



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/23/3331973

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 3651/22/FUL.
 - The development proposed is erection of building for use as a wellness centre and associated facilities.
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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 dwelling (Ref: APP/Q1153/W/23/3331967). 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 development, 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.
 - the effect of the proposal on the living conditions of surrounding occupiers.
 - whether the proposal would comply with policies that seek to steer new development away from areas at the highest risk from flooding.
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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 sets out environmental, economic and social aspects of sustainable development. In terms of environmental sustainability, Policies SPT1 and SPT2 aim to promote a low carbon economy by reducing the need to drive. This is also reflected Policy DEV15, which supports business activity in suitable locations and says that proposals should *avoid a significant increase in the number of trips requiring the private car and facilitate the use of sustainable transport, including walking and cycling, where appropriate*.
8. The appellant intends to live and work on the site and so would not need to drive in order to operate the proposed wellness centre. This appears to be contingent on the linked appeal² for a new house and garage being allowed. Nonetheless, even if the appellant were to live and work on the site, there is no assurance that this arrangement would be permanent, whereas the wellness centre would be a lasting feature. Therefore, the benefits of home working associated with the proposal carry limited weight.
9. In any case, it seems to me that that the majority of journeys would be generated by customers visiting the wellness centre. The site is close to the village of Northlew and the Sustainable Travel Plan includes measures to encourage cycling and walking. However, given the specialised nature of the business, it would likely need to draw customers from a much wider catchment area than the local village to remain viable.
10. Realistically, most customers from further afield would probably choose to travel in their own vehicles. While it may be possible to travel to Northlew by other means, I have not been provided with much evidence to show that the area is well served by public transport. Besides, the site is some distance from the village and the route follows unlit tracks which would not be suitable for all pedestrians. The wellness centre would therefore not be in an optimal location to reduce the need to travel by private vehicle.
11. That said, the proposal would also yield some environmental benefits. The wellness centre would occupy a previously developed site and the biodiversity of the surrounding land is to be enhanced. However, these benefits do not fully mitigate the environmental impact of operating a customer facing business in a relatively inaccessible location. Similar benefits could potentially be achieved in areas that are better served by public transport.
12. In terms of the social and economic aspects of sustainability, I am informed that there is already a village hall in Northlew that can accommodate yoga classes. However, this is not directly comparable to the proposed wellness centre, which would cater to a more specialised market. In my view, the proposal should be assessed on its contribution to the wider rural economy rather than its contribution to village life in Northlew.

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

² Appeal Ref: APP/Q1153/W/23/3331967.

13. With this in mind, I am aware that the Local Plan is supportive of business start-ups. Indeed, the overall aim of Policy DEV15 to improve the balance of jobs within rural areas and diversify the rural economy. Yet although a business plan has been prepared, it is relatively short on detail. For instance, there is little in the way of market research or projected turnover. As such, it is difficult to determine if the business has any prospect of remaining viable over the long term, or how it would contribute to the Local Plan aim of diversifying the rural economy. Therefore, based on the evidence provided, I am unable to assign full weight to the economic benefits of the proposal. As such, the environmental harm that has been identified is not outweighed.
14. I therefore conclude on this issue that the site is not a suitable location for the proposed development. The proposal would not be sustainable development in the context of policies SPT1 and SPT2. It follows that the proposal would also conflict with Policy TTV1. While the Council also refers to Policies TTV26 and TTV27, these are of less relevance to the appeal.

Character and appearance

15. Although there are some other properties near 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.
16. The wellness centre would be built on land that is currently undeveloped, though I understand the site was recently occupied by an agricultural building. The existing buildings in the area are also agricultural in appearance, with the neighbouring dwelling at Higher Southcombe Farm being a traditionally proportioned cottage. While the wellness centre would be seen in the context of these buildings, it would have a more elaborate appearance, featuring a contemporary design and extensive glazing. This would make the building appear relatively prominent within its local setting.
17. The visual prominence of the development would be further emphasised by the proposed access track, which would involve removing a section of hedgerow where it joins the lane outside. This track would continue across a section of open field to reach the proposed car parking area. Alongside the wellness centre building, parts of the track and car parking would be seen from the surrounding public footpath network. While the presence of nearby buildings would help to mitigate the visual impact, the proposal would nonetheless erode the rural characteristics of the area by increasing the prevalence of built development over open space.
18. I therefore conclude on this issue that the proposed development would have a moderately harmful effect on the character and appearance of the area. The proposal would conflict with Local Plan policies DEV20 and DEV23 which seek to preserve local distinctiveness.

Living conditions

19. The lane outside the site provides vehicular access to nearby dwellings, but as there are only a few properties here, the lane is very quiet. While the wellness centre would undoubtedly increase vehicular activity, this would be limited by the very small scale of the business. Although it is not entirely clear how the wellness centre would operate, planning conditions could nonetheless be

imposed to control operating hours. This would further limit the potential for noise and disturbance from vehicle movements.

20. I therefore conclude on this issue that proposal would have an acceptable effect on the living conditions of surrounding occupiers. There would be no conflict with Policy DEV1, which aims to protect residential amenity.

Flooding

21. 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 paragraph 167 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.
22. 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.
23. 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.
24. 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

25. In reaching this decision, I am mindful that the appellant has spent a good deal of time and effort in pursuing this appeal and I sympathise with his wish to establish a rural enterprise. However, the proposal must be viewed against the background of long established planning policies which seek to control development in the countryside. In recognition of this, the proposal requires an appropriate level of scrutiny. While the appellant goes some way to showing the economic benefits of the development, the evidence presented is not sufficiently robust to outweigh the harm that has been identified.
26. The appeal is therefore dismissed.

C Cresswell

INSPECTOR

³ National Planning Policy Framework, July 2021.

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