



Appeal Decision

Site visit made on 11 October 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2023

Appeal Ref: APP/U1105/W/23/3318928

Church Hill Cottage, Church Hill, Exeter EX4 9JJ

- 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 Josh Baker against the decision of East Devon District Council.
 - The application Ref 22/2126/FUL, dated 23 September 2022, was refused by notice dated 26 January 2023.
 - The development proposed is described as a change of use from a redundant annex to C3 dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from a redundant annex to C3 dwelling house at Church Hill Cottage, Church Hill, Exeter EX4 9JJ in accordance with the terms of the application, Ref 22/2126/FUL, dated 23 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 518.1.100 (Location Plan), 518.1.108 (Site Plan), 518.1.104 (Elevations), 518.1.102 (Floor Plan) and 518.1.107 (Roof Plan).
 - 3) Prior to first occupation of the dwelling hereby permitted, a Foul Drainage Assessment shall be completed and submitted to the local planning authority for approval. The development shall be carried out in accordance with the approved details.

Main Issues

2. In relation to the first reason for refusal, the Council's decision notice, officer report and appeal statement all suggest that the matter in dispute is whether or not the location of the proposed development would lead to a reliance on the private car to access services and facilities. I have therefore limited that part of my decision to the consideration of that issue alone.
3. As such the main issues are, firstly, whether the proposed development would be in a suitable location, having regard to access to services and facilities, and secondly, whether suitable provision has been made for foul drainage.

Reasons

Whether the proposed development would be in a suitable location.

4. While the appeal site is located close to the village of Pinhoe and the urban edge of Exeter, it is within a predominately rural location. The site is on a bus route that provides services into the city where there is an abundance of facilities. However, the nearest bus stop is some distance from the site, and in order to access it, the occupiers of the proposed dwelling would need to undertake a relatively lengthy walk along an unlit country lane with no pavement. It is therefore unlikely that this would be considered to be an attractive or safe proposition. While a bicycle could be used to make the relatively short journey into the main urban area, the nature of the country lane would also make doing so an unattractive option, particularly in adverse weather conditions or during the hours of darkness.
5. In my view, it is therefore highly likely that the proposed development would result in future occupiers being largely reliant on the private car to access services and facilities in the local area. The appellant has noted that electric vehicle charging points have already been installed at the site. However, the use of electric vehicles cannot be guaranteed.
6. The annex is currently described as being redundant and so it is inevitable that the proposal would result in an increase in car borne journeys. However, given that the appeal site is only a short distance from a wide variety of services and facilities, it is reasonable to conclude that the majority of these trips would be very short. In addition, the number of trips arising from the provision of a single dwelling would be fairly small. As such, the associated harm arising from the increase in car travel would be limited.
7. Nevertheless, I do find conflict with Policies D8 and TC2 and Strategy 5B of the East Devon Local Plan 2013 – 2031, adopted January 2016 (LP). In part, these policies seek to ensure that new development, including the re-use of rural buildings, does not add to the need to travel by car, and that such developments encourage the use of sustainable modes of transport. The proposal also conflicts with the relevant aspects of the National Planning Policy Framework (the Framework), including the requirement for patterns of growth to be actively managed by limiting the need to travel and offering a choice of transport modes.

Foul drainage

8. The Council's officer report sets out that no details have been provided with regards to the proposed method for dealing with foul drainage. In response to this concern, the appellant has provided evidence that the annex is already served by a private foul sewage tank. The Council's statement does not appear to dispute this assertion.
9. Based on the evidence before me, there is no reason for me to conclude that this issue could not be satisfactorily resolved through the imposition of a suitably worded condition, as proposed by both main parties. As such, I conclude that there is no conflict with LP Policy EN19 which requires the provision of suitable foul sewage treatment systems as part of new development.

Planning Balance

10. It is not in dispute that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing. In such circumstances, Paragraph 11d and footnote 8 of the Framework require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
11. In this instance, the benefits of the proposal include the provision of a single new home that would assist in meeting need in the area, and support for local facilities. Despite the shortfall in housing land supply, I still only afford limited weight to these benefits given that they are relatively minor in nature.
12. I have concluded that there would be material harm in relation to the suitability of the site's location. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that encourages the use of sustainable modes of transport. However, I have already identified that the harm arising from this conflict would be limited.
13. While the appeal site is located close to a fairly sporadic arrangement of existing buildings, in my view it does not form part of a defined settlement. The proposal therefore represents isolated development in the countryside as set out within paragraph 80 of the Framework. In a similar vein to LP Policy D8, Paragraph 80(c) allows for the conversion of an existing redundant building, provided that the development would enhance its immediate setting. In this case, given that no external alterations are proposed as part of the development, there would be no enhancement of the setting of the building. However, the development would not lead to any adverse impacts or harm in this regard, and so this issue is a neutral consideration in the overall balance.
14. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would not significantly and demonstrably outweigh the benefits. The development therefore accords with the presumption in favour of sustainable development.

Other Matters

15. The site is within the zone of influence of the Exe Estuary Special Protection Area, Ramsar site, European Marine Site and SSSI (the SPA). The Exe Estuary supports an internationally important assemblage of birds, including overwintering populations of Avocet and Slavonian Grebe.
16. The SPA is an important recreational and economic resource. It is well frequented by the public and it is likely that occupants of the proposed development would visit the site. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA.
17. The evidence before me is clear that the proposal, particularly when combined with other development in the area, would have a likely significant effect on the SPA due to an increased disturbance through recreational activity.
18. The parties have agreed a financial sum in accordance with the Council's South-East Devon European Sites Mitigation Strategy which can be put towards

infrastructure or non-infrastructure projects. Natural England has been consulted as part of this Appropriate Assessment and has confirmed that the financial contribution would suitably address the effects associated with the proposed development and relieve pressure on the SPA.

19. I am therefore satisfied that the contribution would sufficiently mitigate the level of harm likely to be caused by the development and would be pursuant to the Council's adopted strategy. I therefore find that the proposal would not result in an adverse effect on the integrity of the SPA.

Conditions

20. I have imposed the standard conditions to identify the relevant timescales and plans in the interests of certainty. I have also imposed a condition to require the submission and approval of a foul drainage assessment to ensure that an appropriate method of drainage is implemented.
21. The appellant has suggested that a condition could be imposed to require that the existing electric vehicle charging points be maintained in future. However, given that the potential use of electric vehicles has not been a determinative aspect of my decision, I find that such a condition is unnecessary.

Conclusion

22. The proposed development conflicts with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework, that indicate that the decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

C Butcher

INSPECTOR