



Appeal Decision

Site visit made on 12 June 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Appeal Ref: APP/U1105/W/24/3341824

Iron Gate Gardens, Nr Feniton, Feniton EX11 1LU

- 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 and Mrs Peek against the decision of East Devon District Council.
 - The application Ref is 23/1888/FUL.
 - The development proposed is dwelling and removal of timber structures and a summerhouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a signed unilateral undertaking (UU) which secures a financial contribution to mitigate the impact of the proposed development on the Pebbled Heaths Special Protection Area. The Council has reviewed the UU and I shall therefore determine the appeal on the basis that the effect on the integrity of the European sites has been addressed.

Main Issues

3. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities; and (ii) the effect of the proposal on the character and appearance of the area, including the setting of a nearby listed building.

Reasons

Location

4. The appeal site comprises a small parcel of land in a rural area that is said to have been formally associated with an adjacent property. It is described as a small holding where it is evident that crops, vegetables, flowers, and a variety of animals are kept. Within the site, there are a number of low-level outbuildings, some of which are in a poor condition. Although not isolated, there is no dispute that it is not within any defined settlement.
5. Strategy 1 of the East Devon Local Plan 2013 to 2031 (LP) focuses development on the main towns. This, together with strategies 3 and 5b of the LP is aimed at promoting sustainable development. Collectively in this respect, and amongst other things, these strategies encourage the use of previously developed land. Additionally, they aim to reduce carbon emissions, promote

sustainable modes of travel and readily available jobs, facilities, and education. Policy TC2 of the LP says that new development should be accessible by pedestrians, cyclists, and public transport.

6. Outside defined settlements, Strategy 7 of the LP says that development is only permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape qualities within which it is located. I shall return to the effect on the landscape later. One such policy where development is explicitly permitted is H4 of the LP. Amongst other things, this policy says that permission for new dwellings in the countryside for agricultural or rural businesses must demonstrate a proven and essential functional need for the occupier to reside on the site.
7. It is noted that an open market property is proposed, rather than a tied rural worker's dwelling. However, the appellant's submission includes a detailed list of the type of machinery, animals, stock, flowers, vegetables and fruit kept on the site. Whilst money is raised for a church, there is little substantive evidence of commercial viability, including detailed financial information. Nevertheless, the appellant notes that the required care for the land includes trips to and from the appeal site on a daily basis, with some occasional overnight stays needed for welfare purposes. In addition to the above, it is claimed that recent thefts mean that 24-hour security and secure storage would be required.
8. The continued need to attend to animals is recognised. However, no compelling evidence has been presented to demonstrate that the chickens, ducks or Guinea Pigs would require a person or persons to permanently reside on the appeal site. In respect of security, it is conceivable that existing buildings could be repaired, or that measures could be employed to increase security on the site. Moreover, there is little evidence that this would be ineffective or that a property here would be the only way to improve security. For these reasons, an essential need to reside at the appeal site has not been demonstrated. Had I been minded to allow the appeal, it would not have been appropriate to attach an appropriately worded occupancy condition.
9. Having a property on the appeal site would undoubtedly be more convenient for the appellant in terms of their personal travel arrangements. However, it is necessary to explore travel patterns in the round. In that context, the appeal site is not conveniently close to Feniton with its good public transport links and moderate range of services/facilities. Access to and from here would largely be via an unlit and unpaved road, which I observed was not likely to be inviting for walkers or cyclists to regularly navigate. This experience would be amplified during times of inclement weather or darkness. Furthermore, I did not see any nearby bus stops.
10. Although the appellant would be likely to produce much of their own food, most trips to and from the site, including food or other deliveries, would still require the use of private vehicle. Additionally, future occupiers may have differing lifestyle choices. The use of an electric vehicle, charging point and battery would go some way towards reducing carbon reductions. However, there would be no way to ensure electric vehicles would be the only mode of transport. For the reasons given, future occupiers would be likely to rely on the private vehicle for access to day-to-day services and facilities, rather than walking,

cycling or public transport. Consequently, any carbon reduction benefits would not balance out the identified locational harm.

11. Therefore, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities. As such, the proposal would conflict with strategies 1, 3, 5B, 7, 27 and policies H4 and TC2 of the LP. There would also be conflict with paragraph 116 of the National Planning Policy Framework (the Framework) which says that development should give priority first to pedestrian and cycle movements.

Character and appearance

12. The appeal site lies within an area of gently sloping and undulating land that is recognised for its surviving pockets of orchard, areas of pasture, paddocks, and woodlands. Reflective of these characteristics and as previously mentioned, the appeals site was said to be formally part of a nearby property and is within its setting. This property is a grade II listed building (Lodge at Iron Gate (LB)) where there is a statutory duty to pay special regard to the desirability of preserving buildings or their setting.
13. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
14. The LB is a 2-storey building of 19th century origins. It is of roughcast finish with a thatched roof, central chimneys, and small casement windows. The Iron Gate is missing. The appellant's submission provides very limited detail in respect of the significance of the listed building, including any historic association it may have with the appeal site. However, the evidence shows that the building forms part of an entrance to the wider Escot Estate/Park. In that context, it stands alone on a corner plot with no other nearby properties. Based on the evidence and my own observations, the building's significance derives from its architectural features and historic connection to the estate.
15. It is claimed that the proposed design of the property would reflect a modern barn structure, thus sitting well within the site. The building would include a corrugated metal roof and vertical cedar cladding. However, there is little to show that this type of building and use of materials would be reflective of other properties in the area, or appropriate so close to the LB. Furthermore, the split layout form with steep pitched roofing and scattered fenestration design lacks cohesion and symmetry. These design features, along with a substantial solar array would lead to an overtly domestic, unsympathetic appearance. This would not add to the overall quality of the area as set out in paragraph 134 of the Framework.
16. The gable end of the property would face towards the LB. To a modest extent, this would reduce its overall presence within the LB's setting. However, the property would be significantly taller and consequently more harmful than the existing buildings on the appeal site. At about 30m from the LB, the sprawling extent of built form would stand proud when viewed from adjoining roads. For

these reasons, the proposal would appear as an incongruous addition that would not relate well to its context or better reveal the significance of the LB. Any reduction in vehicle movements as a result of the development would have no bearing on the setting of the LB.

17. As such, the proposal would be harmful to the setting of a listed building, and thereby the significance of the designated heritage asset. This harm would be less than substantial. Therefore, in accordance with paragraph 208 of the Framework, that harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
18. There would be some limited benefits associated with the provision of an additional home to the overall housing stock. There would also be some public benefits to the local economy during the construction phase, though these would be tempered by the very small scale of the development proposed. Accordingly, the limited public benefits arising from the proposal would not offset the harm identified above, which must be given considerable importance and weight.
19. For the above reasons, the proposal would have a harmful effect on the character and appearance of the area, including the setting of a nearby listed building. As such, it would conflict with policies D1, EN8 and EN9 of the LP; and policies NP1 and NP2 of the Neighbourhood Plan for the parishes of Ottery St Mary and West Hill 2017-2031. Collectively in this respect, and amongst other things, these policies seek to conserve or enhance the distinctive historic, architectural, or rural character of the area through appropriate design, form, and height.

Other Matters

20. The proposal would create a sustainably designed, energy efficient and well insulated property that would make use of solar panels and an existing water supply. However, any such beneficial features would not sufficiently outweigh the great weight given to the harm to the setting of the LB and the Council's housing strategy.
21. Additionally, there is no dispute between the main parties that the appeal site could be adequately drained and developed without resulting in harmful effects on biodiversity. Furthermore, noise levels, tree damage or parking issues are not contested by the Council. However, these are neutral factors.
22. The appellant refers to various applications, uses and events at Escot affecting its setting. However, I have assessed this appeal on its individual, site-specific circumstances, and the evidence before me. These matters are therefore not relevant to this appeal.
23. I have paid regard to 3rd party comments in respect of the appellant's standing in the community, the use of the site as a meeting place, and the age or health related issues in looking after the appeal site. However, these matters would not outweigh the harm I have identified. Furthermore, whilst support for the scheme, including from the Parish Council is acknowledged, this is not a reason in itself to allow unacceptable development.
24. Even if I were to agree that the appeal site could be defined as previously developed land as set out in the Framework, this would not outweigh the harm

I have identified to the conflict with the Council's housing strategy and character and appearance of the area.

25. I have paid regard to the appellant's comments in respect of the processing of the application. However, these have no bearing on my decision which is based on the planning merits of the proposal.

Conclusion

26. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR

