



Appeal Decision

Site visit made on 24 April 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/U1105/W/23/3326385

Wild Flowers, Seaton Road, Colyford, Devon EX24 6QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Pete Gibbins against the decision of East Devon District Council.
 - The application Ref is 22/1082/FUL.
 - The development proposed is the erection of a two storey 3-bed detached dwelling with means of access and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended location and block plans¹ were submitted as part of the appeal which include additional land within the land edged red and thus increase the site area. However, the Procedural Guide: Planning appeals – England is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council and interested parties at the application stage. Given that the amendment would make fundamental changes to the proposal and interested parties have not had the opportunity to comment on the changes, it would not be appropriate to consider the revised proposals. Accordingly, I have determined the appeal based on the proposal that was before the Council when it made its decision.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site comprises part of the garden of Wild Flowers, a detached dwelling which sits at the end of the row of properties in Seaton Road. The surrounding area is predominantly residential in character, including a mix of architectural styles with agricultural land beyond. Notwithstanding the curvature of the road on the approach to the settlement and the higher ground level of the agricultural land opposite the site, given its position at the junction of Seaton Road and Popes Lane, where it is viewed in the foreground of the

¹ Site Location Plan dwg. no. 04A and Block plan dwg no. 03B

host dwelling, the site nonetheless occupies a visually prominent position on the edge of the main built-up part of Colyford.

5. In the main, the detached dwellings along this part of Seaton Road and Popes Lane are arranged in a linear form of frontage development with various plot sizes. They are orientated to front the highway, with intervening gardens and parking areas between the dwellings and the road. This arrangement contributes to the spacious character of the immediate area.
6. The appeal proposal would see the erection of a detached 3 bedroom 2 storey dwelling. In design terms, the proposal would reflect the existing dwelling at Wild Flowers, and others nearby, having regard to roof form, a brick chimney, and external materials. The proposed dwelling would be sited a short distance from both Seaton Road and Popes Lane and would be orientated at an oblique angle to face the corner of the plot rather than sitting parallel with the site boundaries. Consequently, it would appear as a discordant feature that would be at odds with the established layout of the surrounding built form and would be visually conspicuous in the street scene in views along both Popes Lane and Seaton Road.
7. The appellant highlights that the dwelling is orientated in such a way to avoid overlooking of the neighbouring properties, including the host dwelling, and to take advantage of views across the estuary. However, there is nothing before me to demonstrate such outcomes could not be achieved in a less harmful manner, or that the boundary to the site in relation to the highway would necessitate such siting.
8. I have had regard to the properties known as 'Shearwater' on Popes Lane which lies closer to the lane than others in the row, and 'The Vineyard' on Seaton Road, which the appellant suggests is similar to the appeal proposal in terms of the alignment of the dwelling on the plot. However, the former sits at the end of a staggered row of dwellings where the depth of the front gardens gradually decreases, and the latter is set significantly further back from the highway. As such these examples have a different effect in terms of the character and appearance of the area and are not comparable to the appeal proposal. Moreover, given that the dwelling at 'Whispering Pine'² is a replacement dwelling, and set away from the main part of the settlement, the circumstances in that case are fundamentally different to the proposal before me. In any event each case must be considered on its own merits.
9. I therefore conclude the development would cause harm to the character and appearance of the area. In that regard, it would fail to accord with Strategy 7 of the East Devon Local Plan 2013-2031, adopted January 2016 (the LP) which permits development where it would not harm distinctive landscape, amenity and environmental qualities, including land form and patterns of settlement. It would also conflict with Policy D1 of the LP which seeks development of a high quality design which is locally distinctive, and among other things, respects the key characteristics and special qualities of an area and does not adversely affect the urban form, in terms of significant street patterns, Policy Coly6 of the Colyton Parish Neighbourhood Plan 2020-2031 in so far as it requires development proposals to be appropriate to their setting in terms of scale, height and massing, and the aims of the National Planning Policy Framework (the Framework) with regards to achieving well-designed and beautiful places.

² LPA Ref. 16/1124/FUL

Other Matters and Planning Balance

10. The proposed development would harm the character and appearance of the area and would not accord with the development plan. The adverse effect in these regards counts significantly against the scheme.
11. Set against this, the proposal would contribute to housing supply and would offer economic benefits in the short term during the construction phase and beyond. In that regard it would reflect the parts of the Framework that seek to significantly boost the supply of homes and enhance or maintain the vitality of rural communities. It would also represent efficient use of land in a location where new residential development is acceptable in principle. It would also accord with paragraph 70 of the Framework which recognises the contribution small sites can make to housing supply and that great weight should be given to the benefits of using suitable sites within settlements for homes.
12. Nevertheless, the benefits with regards to additional housing are tempered by the modest scale of the development for a single dwelling. Furthermore, the support for the proposal in the Framework is countered by the importance it attaches to design as a key aspect of sustainable development.
13. The appeal submissions indicate that the proposal would include outdoor amenity space and would meet internal space standards, it would also be designed to be energy efficient. However, these matters do not weigh in heavily in favour of the scheme. Moreover, the lack of harm with regards to matters including highway safety, protected species, and the living conditions of occupiers of neighbouring properties are normal expectations of new development and therefore neutral factors.
14. My attention is drawn to a planning permission for the construction of a dwelling at the appeal site which was granted by the Council after the appeal was lodged³. However, given the extant permission would not give rise to the harm that I have identified in regard to the appeal scheme, the weight to be attached to this is limited.
15. At the time of the determination of the application the Council could not demonstrate a sufficient supply of housing land such that paragraph 11 d) of the Framework fell to be considered. Whether or not this is still the case, even if paragraph 11 d) was in play, having regard to all material considerations, I find that the adverse effects of the development would significantly and demonstrably outweigh the modest benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such, the presumption in favour of sustainable development as laid out in paragraph 11 of the Framework would not apply.
16. I note that there have been several representations about various other matters but, as I am dismissing the appeal, no adverse impacts would arise from my decision.
17. Concerns regarding the way the planning application was considered by the Council fall outside the scope of this decision.

³ LPA Ref. 23/2240/FUL

Conclusion

18. The proposed development would harm the character and appearance of the area and would therefore not accord with the development plan when read as a whole. Moreover, the benefits of the scheme are of insufficient weight to justify granting planning permission contrary to development plan policies. Accordingly, I conclude the appeal should be dismissed.

E Worley

INSPECTOR