



Appeal Decision

Site visit made on 21 November 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2023

Appeal Ref: APP/U1105/W/23/3320367

Land at Toadpit Lane, West Hill E307368 N094460

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Dan Nicholls against the decision of East Devon District Council.
 - The application Ref 23/0325/PIP, dated 7 February 2023, was refused by notice dated 22 March 2023.
 - The development proposed is permission in principle for 2no. new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

4. This main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

5. The appeal site comprises part of a large field physically and visually separated from the low density development closer to the main built up area of the settlement. It is bound on one side by an established tree lined field boundary and gently slopes away with views available towards properties on the far side of a valley. A further open and large field lies adjacent to the site, separated by a post and wire fence. These fields add to the verdant, undeveloped and tranquil nature of the site and its surroundings.

6. Strategy 46 of the East Devon Local Plan 2013-2031 January 2016 (LP) supports development that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of the natural landscape character.
7. Amongst other things, Policy D1 of the LP says that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed. Policy NP26 of the made Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill 2017-2031 (NP) is more recent than Policy D1 of the LP. However, in this respect, the policy identifies these key characteristics by supporting proposals for new residential development where they would maintain the low density pattern of development in West Hill and reflect built density and layout of the surroundings. Having paid regard to paragraph 30 of the National Planning Policy Framework (the Framework), there is no evidence of any conflict between the aforementioned policies which are therefore relevant to this appeal.
8. The proposed properties could conceivably be developed to avoid being unduly prominent when viewed from the surrounding network of public footpaths and vantage points. However, the scheme would introduce 2 new properties into an otherwise undisturbed, rural landscape setting that is divorced from the existing built form of the settlement. The sporadic development would consequently result in substantial harm to the intrinsic character and beauty of the area as it would not respect its key characteristics as set out above.
9. There is a dentist, vehicle repair garage, hairdresser and local bus service near the main road junction where the site would be accessed. Future occupiers would however still need to negotiate a long stretch of uneven and unlit track to reach them. Additionally, despite a slightly shorter pedestrian cut through, access to the site from the settlement's day-to-day services and facilities would require negotiating the aforementioned track and sections of unpaved steep roads or by using other unlit footpaths in the wider network. At my visit, I walked from the appeal site towards the school and shop which took longer than the 11 minutes approximated by the appellant. The route would have been far more difficult to negotiate for persons with reduced mobility or those with prams.
10. These options would consequently not be realistic or inviting for pedestrians or cyclists to have to navigate on a regular basis, particularly in the dark or during inclement weather conditions. The small scale of the scheme and the fact that other residents may be required to rely on their private vehicles are not reasons in themselves to allow new development that would exacerbate the need to travel by car. Moreover, even if electric car charging could be secured at a later stage through a condition, this would neither prioritise pedestrian and cycle movements nor restrict future occupiers from using other types of private vehicle.
11. Project 12 of the NP is concerned with opportunities to enhance the public footpath network in and around the village and to link wider routes in order to enhance accessibility and pedestrian and cyclist safety. I have however been provided with no substantive evidence to demonstrate how the proposal would have any significant effect on this particular project. For the above reasons, the development would not reduce the need to travel by car as promoted by Strategy 5B and Policy TC2 of the LP.

12. Therefore, I conclude that the site is not a suitable location for residential development having regard to its location, the proposed land use and the amount of development. The proposal would conflict with Strategy 5B, Strategy 46 and policies TC2 and D1 of the LP. There would be significant conflict with paragraph 112 of the Framework which says, amongst other things, that development should give priority first to pedestrian and cycle movements and address the needs of people with disabilities and reduced mobility in relation to all modes of transport. There would also be substantial conflict with paragraph 174 of the Framework which says that decisions should contribute to and enhance the natural and local environment, recognising the intrinsic character and beauty of the countryside.

Other Matters

13. My attention has been drawn to another appeal decision at Land below Tree Tops. Whilst some similarities can be drawn in respect of the broader location and main issues, that appeal is materially different to this as it was not in the exact same location and proposed a different number of properties.
14. The site is within 10 km of the Pebblebed Heaths Special Protection Area and Special Area of Conservation. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites. In that context, I would have looked at the appropriateness of the appellant's financial contribution towards mitigating recreational pressure on the SAC through their submitted S111 Undertaking.
15. However, as the identified harm in respect of the character and appearance and accessibility provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision since any findings on this issue would not change the appeal outcome.

Planning Balance and Conclusion

16. The Council concedes that it is unable to demonstrate a 5 year supply of deliverable housing sites. It states that current supply is 4.28 years and this is not disputed by the appellant. As the NP became part of the development plan more than 2 years ago, the Framework indicates that where the requisite housing land supply does not exist permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. The proposal would provide 2 dwellings which would generate employment during the construction phase. The social benefits of housing delivery carry significant weight, although these are tempered by the fact that 2 dwellings would make a very modest contribution to addressing the housing shortfall. However, the proposal would cause material harm to the character and appearance of the area and would not reduce the need to travel by car,

contrary to the Framework's objectives to enhance the natural environment, recognising the intrinsic character and beauty of the countryside and to prioritise pedestrian and cycle movements. Taken together, these harms would significantly and demonstrably outweigh the benefits of the scheme. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.

18. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

J Hills

INSPECTOR