



Appeal Decision

Site visit made on 4 June 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2024

Appeal Ref: APP/U1105/W/23/3332359

Land adjacent to 1 Ball Knapp, Dunkeswell, Honiton, Devon EX14 4QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Watts against the decision of East Devon District Council.
 - The application Ref is 23/1111/OUT.
 - The development proposed is Outline Application with all matters reserved for the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal scheme relates to an outline proposal, with all other matters reserved for future consideration. I have therefore considered the submitted plans as purely illustrative and have determined the appeal accordingly.
4. The planning application was decided having regard to the September 2023 National Planning Policy Framework (the Framework) which was superseded by an updated version in December 2023. The Council amended its case in the light of the updated Framework. It issued a draft local plan for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The evidence indicates that the Council can demonstrate between 4.28 and 4.5 years' worth of housing land supply. As the Council's draft Local Plan has reached Regulation 18 stage, Paragraph 226 of the Framework applies and Paragraph 11(d) of the Framework is not engaged. The Council's updated position is that the proposal would, in addition to their concerns relating to local character and appearance, comprise residential development in the countryside, outside of any defined settlement boundary, which would be in conflict with Strategy 7 of the Local Plan. The appellant was invited to comment on this and I have determined the appeal on the basis of the revised Framework and the Council's updated case.
5. On 30 July 2024, the Government published a consultation on proposed reforms to the NPPF and other changes to the planning system. This proposes to remove paragraph 226 of the Framework. It also clarifies that for applications involving the provision of housing, policies are deemed out of date where a local planning authority cannot demonstrate a five year supply

of deliverable housing sites. However, these proposals form part of a consultation and could be subject to further change. Moreover, the draft NPPF does not constitute Government policy or guidance and Paragraph 11 d) of the Framework is not engaged. Accordingly, I have given the proposed changes limited weight in favour of the proposal.

6. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". The appeal site therefore now falls within the Blackdown Hills National Landscape (BHNL). However, the legal designation and policy status of AONBs is unchanged, so I have used both terms where relevant.
7. On 26 December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended). In so far as it relates to this appeal, the amendment now requires relevant authorities "in exercising or performing any functions in relation to or so as to affect land in an AONB...to seek to further the purpose of conserving and enhancing the natural beauty of the AONB."
8. There are currently no regulations or guidance to assist, but the explanatory note to the LURA states "The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this." As such, whilst not referred to in the reasons for refusal, it is incumbent upon me to evidence consideration of possible ways to further the purpose of conserving and enhancing the natural beauty of the AONB/BHNL. I have sought further comments from the parties on this and taken those into account in my consideration of the appeal.

Main Issue

9. The main issue in this case is whether or not the appeal site is a suitable location for a dwelling taking into consideration development plan policies regarding new housing in the countryside and the character and appearance of the area, including the Blackdown Hills National Landscape; and if harm arises, whether this is outweighed by other material considerations.

Reasons

10. The appeal site is situated between a pair of bungalows and a two storey detached house, No 6 Powells Way. Another single storey dwelling lies to the east across a small field. Beyond the site to the south east there is another open field enclosed by a substantial tree belt separating it from the wider countryside beyond. Immediately opposite the site is an enclosure adjoining a bungalow. Powells Way, a housing estate which comprises a mix of bungalows and predominantly two storey semi-detached houses, lies immediately to the north.
11. The site is currently an undeveloped gap between the pair of bungalows and No 6 which, although enclosed by fencing, is an undeveloped grassed area which contributes to a change in the pattern of development from the more densely built-up residential estate of Powells Way and the open countryside to

the south and east. It is visually separate from the residential development in Powells Way and does not look or feel part of it.

12. No 6 on the other hand is prominent in the view of Powells Way, especially approaching from the west and its rear boundary with the appeal site marks the start of the transition from the built-up character of the housing estate to the looser, less regular pattern of development in the countryside beyond. This transitional character is apparent in the change of building styles and increased space between buildings moving eastwards past the site. If the site were to be developed, the open, green space between the buildings would be lost.
13. East Devon Local Plan (EDLP) Strategy 7 defines the countryside as all those parts of the plan that are outside the Built-up Area Boundaries (BuAB) and outside specific site allocations on the proposals map. The site falls outside the BuAB and is not allocated for development. It therefore falls within the countryside as defined by the development plan.
14. Strategy 7 requires that development in the countryside will only be 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, amenity and environmental qualities within which it is located, including land form and patterns of settlement.
15. Although Policies D1 of the EDLP and BE1 of the Dunkeswell Neighbourhood Plan 2014-2031 (DNP) set out detailed design requirements which would be issues for the reserved matter stage, they also require assessment of the impact of a dwelling on the key characteristics of the area and the surrounding built environment. These are material considerations at the outline stage. The site is an irregular shape and is markedly different in size and shape to those of the adjoining properties. Its narrow, restricted nature would severely limit the size and position of any future dwelling and the lack of space between it and the neighbouring properties would result in a cramped appearance out of character with its surroundings. As such, the development would be appreciably at odds with the looser pattern of development beyond and would have an urbanising effect on the countryside which would harm its character.
16. Regarding the effect of the development on the National Landscape, I have been referred to EDLP Strategy 46 and DNP policy NE1. Strategy 46 requires that the AONB Management Plans are used in design and management considerations. The Blackdown Hills AONB Management Plan indicates that the Blackdown Hills are a distinctive, diverse rural landscape. Objective PD of the plan is to ensure that all development affecting the AONB is of the highest quality. Whilst the site is a small and contained part of the National Landscape, I have not seen any evidence to suggest how the development of the site would be of the highest quality or conserve or enhance the landscape character of the BHNL.
17. The appellant has referred me to the East Devon Local Plan Consultation Draft November 2022 and the suggestion that Dunkeswell is considered to be a good location for some additional residential development. Whilst the Framework indicates that weight may be given to emerging plans, in this instance the draft plan is still at an early stage of preparation and the

evidence does not indicate the extent to which there are unresolved objections to relevant policies.

18. As a consequence, for the reasons given, the appeal site is not a suitable location for a dwelling taking into consideration development plan policies regarding new housing in the countryside and the character and appearance of the area, including the BHNL. This conflicts with policies Strategy 7, 46 and D1 of the EDLP and BE1 and NE1 of the DNP which seek, amongst other things, to control development in the countryside and ensure new development respects the key characteristics and special qualities of the area and conserve and enhance the quality, distinctiveness and beauty of the AONB/BHNL. It would also conflict with the duty to conserve or enhance the National Landscape.

Planning balance

19. Set against the harm identified, the benefits of development include the provision of a small, potentially more affordable dwelling; economic support to existing businesses and services in the village; the provision of construction jobs; and future residents not needing to rely solely on the private car. Given the proposal is for a single dwelling, these benefits would be relatively modest and therefore carry limited weight.
20. The proposed development beyond the BuAB and the subsequent harm to the character and appearance of the site's surroundings carries substantial weight. I also attribute great weight to the failure of the scheme to demonstrate how it would conserve or enhance the National Landscape.
21. As there are no policies in the development plan which positively favour proposals of this kind and it would be contrary to the policies referred to above, there would be conflict with the development plan as a whole.
22. I have taken into account the judgement in the *Paul Newman Homes*¹ case. However, as the proposal complies with paragraph 226 of the Framework, the weight to be given to that judgement in this instance is limited.
23. I have also taken into account the East Devon Local Plan Consultation Draft November 2022 and for the above reasons have given it little weight.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR

¹ Paul Newman Homes Ltd v SSHCLG & Aylesbury Vale District Council [2021] EWCA Civ 15.