

Appeal Decision

Site visit made on 9 September 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2024

Appeal Ref: APP/Q1153/W/24/3341186

1 Moorland Court, Yelverton, Devon PL20 6BL

- 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 Mrs K McAulay against the decision of West Devon Borough Council.
 - The application Ref is 3504/23/OPA.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with details of access and scale to be determined at this stage. Matters of appearance, landscaping and layout are reserved for future consideration (the 'reserved matters'). I have therefore treated any references to reserved matters in documentation as illustrative.
3. Following the decision of the Council, the appellant has submitted further plans in relation to tree protection and drainage. The appeal has also been accompanied by a signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) (UU). The UU seeks to secure a financial contribution towards mitigation of additional recreational pressures upon the Plymouth South and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area (the habitats sites). The appellant suggests that this information should be considered in the appeal decision to address the Council's second and third reasons for refusal.
4. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the degree of engagement of all parties and the interests of fairness. An interested party highlighted trees that have previously been felled at the appeal site. However, given the further plans do not fundamentally alter the appeal proposal or require any tree felling, and the engagement of the Council's Tree Officer in relation to the further plans, I do not consider that any party will be prejudiced if I take the information into account.

Main Issue

5. The Council's second and third reasons for refusal relates to the proposed water drainage strategy and the absence of a Unilateral Undertaking in relation to the habitats sites. Given the further information provided within the appeal process, the Council have confirmed they no longer seek to defend these reasons for refusal.
6. Therefore, the main issue is:
 - whether the appeal site would be a suitable location for the proposal, with specific regard to the Council's settlement strategy and accessibility to services and facilities.

Reasons

7. Policies SPT1 and SPT2 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (March 2019) (LP) sets out the Council's approach to delivering sustainable development and applies principles of sustainable linked neighbourhoods and sustainable rural communities to guide how development and growth takes place in the plan area. Furthermore, Policy SPT2 seeks to support the overall spatial strategy, and amongst other matters, ensure communities have reasonable access to a vibrant mixed-use centre, and are well served by public transport, walking and cycling opportunities.
8. LP Policy TTV1 provides a settlement hierarchy. As the appeal site is not within a main town, smaller town and key village, or sustainable village as identified within the LP, it therefore falls within the fourth tier of the hierarchy, that being smaller villages, hamlets and the countryside. In such locations, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities, including as provided for in LP Policy TTV26.
9. LP Policy TTV26 provides the Council's policy framework for guiding development within the countryside. The supporting text to the policy explains it needs to be read alongside other policies of the plan, including those relating to sustainable communities and rural sustainability. Furthermore, LP Paragraph 5.169 outlines that amongst other things, even in small rural settlements some limited organic growth may be appropriate and may assist in providing homes and facilities meeting local needs.
10. Given the appeal site's close spatial relationship with nearby residential built form, it cannot be considered isolated, and I note that there is no dispute between the parties on this matter. Therefore, in relation to LP Policy TTV26, only part 2 is relevant. In this regard, the proposal would not harm any public rights of way/bridleways, would not prejudice agricultural operations, and avoids Best and Most Versatile Agricultural Land.
11. However, even if I were to find that the proposal would help enhance the immediate setting of the site, it does not re-use traditional buildings or respond to a need that requires a countryside location. As a result, the proposal does not meet any of the requirements of Policy TTV26.
12. Services and facilities required for day-to-day living are limited in the immediate vicinity of the appeal site. However, a range of local services are

available at the nearby villages of Yelverton, Crapstone and Buckland Monachorum.

13. The appellant's Transport Appeal Statement¹ suggests that many of the nearby facilities are within the maximum recommended walking and cycling distances within industry standards as set out by the Chartered Institute of Highways and Transportation. Even if this is so, whilst there is a footway along Moorland Court, routes to nearby settlements are generally lacking of footways and in relation to public rights of ways and footpaths, lighting. This would significantly limit the desirability of walking to those locations, albeit cycling would be achievable for some occupiers.
14. A nearby bus stop located at Moorland Court provides a service which runs between Milton Combe and Yelverton, with a main public transport corridor being available at Yelverton providing wider links to Plymouth, Tavistock and beyond. However, whilst during daytime Monday to Saturdays the bus services serving the nearby bus stop are reasonably regular, the service does not run into the evening and is therefore limited.
15. I have taken into account the National Planning Policy Framework (Framework) which states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and development in one village may support services in a village nearby. Given the proximity to a bus route, albeit limited, and the potential for cycling, there are some alternative transport options for some journeys, and this is consistent with the view taken by the Council in respect of other applications in the vicinity of the appeal site.
16. Nevertheless, due to the limitations in walking to any nearby services and facilities, the limited bus service, and whilst noting the potential to cycle, I find alternative transport options would not offer a practical or attractive alternative to the private car for day to day living for future occupiers at the appeal site. Furthermore, whilst home deliveries could provide for a differing option for the provision of some items and noting the potential for home working, there is no certainty that future occupiers would take up these options.
17. Another appeal decision that is cited by the appellant differs from the current proposal in several ways. In that instance, the Inspector found, as have I, that the appeal site was not 'isolated', and sustainable transport options were reasonable although they considered that it was likely that the majority of journeys would be made by private car.
18. However, that appeal predated the current policy context and was considered at a time when the local planning authority were unable to demonstrate a five year supply of housing (5YHLS). The Inspector found that although there was conflict with a development plan policy, this policy predated the Framework, and given the 5YHLS position concluded that the adverse impacts of the conflict with the development plan would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework taken as a whole. This limits the equivalence of the other case to the current proposal.

¹ Michael Sendall, Transport Planning Liaison Ltd

19. Two further planning permissions have also been cited by the appellant. The first² was also determined by the Council under the previous policy context, at a time where the Council lacked a 5YHLS. The second permission³ was determined by the Council under the current policy context. However, the evidence before me indicates that in that instance, although the Council accepted that the proposal provided a reasonable level of access to nearby settlements, it gave weight to that proposal being a local needs dwelling which responded to a local need. This differs to the current proposal.
20. To conclude, I find that although alternative transport options may be available, the appeal site would not be a suitable location for the proposal, with specific regard to the Council's settlement strategy and accessibility to services and facilities. As such, the proposal conflicts with LP policies SPT1, SPT2, TTV1 and TTV26(2) the aims of which I have outlined above.

Other Matters

21. I note the appellant's comments about the difficulties obtaining information from the Council during the application stage. This has little to do with the planning merits of the case, which I have considered on the basis of the evidence before me and a recent site visit.
22. The appeal site lies within the zone of influence of the habitats sites. The waters in the habitats sites are internationally important for wildlife and include key marine habitats such as sandbanks, estuaries, shallow inlets and bays, reefs and saltmarshes.
23. Within the zone of influence, new residential development would lead to increased levels of recreational activity. This would be likely to have a significant effect on the designated features of the habitats sites either on its own or cumulatively with other similar development, without avoidance measures.
24. The UU which has been submitted secures a financial contribution for the purposes of delivering mitigation and management. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal.
25. Given my conclusions on the main issue above, it is not necessary for me to consider this matter any further as the proposal would not take place and would not affect the habitat sites. Moreover, even if I were to find that suitable mitigation had been appropriately secured, a lack of harm would only be a neutral factor.
26. The proposal would provide an additional dwelling to the supply of housing and help to support the construction industry during the short term, as well as further economic and social benefits to nearby settlements as a result of its future occupation. However, these benefits would be limited due to the scope and scale of the development.

² 3319/18/OPA

³ 2356/19/OPA

Conclusion

27. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR