to be approved by the Council prior to any development taking place.
16. As a result, the proposal would not cause harm in relation to surface water drainage and there is no conflict with LP Policies EN4 and S2. Taken together,

the relevant aspects of these policies seek to ensure that new developments do not increase the risk of surface water flooding. There is also no conflict with the parts of the Framework that have similar aims.

Other Matters

17. The Council's appeal statement sets out that the site is located within the Impact Risk Zones of the Dawlish Warren Special Area of Conservation (SAC) and the Exe Estuary Special Protection Area and Ramsar site. It is also on the edge of the South Hams SAC Greater Horseshoe Bat Landscape Connectivity Zone. However, as I am dismissing this appeal, I do not need to consider this matter further.
18. The need for an agreed planning obligation to provide contributions to mitigate the impact of the proposal on education provision and protected habitats, and to secure the proposed dwellings as First Homes, is not a matter in dispute. Given that I am dismissing this case, there is no need for me to consider this matter in detail, including the concerns that the Council has regarding land ownership. However, while the contributions towards education and protected species would only represent mitigation, the provision of four First Homes would be a benefit that weighs in favour of the proposal. However, while I acknowledge the need for affordable homes, the relatively small-scale nature of the proposed development means that benefits of providing four First Homes, along with the associated economic considerations, only attract limited weight. As a result, this does not outweigh the harm that I have identified elsewhere in this decision.
19. The appellant has stated that the Council's recent monitoring data demonstrates a deficit in housing completions which would result in the imposition of a 20% buffer under the Housing Delivery Test. However, the Government has not yet published the most recent Housing Delivery Test results and it is not certain that the same methodology from previous years would be used. As a result, it would not be appropriate for me to pre-empt any future announcements in this regard. The deliverability of certain sites has also been queried by the appellant. All of the sites mentioned appear to be allocated within the development plan and the Council has provided evidence with regards to their latest status. There is no reason for me to conclude that these sites will not come forward within the next five years. Based on this reasoning, the test set out in paragraph 11d of the Framework is not engaged. However, even if it was engaged, the adverse impacts of the proposal would in my view significantly and demonstrably outweigh the benefits.

Conclusion

20. I have found that the appeal proposal would cause harm in relation to the suitability of the site location. Consequently, the proposal would conflict with the development plan taken as a whole, notwithstanding that I have found no harm to highway safety or surface water drainage. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR