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# Appeal Decision

Site visit made on 5 September 2024

**by David Reed BSc DipTP DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 October 2024**

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**Appeal Ref: APP/U1105/W/24/3345706**

**Land to the west of Backwells Mead, Northleigh EX24 6DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr David Selway against the decision of East Devon District Council.
  - The application Ref 23/2373/PIP, dated 12 October 2023, was refused by notice dated 5 December 2023.
  - The development proposed is the erection of 4 dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal statement suggests that the proposal could deliver affordable or self-build & custom housing. However, Planning Practice Guidance (PPG) is clear that planning conditions cannot be attached to a permission in principle (PIP), nor can a planning obligation be entered into<sup>1</sup>. In the absence of any mechanism to secure such housing these suggestions can only be given limited weight. The proposal must therefore be assessed as most likely to deliver market housing.
3. A similar proposal for four dwellings on the site was dismissed on appeal in 2015<sup>2</sup>.

## Main Issues

4. The scope of an application for PIP is limited to location, land use and amount of development. The main issues therefore are:
  - whether the proposal would be in a sustainable location; and
  - the effect of the proposal on the character and appearance of the area.

## Reasons

### *Sustainable location*

5. The proposal is for 4 dwellings on a small rectangular grass field to the south of Colyton Road and west of Backwells Mead, a cul-de-sac of bungalows on the western side of the small village of Northleigh. To the west and south the site

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<sup>1</sup> PPG Paragraph 020 Reference ID 58-020-20180615 & Paragraph 022 Reference ID: 58-022-20180615

<sup>2</sup> Reference APP/U1105/A/14/2221520

adjoins open countryside whilst across Colyton Road to the north lies the village hall. The site is screened by hedgerows on all four boundaries.

6. Unlike the larger villages, the East Devon Local Plan 2016 (the LP) does not include a built-up area boundary for Northleigh which consequently lies in the countryside for planning policy purposes. As such LP Policy S7 applies which limits development to that specifically permitted by other local plan policies, none of which are directly relevant in this case.
7. The village offers only limited services and facilities for its residents, namely a church, village hall and one bus a week, but no school, shop or public house. Most needs would need to be met at Honiton or Colyton some 3-4 miles away by narrow rural lanes with the local primary school at Farway some 1.9 miles away. Inevitably, new residents would depend for most journeys on use of the private car, and whilst some may be electric, the scheme would not lead to a sustainable pattern of development overall. This would conflict with LP Policies S5B and TC2 which support proposals in locations that promote sustainable modes of transport including walking, cycling and public transport.

#### *Character and appearance*

8. The proposal would involve a new access through the hedgerow on Colyton Road and introduce new buildings and driveways into an unspoilt green field which currently forms part of the rural surroundings of the village. This would fundamentally change the character and appearance of the area and represent an erosion of the open countryside designated as part of the East Devon National Landscape (NL) where great weight should be given to conserving landscape and enhancing scenic beauty<sup>3</sup>. The proposal would conflict with LP Policies S7 and S46 which seek to protect distinctive landscape, amenity and environmental qualities, and to conserve and enhance landscape character, particularly in the NL. Whilst listed in the reasons for refusal, should a scheme be justified on the site, it would be possible to deliver high quality design to satisfy LP Policy D1.

#### *Other Matters*

9. The appellant understandably points to the planning permission granted in 2022 for six affordable dwellings on a site in the countryside at Chilcombe Cross, a few hundred metres to west of the appeal site and further from the main built-up part of the village<sup>4</sup>. In the same way as the current proposal, that scheme raised the issues set out above. However, importantly, the scheme was promoted by the Upper Coly Community Land Trust to deliver affordable housing to meet a specific need that had been identified within a group of villages, none of which have a defined built-up area boundary. A site search process was undertaken and it is not clear whether the appeal site was identified as a possibility. In any event, the scheme was secured by a S106 legal agreement to deliver the affordable housing which, as explained in paragraph 2, would not be possible in this case.
10. The appellant argues that the identified need has not been fully delivered, but this is not accurately quantified. There appears to be a need for self-build & custom housing across the district, but it is not clear how much relates to this area, and again the need to secure such housing would not be possible through

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<sup>3</sup> NPPF paragraph 182

<sup>4</sup> Reference 20/1234/FUL

a PIP. It is apparent that the Chilcombe Cross scheme was properly justified and considered as a rural exception site which does not apply here.

11. The Council claims 4.5 years deliverable housing land supply, a figure that appears to be accepted by the appellant. Since a new local plan is under preparation and draft proposals have been published under Regulation 18<sup>5</sup>, the Council need only demonstrate four years supply under the provisions of the National Planning Policy Framework (NPPF) paragraph 226<sup>6</sup>. The presumption in favour of sustainable development consequently does not apply.
12. On 30 July 2024 a written ministerial statement, draft versions of a revised NPPF and standard method for assessing local housing need were published, all of which place greater importance on the need to deliver more housing. However, the draft policies are subject to consultation and their definitive implications not yet known.
13. The site lies within the zone around the Beer Quarry and Caves Special Area of Conservation (SAC) where impacts on certain habitat may disrupt the foraging patterns of protected bat species. As such the proposal, in combination with other plans and projects, may adversely affect the integrity of the SAC. In the absence of an appropriate assessment and potential mitigation measures the proposal may be 'habitats development' and it is not possible to grant PIP<sup>7</sup>.

## **Conclusion**

14. The proposal would provide 4 additional dwellings (potentially affordable and/or self-build & custom housing) which would contribute to local housing needs and bring social and economic benefits to the village. However, these material considerations do not outweigh the conclusions reached in relation to the two main issues and the associated conflict with the development plan. The outcome of the appeal is the same as that in 2015.
15. For these reasons the appeal should be dismissed.

*David Reed*

INSPECTOR

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<sup>5</sup> From November 2022 to January 2023 and secondly from May 2024 to June 2024

<sup>6</sup> December 2023 version

<sup>7</sup> PPG Paragraph 005 Reference ID 58-005-20190315