



Appeal Decision

Site visit made on 16 July 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/W1145/W/24/3341178

Towell Farm, Towell Lane, Beaford, Devon EX19 8LL

- 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 Will Jennings against the decision of Torridge District Council.
 - The application Ref is 1/0650/2023/FUL.
 - The development proposed is siting of lodge as local needs dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The lodge had already been constructed prior to the submission of the application, and was occupied at the time of my visit. I am therefore dealing with the appeal retrospectively.

Main Issues

3. The main issues are:
 - a) Whether the site is suitable for the development, bearing in mind the settlement policies of the development plan; and,
 - b) The effect of the development on the character and appearance of the area.

Reasons

Settlement policies

4. The settlement strategy for the area is set out in the North Devon and Torridge Local Plan 2011–2031 (adopted 2018) (the Local Plan). It directs most new development to northern Devon's Sub-regional Centre, Strategic Centre, and Main Centres. Policy ST07 addresses the spatial strategy for the rural area, where Local Centres will be the primary focus for development. Beaford lies lower in the hierarchy, as a Schedule B Village, where development is enabled in accordance with the local spatial strategy. In the case of Beaford, the local spatial strategy is set out at Policy BEA.
5. Policy BEA seeks to deliver a minimum of 43 dwellings, including affordable homes, to meet the range of housing needs in the local community, principally through the allocation of two housing sites. A development boundary is defined on the Policies Map, outside which the principle of residential development is only supported on an exceptional basis. The appeal site lies approximately

90 metres outside the development boundary, so the proposal would conflict with the local spatial strategy for housing provision for the village as set out in Policy BEA1.

6. It is contended that the site is well-related to Beaford, and is close to the existing farm buildings, so is part of the village. However, I saw that as well as being outside the development boundary, the site is also visually separated from the main part of the village. Although it is adjacent to the farm buildings, these are, themselves, detached from the settlement by an expanse of undeveloped agricultural land. There is a distinct point where Towell Lane narrows to the west of Shepherds Meadow and becomes closely bordered by hedges on either side. Here, the built form of the village is left behind and the character of the surroundings changes to undeveloped countryside. The site does not, therefore, lie within the village, so the proposal is not supported by Policy BEA.
7. The application is described as being for local needs housing, and evidence is provided relating to the appellant's local connections, his family ties to the village, and the need for accommodation for him and his partner. My attention is drawn to Policy DM24 of the Local Plan, which supports proposals for local occupancy dwellings to meet a locally identified housing need, where certain criteria can be satisfied. However, this policy specifically relates to qualifying Rural Settlements, which are described in sub-section (3) of Policy ST07. The Policy does not, therefore, apply to Beaford, which is classified as a Schedule B Village. Consequently, regardless of the accessibility to services in the village, or whether the proposal could be argued to constitute rounding off, the proposal is not supported by Policy DM24.
8. The site therefore lies in the Countryside, where Policy ST07 limits development. However, the policy does allow proposals that meet local economic and social needs. Paragraph 4.16 clarifies that housing, adjoining a Village, may be enabled on an "exceptions" basis to meet an identified local need that could not otherwise be addressed. The Policy does not specify what criteria should be used to assess whether there are exceptional circumstances or local need. However, elsewhere in the Local Plan, the supporting text to Policy DM24 sets out at Paragraph 13.133 how a "locally identified need" can be demonstrated. It also sets out at paragraph 13.134 how the occupation of dwellings that meet such a need should be restricted, to ensure there is a stock of homes to meet the housing needs of the local community. It specifies that new dwellings should be subject to a legal agreement, including details that the value of the property will reflect the local occupancy restriction at any point of sale.
9. The evidence indicates that the appellant would satisfy the identified occupancy criteria. However, no legal agreement or planning obligation has been submitted to secure initial or future occupancy of the dwelling for local needs. The appellant has suggested that these matters could be secured through a planning condition. However, no wording has been suggested, and the need to specify criteria for occupancy, regulate the future sale price, and identify cascade arrangements if there is no demand from suitable occupants, indicate that a planning obligation in the form of a legal agreement would be necessary.
10. The Planning Practice Guidance advises that it is only exceptionally that a planning condition might be used to limit development that can take place until

a planning obligation has been entered into, indicating that this applies to complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. It further states that ensuring that any planning obligation is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties. I have not seen evidence to suggest that exceptional circumstances apply in this case. In the absence of a legal agreement, the dwelling would not be secured for local needs occupancy, so it would be an unrestricted dwelling in the countryside, which would conflict with the settlement policies of the Local Plan.

11. The appellant refers to an application for a local needs dwelling that was approved in the adjoining parish of Dolton, which is described as being similar. I have not been provided with sufficient detail to draw any meaningful comparisons with the appeal scheme. However, I note that the approval was subject to a Section 106 agreement, which clearly sets it apart from the case before me. I therefore give it little weight in my decision.
12. To summarise on this issue, the proposed dwelling is outside the Village of Beaford, so is not supported by the local spatial strategy set out in Policy BEA. Whilst Policy ST07 supports housing to meet an identified local need in the Countryside adjoining Villages, there is no mechanism in place to ensure that the dwelling would meet local needs. Consequently, I have considered the proposal as being for an unfettered dwelling in the Countryside. On this basis, the settlement policies of the Local Plan dictate that the appeal site is not a suitable location for the proposal. The development is contrary to Policy ST07, which seeks to direct development to suitable settlements on a hierarchical basis, and to limit unjustified development in the countryside.

Character and appearance

13. The appeal site lies outside the built-up part of Beaford. It adjoins a cluster of buildings consisting of a two-storey rendered farmhouse, with subsidiary stone outbuildings. There are also some corrugated tin agricultural buildings on the opposite side of the road, which are largely hidden by the roadside hedge. All of these buildings have a rural character, and the wider surroundings comprise undeveloped agricultural grassland. Whilst this landscape does not carry any special designation, it is, nonetheless, attractive countryside, which has an intrinsic character and beauty that is worthy of recognition in accordance with Paragraph 180 of the National Planning Policy Framework (the Framework).
14. The lodge extends the envelope of the cluster of buildings into the open countryside. Its residential character, with domestic scale openings, gives it an incongruous appearance alongside the more utilitarian agricultural buildings, which have a functional relationship with their surroundings. A significant area of land around the building has also been enclosed and is now in use as a garden, giving it a domestic character that is out of keeping with its rural surroundings. The proposal has, therefore, resulted in harm to the appearance of the countryside.
15. However, the lodge is of modest proportions, being significantly lower than the adjacent agricultural buildings. Although the site is adjacent to a Public Right of Way (PRoW), it is well screened from most viewpoints along this route by the hedgerow and gates on the southern boundary, and trees along the eastern boundary. It is only readily visible from a relatively short length of the PRoW to

the west of the site. From here, the upper section of the building is visible above the gate and hedge, although much of it is also obscured by the agricultural buildings in the foreground. As it has been painted a dark grey colour since the appeal was lodged, it is a fairly recessive feature beyond the buildings, and seen against a backdrop of trees. Consequently, the harm to the character and appearance of the countryside is limited from this viewpoint.

16. The lodge is seen from more distant viewpoints to the north and northeast. In these views, it is closely associated with the larger agricultural buildings and farmhouse. Consequently, it has a very limited impact on the wider countryside. The proposed landscaping would further reduce this impact over time, such that there would be a negligible impact on the countryside in long-distance views.
17. Overall, therefore, the development results in limited harm to the character and appearance of the area. Nevertheless, as there would be harm the proposal is contrary to Policies ST04, DM04, and DM08A of the Local Plan, which seek to ensure that development proposals are appropriate to their surroundings and respect landscape character.

Planning Balance

18. I have found that the proposal is contrary to the settlement policies of the Local Plan, and would result in limited harm to the character and appearance of the area, leading to conflict with other development plan policies. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be determined in accordance with the development plan, unless material considerations indicate otherwise.
19. In this case, the appellant and his partner's need for a home, and his desire to remain in the village where he has strong local connections, are a significant material consideration. The Local Plan does make provision for new dwellings, including affordable housing, in the village, but the evidence indicates that delivery could be some years away. The proposal meets the appellant's immediate need in the short term, but there is no mechanism in place to ensure that it would continue to meet a locally identified need in the future. In these circumstances, the benefits of the proposal do not carry sufficient weight to override the policies of the development plan.
20. I have considered whether it would be appropriate to grant a personal, or temporary consent. However, the Planning Practice Guidance says that a condition requiring the demolition, after a stated period, of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Although the proposal is described as the siting of a lodge, it is referred to throughout the appellant's statement of case as a building. I do not have evidence relating to its construction, but it does not have the appearance of a structure which is capable of being moved from one place to another. I therefore conclude on the evidence before me that it is a permanent structure. Consequently, a temporary consent would not meet the tests for conditions set out at paragraph 56 of the Framework.
21. I acknowledge that dismissing this appeal would interfere with the appellant's rights under Article 8 of the European Convention on Human Rights, as set out under the Human Rights Act 1998, as it would deny him and his partner the

opportunity to establish a home on this site. However, those rights are qualified, and interference with them are permissible when balanced against those of the community. In this instance, such interference would be proportionate in pursuance of the well-established and legitimate aims of delivering sustainable development through the preparation and implementation of development plans, and the protection of the countryside.

Conclusion

22. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR