The Planning Inspectorate

Appeal Decision

Site visit made on 19 February 2024

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th march 2024

Appeal Ref: APP/Q1153/W/23/3329278
Land At Sx 369 854, Liftondown, Lifton.

- 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 Mrs A Dudman against the decision of West Devon Borough Council.
- The application Ref 1403/23/PIP, dated 19 April 2023, was refused by notice dated 17 July 2023.
- The development proposed is erection of a dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (the Guidance) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two 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 two stages.

3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development. All other matters are considered as part of a subsequent technical details consent application, if permission in principle is granted.

4. The Guidance explains that, in summary, that a decision on whether to grant permission in principle to a site following a valid application must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework (the Framework) and national guidance, which indicate otherwise.

5. This proposal is for a minimum of one dwelling and a maximum of one dwelling. In effect, one dwelling is proposed. I have considered the proposal accordingly.

6. The appeal submissions seek to argue that the site should be considered Previously Developed Land (PDL) because of the mix and type of uses on the site. The Council in its statement, while noting some of the mix of uses, have not confirmed that the site should be considered to be PDL and refer to the planning history which includes the erection of a livestock shelter in 1994. There is no relevant planning history subsequent to the permission for the

livestock shelter, including any certificate of lawful use and development, which would provide any further documented information to help judge this matter. It is not the role of a s78 appeal to determine the lawful use of land or buildings. In these circumstances, I consider that I need to take a precautionary approach to the lawful use of the site and, therefore, given the lack of confirmation and certainty in this matter, I consider that it would be appropriate to attach limited weight to the case that the site, or the building in isolation, should be considered PDL.

Main Issues

7. The main issues are:

- whether or not the development plan would support the proposal in this location, including whether or not the occupants would be able to access services and facilities by a range of transport modes, and
- whether or not the amount of proposed development on the site, with a single dwelling, would meet local housing need and be an efficient use of land.

Reasons

Location

8. The Plymouth and South West Devon Joint Local Plan 2014-2034 (adopted March 2019) (the JLP) sets out, amongst other things, the approach to the location of development across the plan area. Policy SPT2 of the JLP establishes the principles of sustainable linked neighbourhoods and sustainable rural communities to guide how development and growth takes place in the plan area. The policy explains that development should support the overall spatial strategy through the creation of neighbourhoods and communities which meet a series of criteria. These include, in summary, that development should have reasonable access to a vibrant mixed use centre, which meets daily community needs for local services, and that sites are well served by public transport, walking and cycling opportunities.

9. The requirements of the overarching Policy SPT2 of the JLP are reflected in the approach to development within the Thriving Towns and Villages Policy Area of the JLP, in which the appeal site is located. Policy TTV1 of the JLP is titled prioritising growth through a hierarchy of sustainable settlements. The policy sets out a hierarchy of settlements and requires that growth and development delivering homes and jobs should accord with this hierarchy. For the Smaller Towns and Key Villages category, development will receive support for growth commensurate with their roles in supporting the small villages and hamlets.

10. For the smaller villages, hamlets and the countryside category within the hierarchy, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27.

11. Policy TTV2 of the JLP is also of importance when considering the approach to development across the Thriving Towns and Villages Policy Area. This policy indicates that support will be given to development proposals which reinforce the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development. The policy lists specific objectives of rural

sustainability and this includes the location of housing where it will enhance or maintain the vitality of rural communities, and the provision of sustainable transport accessibility appropriate to the specific context of the proposal.

12. Policy TTV26 of the JLP concerns development in the countryside. The Council accept that the appeal site is not isolated and therefore part 2 of this Policy is applicable and this sets a series of criteria that development proposals should, where appropriate, meet.

13. It is against this JLP strategy for the location of development that the proposal should be assessed. Lifton is identified under Policy TTV1 of the JLP as a Smaller Town and Key Village because of its size and range of services and facilities. This includes a village shop with post office, primary school and doctors' surgery. Further to the west, on the other side of the A30 is an area of housing known as Liftondown. Liftondown is not identified as a settlement although it has a residential character with a modest number of roads lined with housing. Generally, there is a clear division between the housing and the open, surrounding countryside. Liftondown has a minimal level of services and facilities, and residents would need to usually rely elsewhere, including Lifton or Launceston, for many services and facilities.

14. The appeal site is located along a reasonably narrow lane, separated from the built form of Liftondown. The site includes the building, an adjoining area with vehicular access and parking, and some related external activities related to this holding. The site falls within the countryside and, with the separation from Liftondown, within surroundings that have a rural character.

15. In terms of the application of part 2 of Policy TTV26 of the JLP, the provision of a dwelling on this site would not meet with any of the criteria which are listed, other than perhaps avoiding the best and most versatile agricultural land. The proposed dwelling would, for instance, not respond to a proven agricultural, forestry or other occupational need that requires a countryside location. I am conscious of the supporting text that explains the policy provides the criteria that need to be met before a development proposal could be supported in the countryside. In these circumstances, the proposal garners no material level of support from Policy TTV26 of the JLP and, indeed, I consider that the general lack of compliance with this policy weighs against the proposal.

16. In respect of the access to services and facilities by occupants of the appeal site, the location is a little way separated from Liftondown, which itself is separated from Lifton. There is a footway that links Liftondown to Lifton, with an underpass under the A30. However, given the distance, it is not considered that most occupants of the proposed dwelling would walk to and from Lifton on anything other than on an occasional basis to access services and facilities.

17. There is the farm shop with restaurant located on the other side of the A30 and which I visited at my site visit. The shop sells quite a few products that would meet day to day needs, and could be accessed on foot, but this is outside the settlement and separated from the other services and facilities at Lifton. In this situation the farm shop on its own would not provide the reasonable access to a vibrant mixed use centre required by Policy SPT2 of the JLP.

18. It may be possible for some to cycle to Lifton from the appeal site, and there is, what appears to be, an infrequent bus service from Liftondown. Consequently, the occupants of the proposed dwelling would have some

modest alternatives to the private vehicle, and given the distance to Lifton and also the farm shop, I consider that the private vehicle is likely to be the predominant mode of travel.

19. There is a building on this site and some domestic appearance to its surroundings, however, the scheme would represent a new build dwelling in the countryside. The settlement strategy seeks to generally direct new housing development within and adjoining settlements, such as Lifton. This location is separated from Lifton by some distance, and even outside the built confines of Liftondown, would not, in my judgement, satisfy the requirements of Policy TTV2 of the JLP, that development proposals should reinforce the sustainable settlement hierarchy and which should deliver a prosperous and sustainable pattern of development. Development of a new build dwelling on this site, separated from Liftondown and even further from Lifton, would not relate well to the existing built development and would not represent the organic growth of a settlement.

20. I have also had regard to the Framework policy approach to the location of rural housing. This would not be a site, where there are groups of smaller settlements, development in one village may support services in a village nearby, because this would be a dwelling located outside Liftondown in the countryside. In general, I do not consider that a dwelling on this site would be likely to enhance or maintain the vitality of rural communities any more than any other location in the countryside in the adjoining surroundings.

21. I am conscious that the Framework requires that decisions should take into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I appreciate that the site does have some modest accessibility credentials. However, this is not the sole determinant and, in any case, I am not satisfied that they are sufficient to justify the provision of a new build dwelling in this countryside location, separated from the settlement of Lifton, and where the scheme would not accord with the settlement strategy for this area within the Thriving Towns and Villages Policy Area as set out in Policies TTV1 and TTV2, nor comply with the requirements of Policy SPT2 of the JLP.

22. This overall conclusion would generally accord with the comments submitted by Lifton Parish Council, who object to the development. This includes on the basis that it is concerned with the sustainability of housing at Liftondown and that while it comments that development has taken place in Liftondown that has been 'in-fill', this application proposal would be detached from that in-fill.

23. The appellant has drawn my attention to appeal decisions which are argued support the proposed circumstances and policy analysis for this scheme. In the case of the residential development at Lewtrenchard[1], this was a scheme for 21 dwellings adjoining a recently completed development of 17 dwellings. It appears that Lewtrenchard had a primary school and operated in conjunction with Lewdown as genuinely linked rural communities in terms of its services and facilities. These two areas were closer to each other than the appeal site is with Lifton. Consequently, when considering that the present appeal site does not immediately abut Liftondown, which in its self has minimal services and facilities, there are material differences between the cases. As a consequence, I

[1] APP/Q1153/W/22/3299678 - Land at Cross Roads Farm, Road from Huddispitt Cross to Cross Roads, Cross Roads, Lewdown EX20 4DP

attach limited weight to the site specific findings of the Inspector in terms of the scheme at Lewtrenchard to support the considerations in this appeal.

24. The appeal decision at Old Exeter Road, Tavistock[2] has also been referenced. That was a site in the countryside where the Inspector analysed the policies and came to the conclusion that while that site was in the countryside, Policy TTV26 of the JLP neither supported nor conflicted with the scheme. That Inspector refers to paragraph 5.168 of the JLP which explains that Policy TTV26 needs to be read alongside other policies of the plan. I am also conscious of the section in paragraph 5.169 which explains that the policy (TTV26) provides the criteria that need to be met before a development proposal can be supported in the countryside. Consequently, I give greater weight to the importance of Policy TTV26 than the Inspector in the Old Exeter Road scheme and believe that the scheme does not gain material support from part 2 of Policy TTV26 and this is a matter that weighs against the proposal. In any case, that Inspector found, as I have with this appeal, that the scheme at Old Exeter Road did not meet with the spatial strategy of the JLP and that is a key issue, over and above any finding in relation to Policy TTV26 of the JLP. Taking all these matters together, I attach limited weight to the appeal decision at Old Exeter Road in support of this appeal.

25. In the light of the above analysis, I conclude that the future occupant's modest levels of accessibility to services and facilities by sustainable transport modes would not be sufficient to justify this new build dwelling in this countryside location, which would be contrary to the approach to the settlement hierarchy and the strategy for the location of development across the plan area. In particular, in these respects, the scheme would conflict with Policies SPT1, SPT2, TTV1, TTV2 and TTV26 of the JLP and the Framework which, amongst other things, provides the approach to the location of rural housing.

Housing need and use of the site

26. Policy SPT2 of the JLP explains, in criterion 2, that schemes should provide for higher density living appropriate to the local area. The Framework also seeks that development makes efficient use of land and that it is ensured that developments make optimal use of the potential of each site.

27. In this case, the site has a single point of access off the reasonably narrow lane. The remainder of the frontage is an established and overgrown hedge/tree boundary that provides a verdant and rural character.

28. The site is located in a section of the lane where there is no immediately abutting development and is generally surrounded by open undeveloped land. It would be necessary, at the technical details consent stage, to ensure that the development would be compatible with this rural character and sporadic pattern of development which is separated and different in character terms from the built form of Liftondown. In these circumstances, a single dwelling would be the most appropriate amount of development and I do not consider that a denser use of the site, with more units, would be compatible with the size and shape of the site and its rural surroundings.

29. Policy DEV8 of the JLP seeks that housing development should meet a local housing need. In this case, there is no requirement for any affordable housing

[2] APP/Q1153/W/21/3289369 - Land Opposite Wilminstone Industrial Estate, Old Exeter Road, Tavistock, Devon PL19 0FD

contribution in association with the proposed open market dwelling. At this permission in principle stage there are no detailed plans or proposals regarding the size or form of the proposed dwelling. If permission in principle was to be granted it would specify a single dwelling. It would be for details at the technical details consent stage that the dwelling size and design would be submitted so as to help provide the mix of size, type and tenure appropriate to the area. At that stage, the Council would be able to judge whether the details of the dwelling would meet with the requirements of Policy DEV8 of the JLP and determine the submissions accordingly.

30. Consequently, I conclude that the amount of development, with a single dwelling, would be an acceptable and sufficiently efficient use of the land given the rural character of the site and the countryside location. In this respect, the proposal would comply with Policy SPT2 of the JLP. Furthermore, there is no reason to consider that agreement at this permission in principle stage would result in a dwelling that could not comply at the subsequent stage with the requirements of Policy DEV8 of the JLP.

Planning Balance and Conclusion

31. A single dwelling on the site would provide a suitable density of development given its rural location and the requirements of Policy DEV8 of the JLP can be left to resolution at the technical details consent stage. However, the proposed new build dwelling would not accord, when considered in the round, with the settlement strategy and the approach to the location of development. This is a substantial policy conflict and is such that the scheme would not comply with the development plan when considered as a whole.

32. In terms of the benefits of the scheme, the development would provide a boost to the supply of housing on a windfall site. The dwelling would be constructed on a site with a somewhat domestic appearance, involve the removal of an existing building, and subject to details at the technical details consent stage, could be delivered without harm to the character and appearance of the area.

33. There would be economic and social benefits to the wider area during construction and in subsequent occupation. The construction could be undertaken by a small builder and a policy compliant size of dwelling would add to the overall mix and housing offer in the area. In this case, the proposed dwelling would provide more suitable housing for the appellant who would move from their present accommodation, allowing them to stay in the area, and this may free up another dwelling at Liftondown. However, as an open market dwelling is proposed, it cannot be assured who would occupy the dwelling and it would not be reasonable or be supported by policy to seek to specify the first occupants. Consequently, the personal circumstances in support of the proposal weigh only to a minor extent in favour of the scheme.

34. Nevertheless, the matters summarised above would be worthwhile benefits of the development. However, because they relate to the provision of a single dwelling, and in a Council area that can demonstrate a Framework compliant supply and delivery of housing, I attribute the benefits of the development limited weight. On the other hand, the policy conflicts that I have identified are matters that should be attributed substantial weight against the scheme.

35. It is such that the policy conflicts and related harm would not be outweighed by the benefits of the scheme. Accordingly, I conclude that there are no material

considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR