



Appeal Decision

Site visit made on 6 February 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/U1105/W/23/3325280

Exton Lodge, Mill Lane, Exton, Devon EX3 0PJ

- 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 Philip Jordan against the decision of East Devon District Council.
 - The application Ref is 23/0401/OUT.
 - The development proposed is a single dwelling with access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Philip Jordan against East Devon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application has been submitted in outline with all matters, except for access, reserved for future consideration. I have dealt with the proposal on that basis, treating details on the submitted plans for illustrative purposes only and as an indication of the dwelling that would likely be erected on the site.
4. The description of development in the banner heading above is taken from the application form, but I have removed the references to it being an outline proposal and the access being a reserved matter as these do not relate to an act of development. I have also removed the superfluous references to part of the garden being separated off and the creation of a family home to make the description more succinct.
5. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework and has taken account of the further representations made on this.
6. An outline application for a detached dwelling and garage on the appeal site was dismissed at appeal on 27 September 2019¹ (the 2019 appeal). I shall have regard to that Inspector's decision, insofar as it is relevant to the current appeal before me.

¹ Appeal reference APP/U1105/W/19/3226312

Main Issue

7. The main issue is whether the appeal site is a suitable location for new residential development having regard to the development plan and access to local services and facilities.

Reasons

8. The appeal site is a section of the large garden of Exton Lodge, which is a residential property located on the eastern edge of Exton. The site is served by Mill Lane which in turn is accessed from the A376 Exmouth Road.
9. Policy Strategy 27 of the East Devon Local Plan 2013 – 2031 (LP) sets out the spatial strategy for housing development in smaller towns and larger villages across the district, which provide a broad range of facilities and services, and in most cases, regular transport services. The policy is consistent with the Framework, which sets out that strategic policies should set out an overall strategy for the pattern and scale of development and make sufficient provision for housing.
10. Exton is a built-up area, but it is not included in the named settlements listed in Policy Strategy 27. As such, the site is in the countryside for the purposes of the development plan.
11. Development outside the named settlements of Policy Strategy 27 can be promoted by the community through the production of a Neighbourhood Plan or community led development where it is justified that it would promote the objectives of sustainable development. Neither of these apply to the proposed development and the proposal would therefore conflict with Policy Strategy 27.
12. The proposed development would also conflict with Policy Strategy 7 of the LP, which outlines that development in the countryside will only be permitted where, amongst other things, it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development.
13. Having regard to the identified conflict with the development plan policies, the proposed development would fail to comply with the specified distribution of development within the district, which in turn would result in harm in achieving the planned spatial strategy across the district.
14. Exton itself is limited in terms of services and facilities. There is a shop at the petrol station on the northern edge of the built-up area. However, despite it having foodstuff, it is unlikely that it would be used by future occupiers of the proposed development as a source for regular food shopping. Exton also has a public house, a village hall, a church and an outdoor play area. Overall, given the limited services and facilities in Exton, it would become necessary to travel beyond to access the services and facilities needed for day-to-day living.
15. Exton has a railway station that provides frequent connections to Exeter and Exmouth. Additionally, there are bus stops that are on the route of a frequent bus service along the A376 between Exeter and Exmouth, which runs from morning to late evening throughout the week. There is also the Exe Estuary Cycle Path that provides off-road cycle access to Exeter and Exmouth. Whilst this does offer a good cycle link, the cycle network and use of the bicycle to access facilities and services in those settlements may not be attractive to all occupiers.

16. I am mindful that the Inspector for the 2019 appeal concluded that the distances to the bus stops and railway station, the busy intervening road and the indirect route to them meant that it would be reasonable to expect most journeys to be made by the private car. I have nothing before me that would lead to a different conclusion.
17. The appellant has put forward that it is possible to walk a different route along Mill Lane in an easterly direction to safely access the bus stops and use the light controlled pedestrian crossing on the A376 to walk to the railway station. However, this would involve walking for half a mile along Mill Lane, which is an unlit track and, as such, this would present an unattractive option to using a private car during the shorter hours of daylight in late autumn and winter.
18. It is likely that residents would need to travel to a broader range of services and facilities at Exeter or Exmouth, further away from the site. As such, it is unlikely the location of the proposal would promote the use of sustainable modes of travel as advocated in the Framework. Instead, it is highly probable that occupants and visitors associated with the proposed development would be reliant upon private cars to get to and from the appeal site.
19. My attention has been drawn to decisions made by the Council for housing in Exton. Firstly, outline permission was granted on 31 March 2023 for a detached dwelling on a site, known as Marandor, on the opposite side of the A376 to the appeal site². The reason for approving that application was the Council's inability to demonstrate a five year housing land supply (5YHLS) and the presumption in favour of sustainable development being engaged. The Council concluded that there would be no adverse impact that would significantly and demonstrably outweigh the benefits.
20. However, whilst the Council still cannot demonstrate a 5YHLS, Paragraph 226 of the revised Framework has resulted in the Council only needing to demonstrate a four-year supply (4YHLS) due to the emerging Local Plan being at Regulation 18 stage. The Council assert that the housing land supply is at 4.5 years. The Housing Delivery Test results for 2022, published by the Government on 19 December 2023, show that the Council has a 2022 housing delivery measurement of 126%. As such, the 20% buffer mentioned in Paragraph 77 of the Framework does not need to be applied to the housing supply figures. Given that the Council can demonstrate a 4YHLS and have a delivery measurement above 75%, the development plan policies are not out of date and the presumption in favour of sustainable development set out under Paragraph 11 of the Framework no longer applies to this case. As such and taking into account that the Marandor site does not involve having to cross the busy A road, that permission is not directly comparable to the appeal proposal.
21. The Council's other decision relates to planning permission granted on 9 February 2023 for the conversion of existing barns at Exton Farm to 3 dwellings and the replacement of other existing barns with 7 dwellings³. The Council considered that it would be in a suitable location, in terms of accessibility to public transport and it would therefore be sustainably located. I note that Exton Farm is located next to the A376, the bus stops on that road and the pedestrian crossing allowing safe access to the railway station. As

² East Devon District Council planning application reference 22/2549/OUT

³ East Devon District Council planning application reference 19/2132/MFUL

such, it has a different locational context to the appeal site and is therefore not directly comparable.

22. The appellant has referred me to the Supreme Court judgement in *Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council* [2017] UKSC 37. That case involved the interpretation of the Framework's presumption in favour of sustainable development where a local planning authority was unable to demonstrate a 5YHLS. However, that judgement is not determinative in the appeal as the Council only needs to demonstrate a 4YHLS and can do so. As such, its housing policies most important for determining the appeal are not out of date and the presumption in favour of sustainable development in the Framework is not engaged.
23. Reference has also been made by the appellant to the Court of Appeal judgement in *Braintree DC v Secretary of State for Communities and Local Government, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610, as they assert that the site is not 'isolated' and it demonstrates that the Council have been too narrow in its consideration of sustainability. I concur that the site is not isolated when having regard to the *Braintree* judgement. I also acknowledge that development can enhance or maintain the vitality of rural communities and support services in a village nearby. The small scale of the proposal would result in limited enhancement to the vitality of Exton and minimal additional support to the services in nearby villages. As such, the identified harm is not outweighed, and the *Braintree* judgement does not materially alter my decision on the appeal.
24. For these reasons, I conclude that the appeal site is not a suitable location for residential development when having regard to the development plan and the poor access to local services and facilities. Consequently, the proposal would conflict with the spatial strategy of the development plan as set out in Policies Strategy 7 and Strategy 27 of the LP. Furthermore, as the proposal would not minimise the need to travel by the private car, it would not accord with Policy Strategy TC2 of the LP, which requires new development, amongst other considerations, to be well related to compatible land uses so as to minimise the need to travel by car. Additionally, the development would conflict with the Framework, which promotes sustainable development in rural areas and seeks opportunities to identify and pursue the promotion of walking, cycling and public transport use.

Other Matters

25. There are sites near to the appeal site that form draft allocations in the emerging East Devon Local Plan 2020 – 2040 (eLP) as sustainable locations for housing growth and are on the same side of the A376 as the appeal site. The site would also be in the new settlement boundary of Exton set out in the eLP. Notwithstanding the provisions of Paragraph 226 of the Framework, the weight that can be given to those individual proposed site allocations identified in the eLP and the new settlement boundary would depend on the stage that the plan is at. The eLP is at Regulation 18 stage and is therefore at a very early stage in its preparation. Furthermore, I have minimal information on whether the proposed allocations or the new settlement boundary are subject to objections and if so whether those have been resolved. As such, I cannot be certain they will be included in the eventually adopted version. Although those proposed

housing allocations and new settlement boundary weigh in favour of the appeal, the weight I can afford them is limited and is not sufficient to outweigh the harm I have identified.

26. Turning to the proposal's benefits, it would make the contribution of a single dwelling towards the housing stock in the district. However, given that there is a 4YHLS, I give this benefit moderate weight. There would also be associated social and economic benefits through providing support to the local economy (including during the construction phase) and local community facilities. However, such contributions would be limited given the small-scale nature of the development under consideration.
27. The appellant has also offered a financial contribution towards the provision of a new bus shelter or the upgrading an existing shelter. However, the appellant refers to potential difficulties in obtaining an agreement from the Council and I do not have evidence of an obligation securing that contribution before me. Accordingly, the mechanism that would secure this benefit is absent and the benefit cannot be secured. Therefore, the potential financial contribution attracts little weight in the determination of the appeal.
28. Consequently, I find that the adverse impacts of the scheme arising from the unsuitable location of the site for residential development would outweigh the scheme's benefits.

Conclusion

29. For the reasons given above, the proposal would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal is dismissed.

K Reeves

INSPECTOR