



Appeal Decision

Site visit made on 27 February 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2024

Appeal Ref: APP/W1145/W/23/3320230

Land At Grid Reference 250747 122921, Huntshaw, Devon EX38 7HH

- 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 S Moore against the decision of Torridge District Council.
 - The application Ref 1/0874/2022/OUT, dated 17 August 2022, was refused by notice dated 26 October 2022.
 - The development proposed is for 3 self-build local occupancy residential dwelling plots.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Torridge District Council against Mr S Moore. This application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline with access to be determined at this stage, thereby reserving the matters of appearance, layout, scale and landscaping for later determination. On that basis, the submitted site plan, drawing no. 833 20 Rev B is provided for illustrative purposes and I am aware that there may be alternative ways of developing the site.
4. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that the numbering of paragraphs has changed. Hence, I am satisfied that no one would be prejudiced by this change to the national policy context.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area, including having regard to the significance of the Grade II* listed Church of St Mary Magdalene (the church); and,
 - Whether the site would be a suitable location for housing having regard to local planning policies and accessibility; and,
 - Drainage.

Reasons

Character and appearance

6. Huntshaw is a small settlement, mostly comprising of a cluster of closely grouped buildings around the focal point of the church. The church, built in coursed slatestone rubble with ashlar dressings, is a Grade II* listed building, and its significance derives from a combination of factors. These include its considerable architectural and aesthetic qualities as a religious building dating from the early 14th century, with the west tower built about 1499. The list description further describes subsequent external and internal features, with a restoration carried out in 1862. Historic mapping provided confirms the longstanding physical presence of a church at the site, which has historic significance as a tangible connection with the past, particularly given its cultural and spiritual importance to the local community.
7. There is limited built form surrounding the church, and the buildings that are present are generally proximate to it and of a notable age. Buildings predominantly reflect civic (or former civic) uses or an association with agriculture. The grouping sits on an elevated ridge relative to the expansive rural surroundings. The latter principally comprises fields bounded by hedgerows, pockets of woodland and narrow informal lanes resulting in a strong countryside character.
8. The rural setting of the church contributes towards its significance in that it reveals the likely interrelationship and hierarchy of the church to the community it has historically served. Furthermore, its setting in the landscape enriches the context in which the aesthetic quality of the church tower can be appreciated. I observed that this was evident in the approach to the church along the lane to the east, and it is illustrated in a photograph in the submitted Heritage Statement¹.
9. I have a statutory duty to have special regard to the desirability of preserving listed buildings and their settings under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
10. The appeal site comprises a broadly rectangular portion of an agricultural field, a short distance to the east of the church. Its chief characteristics are an absence of built form and boundary hedgerows, which reinforce the countryside character of the area and positive aspects of the setting of the church and the settlement of Huntshaw.
11. Although layout is reserved, given that the proposed 3 dwellings are intended to provide individual self-build plots, it is highly likely that they would be detached. Moreover, given the linear configuration of the site, it is probable they would be built on a broadly north/south axis. Alternative ways of laying out the site to provide such accommodation would be constrained by these factors. Consequently, the illustrative site plan represents a probable approach.
12. The proposal would introduce a considerable volume of built form onto land where none has historically existed. Detached units would exacerbate the distribution of that volume across the land, thereby encroaching into the spaciousness of the countryside. The associated activity, surfacing of the access and driveway, presence of vehicles, lighting and residential gardens in

¹ Heritage Statement prepared by AC Archaeology, April 2022, Plate 7

addition to the buildings, would cumulatively domesticate the character and appearance of the land. This would represent a dramatic and adverse erosion of its undeveloped rural character and appearance.

13. Moreover, such an enclave would be separated from the grouping around the church by intervening agricultural land. As a result, it would appear to elongate Huntshaw eastwards yet would fail to integrate successfully with existing built form, making the presence of the 3 dwellings appear adrift and incongruous. The harm would be exacerbated as it would be seen from the lane, and in the foreground of some views towards the church when approaching from the east. I am not convinced that my fundamental concerns could be fully surmounted even with judicious hedgerow planting and the provision of green space to soften the impact.
14. Taking these factors together, I cannot agree with the conclusion in the Heritage Statement that there would be no change to the significance of the church. This is because the development would harmfully erode the rural surroundings in which it is experienced, which in turn contributes to part of its significance as a designated heritage asset.
15. Accordingly, the proposal would have an adverse and unsympathetic impact on the character and appearance of the area, and the heritage value of the church. As it would fail to preserve the special interest of the Grade II* listed building, conflict would arise with the expectations of section 66 of the Act.
16. In terms of the Framework, as it would affect only a part of its setting, the extent of harm to the overall significance of the church would be less than substantial. Paragraph 208 of the Framework states that in these circumstances, the harm to the designated heritage asset should be weighed against the public benefits of the proposal.
17. The principal public benefit would be the addition of three dwellings to the overall housing supply and mix. Moreover, it is proposed that they would provide self-build plots, general encouragement for which is found in Government policy. This social benefit would be targeted towards the local community as the units would have occupancy restrictions², albeit that these would not fully accord with the terms³ suggested in the explanation for policy DM24 of the North Devon and Torridge Local Plan 2011-2031, October 2018 (LP).
18. There would also be economic benefits associated with the construction and future activity of the occupants of the dwellings. The ecological evidence provided shows that biodiversity net gains could also be secured as part of the development.
19. Nevertheless, the extent of benefits accruing from three dwellings would be relatively modest. Moreover, the most recent evidence⁴ in relation to the supply of deliverable housing land indicates a 5.9 year supply, and I have not seen substantive evidence to undermine that, notwithstanding that previously the supply fell below 5 years. In this context, I attribute a minor degree of favourable weight to the cumulative public benefits.

² Paragraph 7.2, Appellant's Statement of Case

³ Paragraph 13.133

⁴ Council's Five-year Housing Land Supply Statement, 28.4.23

20. Balanced against that is the harm that would result to the significance of the church. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore, the more important the asset, the greater the weight should be. The harm in this case would affect a Grade II* listed building denoting its particular importance as a building of special interest. Consequently, I find that the sum of public benefits would not outweigh the harm. It follows that the proposal would conflict with national policy to conserve and enhance the historic environment.
21. Accordingly, I find the proposal would be detrimental to the rural character and appearance of the area and would result in unjustified harm to a designated heritage asset. Therefore, the proposal would conflict with policies ST04, ST14, ST15, DM04, DM07 and DM08A of the LP. Amongst other matters, when read together, these policies require proposals to achieve high quality design that protects and enhances the historic environment and landscape character.

Location

22. Policy ST07 of the LP sets out a spatial development strategy for North Devon's rural area. This establishes a hierarchy whereby local centres are the focus for development growth, and defined villages are enabled to meet local needs and growth aspirations. Thereafter, development in other rural settlements and the countryside is limited to specific circumstances. In part, this reflects the accessibility of settlements in the hierarchy, recognising the limited nature or absence of services in smaller settlements. This is consistent with the transport strategy contained in policy ST10 of the LP which, amongst other things, seeks to reduce the need to travel by car.
23. There is no dispute between the parties that Huntshaw comprises a rural settlement for the purposes of the LP, and therefore, is a third-tier settlement in the hierarchy. Policy ST07 supports appropriately located development of a modest scale that meets locally generated needs in rural settlements. Policy DM24 of the LP sets out relevant criteria for local occupancy dwellings to meet a locally identified housing need.
24. Notwithstanding that some matters are reserved, it is apparent from my findings on the first main issue that the location of the site is neither within, nor directly adjoining the built form of Huntshaw. Hence, it fails criterion (c) of policy DM24, which is acknowledged by the appellant⁵. It follows that the development would not meet all the necessary qualifying criteria to derive support from policy DM24. Given that they would not alter this outcome, it becomes unnecessary to consider the other criteria in detail.
25. Furthermore, the evidence that the dwellings would meet a locally identified housing need, upon which support from policies ST07 and DM24 is predicated, is weak. I say this because it relates to three individuals, about which limited circumstances have been provided⁶. Ostensibly they would not all meet the local occupancy threshold as defined in paragraph 13.133 of the LP. In the absence of a more rigorous methodology to show why an extended area of

⁵ Paragraph 6.1.3, Appellant's Statement of Case

⁶ Appendix 4, Appellant's Statement of Case

search relating to locally identified housing need would be justified, I attribute the defined terms set out in the LP significant weight.

26. The dwellings proposed would be self-build units, for which there are associated statutory duties and government policy to facilitate. The balance of evidence before me suggests that the Council has provided sufficient planning permissions for serviced plots to exceed the number of entries on its self-build register⁷. As such, there is little basis to suppose the Council is falling short of the government's expectations in this respect. Whilst I have had regard to the correspondence⁸ provided by the appellant, it mostly relates to the locational preferences given by those on the register. As these are unrestricted, many people have made multiple choices. In isolation, it does not amount to firm evidence of unmet need as it does not provide any information on the corresponding number of planning permissions granted for custom and self-build housing.
27. My attention is drawn to policy ST21 of the LP, which sets out remedial action that would be taken in managing the delivery of housing under specified circumstances. Policy ST21(2) contains criteria whereby additional residential development may be supported if monitoring identifies that the number of dwelling completions falls below 90% of the annualised requirement, and the housing trajectory for that year indicates that the rate would not recover to an average of at least 100% for the two subsequent monitoring years. The evidence before me does not show that the circumstances are met for policy ST21(2) to be engaged. Hence, the development would not derive support from it.
28. Two decisions⁹ of the Council are brought to my attention by the appellant in support of the proposal. Both concern different settlements some considerable distance from the appeal site, and fewer dwellings were proposed. The earlier decision was determined prior to the adoption of the LP, and the latter concerns brownfield land. Given the significant differences in circumstances, it is not shown that either are directly comparable with the appeal scheme. Therefore, they carry little weight in favour.
29. Realistically, future occupants of the development would have few genuine transport options to access normal day to day services. There is no evidence of regular public transport services. The narrow, mostly unlit single carriageway lanes within the vicinity of the appeal site, combined with the distances from local facilities, intervening topography and a lack of footways and cycleways, would deter, rather than encourage many pedestrians and cyclists. Hence, it is probable that future residents would be heavily reliant on the car to access education, work, shopping and leisure facilities. Even though unacceptable risks to highway safety could be avoided, the preponderance of narrow unlit lanes represent a sub-optimal local road network for drivers.
30. Accordingly, the proposal would conflict with the spatial development strategy for the rural area and the underpinning transport strategy that seeks to reduce reliance on the car. Therefore, I find that the appeal site would not provide a suitable location for housing having regard to local planning policies and accessibility as it would conflict with policies ST07, ST10, ST21, DM05 and

⁷ Table 1, Paragraph 4.13 Council's Statement of Case

⁸ Appendix 3, Appellant's Statement of Case

⁹ Referenced 1/1287/2017/FUL & 1/10401/2020/OUT

DM24 of the LP which set out or support the Council's spatial strategies in those respects.

Drainage

31. Policy ST03 of the LP requires development to be designed and constructed to take account of the impacts of climate change and minimise, amongst other things, flood risks and provide appropriate management of drainage. Policy DM04 includes effective water management amongst its design principles. Bearing in mind that the application is made in outline, I have seen little substantive evidence that suitable foul and surface water drainage that accords with the Council's drainage strategy could not be achieved.
32. Notwithstanding the Council's preferred best practice, paragraph 55 of the Framework stipulates that local planning authorities should consider whether otherwise unacceptable development could be made acceptable by using planning conditions. In relation to this main issue, it would be possible to impose conditions to secure the agreement of suitable drainage details either before or as part of any subsequent reserved matters applications. On that basis, conflict with policies ST03 and DM04 of the LP would be avoided.

Other Matters

33. The information provided shows that at the time they made their decision, the Council acknowledged that they could not demonstrate a five year supply of deliverable housing land. Moreover, there was no dispute that paragraph 11d of the Framework was triggered on this basis. Nevertheless, subsequently the Council asserts it is now able to show a sufficient supply of housing land, and I have not seen substantive evidence to suggest otherwise. Nor is it suggested that paragraph 11d of the Framework is triggered for any other reason. Even if it were, given my finding on the first main issue, policies in the Framework relating to designated heritage assets provide a clear reason for refusing the development proposed. Hence, the 'tilted' balance in paragraph 11(d)(ii) would not apply.
34. The Council also reference policies ST23 and DM10 of the LP on their decision notice in relation to green infrastructure. However, no detailed explanation or quantification from the Council is provided in that respect, and the illustrative layout shows green space could be accommodated. On the limited evidence presented, I find no further conflict with the development plan on this basis.

Planning balance and conclusion

35. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have already identified public benefits that weigh in favour of the proposal as part of the heritage balancing exercise. These are equally relevant to the overall planning balance. Nevertheless, I do not consider those benefits would justify taking a decision other than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR