



Appeal Decision

Site visit made on 11 June 2024

by C Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2024

Appeal Ref: APP/Q1153/W/23/3331967

Higher Southcombe Farm, Road from Stone Barn To Eastcombe Cross, Northlew, Devon EX20 3PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Peter Brierley against West Devon Borough Council.
 - The application Ref is 3486/22/FUL.
 - The development proposed is erection of dwelling, garage and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by West Devon Borough Council against Mr Peter Brierley. This application is the subject of a separate Decision.

Procedural Matters

3. I have dealt with another appeal at the same address for a proposed wellness centre (Ref: APP/Q1153/W/23/3331973). For ease of reading, that appeal is the subject of a separate decision. However, as it covers similar issues, there is some duplication between that appeal and the current appeal.
4. The Council says that the lane outside the appeal site does not form part of the public highway network. Even so, it is a public right of way and well established vehicular route which provides access to existing properties. I am therefore satisfied that the plans are valid for the purposes of this appeal, even though the lane is excluded from the red line area of the site.

Main Issues

5. The main issues in this case are:
 - whether the site is a suitable location for the proposed dwelling, having particular regard to planning policies which seek to control new development in the countryside.
 - the effect of the proposal on the character and appearance of the area.
 - whether the proposal would comply with policies that seek to steer new development away from areas at the highest risk from flooding.

Location

6. The appeal site is in the open countryside where Policy TTV1 of the Local Plan¹ only permits new housing if it can be demonstrated to support the principles of sustainable development and sustainable communities. The policy defines this as compliance with Policies SPT1, SPT2, TTV26 and TTV27.
7. Policy SPT1 says there are environmental, economic and social aims of sustainability. In terms of environmental sustainability, Policy SPT2 aims for development which is well served by public transport, walking and cycling opportunities. There is also reference to directing growth towards places with the appropriate level of facilities to meet the needs of the local community, therefore avoiding the need to travel in the first place.
8. Although the appeal site is in the countryside, it is a relatively short walk to the village of Northlew where there are some local services, including a primary school, public house and small post office. However, the pedestrian routes follow unlit, unmade tracks and so would not be an attractive option for all potential occupiers of the proposed dwelling, especially during hours of darkness. Yet while the village is only a drive away, it does not contain a wide range of facilities capable of meeting needs for comparison shopping, health, leisure, secondary education, employment and other essentials. Nor do I have evidence that it is particularly well served by public transport.
9. Hence, it seems likely that occupiers of the proposed dwelling need to drive relatively long distances to access at least some essential services. Although driving to other settlements may be common in rural areas, it is an indication that the proposed dwelling would not be optimally located to deliver the pattern of land use advocated by Policies SPT1 and SPT2.
10. While the dwelling would have a relatively energy efficient design, this does not outweigh the environmental harm of enabling development in an area that is likely to encourage private vehicle use. I appreciate that it is the intention of the appellant to operate a business from the site, which may reduce the need to travel, but the dwelling would be a permanent feature which would outlast the circumstances of the initial occupiers.
11. Turning to the economic and social aspects of sustainability, an additional dwelling in the area may help to support local services in Northlew. It would also increase the supply of local housing. However, the contribution made by a single dwelling in this regard would be relatively modest. Furthermore, there is an under-supply of smaller dwellings in the area. The proposal would not help to address this. This reinforces my view that the economic and social benefits of the proposed development would not be sufficient to outweigh the environmental harm that I have identified above.
12. That said, I am mindful that there is an extant planning permission² elsewhere on the site for the conversion of a redundant building to a dwelling. Although this remains unimplemented, I see little reason why the building could not be converted in the future. The plans for the current appeal indicate that the building would be demolished as part of the proposal. In that event, there would be no overall increase in the amount of housing on the site.

¹ Plymouth & South West Devon Joint Local Plan 2014-2034.

² Council Ref: 3815/16/FUL

13. While this would go a long way towards mitigating the conflict with Local Plan Policies SPT1 and SPT2, I have not been provided with a legally binding mechanism (in the form of a legal agreement or similar) to secure removal of the building if the appeal were to succeed. As such, I am unable to give much weight to this aspect of the proposal. Nor can the newly proposed house be justified as a replacement dwelling in terms of Policy TTV29.
14. The Council has referred to a number of other Local Plan policies which have somewhat less bearing on the appeal. Policy TTV26 concerns development in the countryside. Part (1) of the policy applies to isolated development, though the Council does not consider the site to be isolated. Part (2) only applies 'where appropriate' and most of the matters covered are not of direct relevance to the proposal. I note the Council's point that the dwelling does not respond to a proven rural need and would occupy agricultural land. However, paragraph 5.168 of the Local Plan supporting text advises that Policy TTV26 should be read alongside the other policies of the plan and the main focus in this appeal is whether the proposal is sustainable when taken as a whole.
15. Policy TTV27 is also of limited relevance to the appeal. This enables affordable housing in rural areas that would otherwise not be suitable for development. Although the proposed dwelling cannot be justified on the basis of this policy, the wording does not expressly prohibit open market housing if it can be justified in other ways. Similarly, Policy DEV8 (which aims to provide a wide choice of housing) would not prevent a large detached home from being built in this area if it were otherwise shown to be sustainable.
16. Notwithstanding the above, I have already determined that the proposal would conflict with Policies SPT1 and SPT2. I therefore conclude on this issue that site would not be a suitable location for the proposed dwelling.

Character and appearance

17. Although there are some other properties close to the site, this is a distinctly rural area characterised by open fields, vegetation, field boundaries and narrow country lanes. It forms part of an expansive agricultural landscape which characterises this part of West Devon.
18. The proposed house and garage would be constructed in an undeveloped field that forms part of this open landscape. Featuring a contemporary design, with extensive glazing and solar panels, the house would be a visually prominent addition to the immediate surroundings. It would be visible at distance from parts of Northlew and at closer quarters from nearby footpaths.
19. The effect of the proposal would be to increase the prevalence of built development in a part of the countryside that is otherwise open and verdant, thereby eroding its rural qualities. The creation of a vehicular access through the existing hedgerow would further increase the visual impact. As such, there would be conflict with Local Plan policies which seek to preserve local distinctiveness. This includes Policies DEV20 and DEV23.
20. In reaching this decision, I am mindful that the redundant building on the site which has planning permission for conversion is something of an eyesore and this is also seen from the surrounding countryside. Indeed, the Council has indicated that the building would be poorly designed even if were to be

converted as approved. As such, the appeal proposal, which includes demolition of the building, would also offer some visual benefits.

21. Furthermore, if the new dwelling were to be built it would allow greater separation from nearby properties and a higher standard of accommodation for future occupiers than the converted building would. However, in the absence of an appropriate mechanism to secure removal of the redundant building, I am unable to weigh these benefits against the harm I have identified above.
22. I therefore conclude on this issue that the proposed development would have a harmful effect on the character and appearance of the area.

Flooding

23. According to Environment Agency mapping, the site is within Flood Zone 1 with a low probability of flooding. As such, the proposal would not conflict with Policy DEV35 of the Local Plan or paragraphs 165 to 168 of the Framework³. These policies control development in areas at greater risk of flooding. Nor is it necessary to carry out 'sequential' or 'exceptions' tests.
24. Although occupiers of the proposed dwelling would access the site from a lane which passes through Flood Zone 3 before connecting to the public highway, this access is excluded from the red line area of the appeal site. I have commented on this matter earlier in this decision.
25. My attention has been drawn to a dismissed Appeal⁴ for 279 dwellings at a site in Suffolk where the access crossed Flood Zone 3. The Inspector in that case found that the access was an integral part of the scheme and should not be considered separately from the development it serves. I am not familiar with the physical characteristics of that site. However, based on the description provided in paragraphs 25 to 36 of that decision, I am not convinced that the circumstances are similar to those before me in the current appeal. Consequently, it does not serve as a useful precedent.
26. I conclude on this issue that the proposal would comply with policies that seek to steer new development away from areas at the highest risk from flooding.

Conclusion

27. Although the proposal would be acceptable in terms of flood risk, this would not outweigh the harm to the character and appearance of the area that has been identified, nor the conflict with Local Plan policies which promote sustainable land use patterns. The appeal is therefore dismissed.

C Cresswell

INSPECTOR

³ National Planning Policy Framework, July 2021.

⁴ Appeal Decision: APP/W3520/W/22/3308189.