



Appeal Decision

Site visit made on 16 December 2024

by Neil Pope BA (HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Appeal Ref: APP/Q1153/W/24/3344169

Cloberry Cottage, Brentor, Devon, PL19 0NG.

- 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 and Mrs Percival against the decision of West Devon Borough Council (the LPA).
 - The application reference is 1195/23/OPA.
 - The development proposed is the construction of a single dwelling (including ancillary buildings and SuDS feature) in the garden/amenity space of Cloberry Cottage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Other than the proposed means of access, all matters of detail have been reserved for subsequent consideration. I have treated the submitted sketch layout plan as being illustrative only.
3. The completed Appeal Form indicates that no planning obligation is to be submitted in support of the appeal. However, the appellant's appeal Statement refers to "*the inclusion of the unilateral undertaking*". No planning obligation or undertaking has been submitted for my consideration.

Main Issues

4. The five main issues are: firstly, whether the site is a suitable location for a new dwelling, having particular regard to national¹ and local² planning policies for housing within the countryside; secondly, the effect upon the character and appearance of the area, including the likely impact upon trees growing within and immediately around the site; thirdly, whether the proposal would exacerbate any imbalance in the local stock of housing; fourthly, the effect upon highway safety and; fifthly, the likely effect upon nature conservation interests within the Tamar European Marine Site³.

Reasons

Planning Policy

5. My attention has been drawn to numerous LP policies. The most relevant ones to the determination of this appeal are SPT2 (sustainable rural communities), TTV1 (hierarchy of sustainable settlements), TTV2 (thriving towns and villages

¹ The National Planning Policy Framework (the Framework), December 2024.

² The development plan, which includes the Plymouth & South West Devon Joint Local Plan 2014-2034 (LP).

³ In particular, the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA).

policy area), TTV26 (development in the countryside), DEV8 (housing need), DEV28 (trees) and DEV29 (transport).

6. In determining the appeal, I have also taken into account the provisions of the accompanying LP Supplementary Planning Document 2020 (SPD).

First Main Issue – Location of New Housing

7. The appeal site is situated approximately 0.5km west of the village of North Brentor and immediately adjacent to the boundary of Dartmoor National Park. The site forms part of the garden/amenity space to the appellants' existing dwelling which fronts the main rural road to the west of North Brentor.
8. The appellants' agent considers the existing dwelling is part of a hamlet. Be that as it may, the appeal site is not well-related to services and facilities, upon which occupiers of the proposed dwelling are likely to be dependent. Furthermore, the open qualities of the site and its context, with fields to the north and east and a loose knit collection of neighbouring houses does not convey any impression of a built-up area. The site lies within the countryside.
9. LP policy TTV1 only permits development within hamlets and the countryside if it can be demonstrated to support the principles of sustainable development and sustainable communities, including development provided for in LP policy TTV26. Notwithstanding the proximity to a bus stop⁴ and a suggestion of car sharing, the proposal would increase the need to travel by private motor vehicle, especially for accessing main employment centres, shopping and healthcare services. The proposed development would be at odds with the LPA's objective of reinforcing a sustainable settlement hierarchy and delivering a prosperous and sustainable pattern of development.
10. LP policy TTV26.1(iii) supports the re-use of brownfield sites for an appropriate use and the Framework, amongst other things, requires substantial weight to be given to the value of using suitable brownfield land within settlements. However, the Supplementary Planning Document to the LP identifies an appropriate use as one that requires a countryside location. The appeal site does not lie within a recognisable settlement⁵ and the proposed development does not require a countryside location. The Framework also recognises the desirability of maintaining an area's prevailing character and setting (including residential gardens). In this instance, the area's prevailing character is rural.
11. The appellants' agent has drawn my attention to a permission for two dwellings on a site at Exbourne (ref. 0322/21/FUL). Whilst consistency in the decision making process is important, each case must be determined on its own merits. From the limited information provided, there appear to be material differences to the case before me. In particular, Exbourne is a recognised village and identified as a sustainable village within the LP. It is an area where some new housing is to be expected. Whilst the scheme approved at Exbourne involved agricultural land, it does not indicate an inconsistency in the LPA's decision-making and does not set a precedent that I must follow.

⁴ This is about 180m away. Accessing it involves walking along a unlit road, lacking in footways and with fast moving traffic. Occupiers of the proposed dwelling would be unlikely to make regular use of the 118 bus service. The neighbouring footpath that runs through the fields towards North Brentor and which involves negotiating steps, is also only likely to be used infrequently by occupiers of the proposed dwelling for leisure purposes.

⁵ As provided for within the LP. I also note that Dartmoor National Park Authority considers the site to be outside defined settlement limits.

12. I conclude on the first main issue that the site is not a suitable location for a new dwelling and would be at odds with the provisions of the Framework and LP policies SPT2, TTV1, TTV2 and TTV26.1.

Second Main Issue – Character and Appearance

13. The pleasing open qualities of much of the appeal site and the trees⁶ growing in the hedgebanks along the northern and eastern boundaries of the site make a small, positive contribution to the character and appearance of the local area. The site assists in providing an attractive setting to Cloberry Cottage and reinforces the loose knit character of the houses along the roadside.
14. The proposed dwelling and car barn/log store would markedly erode the pleasing open qualities of the site and by extending housing development further along the roadside, would accentuate the impact of the built-environment within this rural area. The proposal would amount to an undesirable consolidation of sporadic development within the countryside. This would be evident from the public road to the east and, to a limited extent, from the end of the public footpath where it joins the main road, as well as, from the popular footpath⁷ up Brent Tor. The new house, car barn and hardsurfaced areas would also detract from the setting of Cloberry Cottage.
15. The proposed layout/siting of the dwelling has been reserved for subsequent consideration. Nevertheless, adequate space exists within the site to avoid development taking place within the Root Protection Areas of important trees. However, part of the new house would be very close to the crown spread of some of these mature trees. A sizeable part of the garden would also be directly underneath the crown spread of some of the trees.
16. Whilst these trees may be unlikely to grow much taller, their lateral branches would continue to grow. Occupiers of the proposed dwelling would be likely to perceive some of these trees as nuisance⁸ and over time apply pressure on the LPA to have them removed or some branches cut, which the LPA would have difficulty resisting. If this were to arise, it would further accentuate the impact of housing within this rural area. The proposal is at odds with the objectives of LP policy DEV28.
17. I conclude on the second main issue that the proposed development would harm the character and appearance of the area.

Third Main Issue – Local Stock of Housing

18. The proposed development would help to increase the choice and supply of housing within this part of West Devon. Whilst the LPA has informed me that there is 5.97 years housing supply at whole Plan level, this does not prevent it from approving additional housing on suitable sites. The appellants' agent has also asserted that there is a serious shortfall in housing delivery. However, neither main party has submitted any cogent evidence on this matter.
19. LP policy DEV8 seeks to achieve a mix of housing sizes, types and tenure and includes a requirement to deliver homes in a way that redresses any

⁶ Some of these are the subject of a Tree Preservation Order.

⁷ The roof of the proposed dwelling is likely to be visible from this footpath. (I walked this path during my visit.)

⁸ Due to a perceived risk of tree or branch failure, a reduction in light when the trees are in full leaf and deposits of tree debris. Unlike the existing dwelling, the proposed house would be much closer to these trees and its garden very much smaller. In all likelihood, this garden space would be used more intensively than at present.

imbalance within the existing housing stock. In this regard, I note the contents of the officer's report which, amongst other things, includes housing data from the 2021 Census for the Parish of Brentor. This indicates that the parish is under-served by smaller dwellings⁹.

20. Although the proposal is in outline form and the number of proposed bedrooms has yet to be determined, it is evident from the material submitted in support of the application that the proposed large single family home would be in excess of two bedrooms. The appellants' agent has informed me that the ONS data for Tavistock and West Devon indicates a shortage of four bedroom units. Be that as it may, it is important to consider the situation within the parish of Brentor.
21. In this regard, the agent has also drawn my attention to a 2022 housing needs survey commissioned by the LPA. I understand that for the parish of Brentor, the results of that survey indicate that 2 households within the parish would consider moving to a three bedroom house and 1 household would consider a four plus bedroom house. I note the Parish Council support the proposal.
22. Given the above, it has not clearly been demonstrated that the proposal would exacerbate any imbalance in the local stock of housing or be at odds with the objective of meeting local housing needs. The proposal would not conflict with LP policy DEV8.

Fourth Main Issue – Highway Safety

23. The proposed development would include widening the existing access into the site and providing a turning space to allow vehicles to enter and leave in a forward gear. Where owned or controlled by the appellants, vegetation on either side of the widened access would be maintained to provide visibility for the drivers of vehicles emerging from the site onto the C class road.
24. Whilst mindful that the existing access has very limited visibility and is used in connection with the maintenance of the land, the proposed development would result in an increase in use. I would expect it to generate somewhere between 6-8 vehicle movements/day. This would be considerably more movements than associated with the current, infrequent use of the access.
25. National and local planning policies recognise the importance of providing safe access to developments and ensuring that highway safety is not compromised. I note from the Highway Authority's response that visibility splays measuring 160 metres in either direction from a distance of 2.4 metres back from the carriageway edge are required. However, the proposed visibility splay on the northern side of the access only extends to the corner of the appeal site. In contrast, to the south the visibility splay would extend much further and include other land within the appellants' ownership and control.
26. I consider that visibility to the south would be adequate. However, to the north, achieving an adequate visibility splay would be dependent on some land which is not within the appellants' ownership or control. There is a risk therefore of vehicles emerging from the access and attempting to turn right across the carriageway with insufficient visibility of oncoming traffic. Notwithstanding the apparent good road safety record, I consider that this

⁹ I note that one and two bedroom dwellings make up 26.6% of all households in parish compared to 39.1% of households with three bedrooms and 34.2% of households with four or more bedrooms.

poses an unacceptable risk of an accident occurring at the proposed site entrance. There would be conflict with the provisions of LP policy DEV29.2.

27. I conclude on the fourth main issue that the proposal would be likely to harm highway safety interests along the adjacent C class road.

Fifth Main Issue – Nature Conservation Interests

28. The appeal site lies within the 12.3km Zone of Influence where new residential development would be likely to have a recreational impact upon the Tamar European Marine Site, in particular the SAC and SPA¹⁰.
29. I consider that the appeal scheme, in combination with other development proposals (plans/projects) within the Zone of Influence, could increase recreational pressures within the SAC and SPA and, without mitigation, would have an adverse effect upon nature conservation interests¹¹ within these protected areas. This appears to be accepted by the appellants' agent, who has calculated that a financial contribution¹² (to be provided by way of a unilateral undertaking) of £507.05 would be made to help fund the cost of necessary mitigation. This figure and the need for a unilateral undertaking is also referred to within the LPA's planning officer's report.
30. However, as noted above, there is no unilateral undertaking before me or other mechanism in place to secure the mitigation necessary to protect the integrity of the SAC and SPA. In the absence of suitable mitigation, I conclude on the fifth main issue that the proposed development would have an adverse effect upon nature conservation interests within the SAC and SPA.

Other Matters

31. The proposed development would help support the construction industry and would increase Council Tax receipts. Occupants of the proposed dwelling would also make use/support local services, facilities and businesses. I attach some limited weight to these economic benefits.

Overall Conclusion

32. My findings above in respect of the third main issue and the 'other matters' do not overcome or outweigh the harm that I have identified in respect of the first, second, fourth and fifth main issues. Even if the appellants are correct regarding housing land supply, the 'tilted' balance is not engaged given my findings in respect of the SAC and SPA. Notwithstanding my findings in respect of the fifth main issue, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The appeal should not therefore succeed.

Neil Pope

Inspector

¹⁰ I note that the Habitats Regulations Assessment of the LP concluded that the recreational impacts from new residential development, either alone or in combination with other plans or projects, would impact upon the integrity of the SAC and SPA.

¹¹ These include salt meadows, estuaries, large shallow inlets and bays, mudflats, sandflats, reefs and sandbanks.

¹² I understand that Natural England has agreed that mitigation from recreational disturbance caused by in combinations plans within the SAC and SPA can be met by contributions to a Strategic Management Plan.