



Appeal Decision

Site visit made on 22 October 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal Ref: APP/X1165/W/24/3337335

East Down, Preston Down Road, Preston, Paignton, Torbay TQ3 1RN

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by DA and ML Thompson against the decision of Torbay Council.
 - The application Ref is P/2023/0201.
 - The development proposed is construction of two dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is situated in the countryside, outside the urban area of Paignton. The steeply sloping lower part of the site is within the Ocombe Valley, which is part of a Local Nature Reserve and described in the Torbay Landscape Character Assessment (LCA) as rural in character and characterised by its dense deciduous woodland. The LCA further states that the Ocombe Valley is highly sensitive and that it is an important landscape feature that provides separation and corridor penetrating the urban area and contributing to settlement form.
4. The higher part of the site is adjacent to Preston Down Road. The site is set down on lower ground level and there is substantial mature planting on the boundary of the site with the road. It forms part of the discreet pasture fields along the edge of Preston Down Road, which are referred to in the LCA. The LCA states that this landscape character type is also highly sensitive, mostly to development due to existing uses, such as the Heritage Farm Country Park, the intact landscape structure, and visibility. The LCA does refer to some pockets of less sensitive countryside, but that is where they are closely related to the existing edge of Paignton, which the site is not.
5. The site forms part of an informal green corridor between the western edge of Paignton and the village of Marldon, which contributes to the settlement form of Paignton. The LCA advises that whilst some small-scale changes could be accommodated within this area, possibly within more enclosed small fields adjoining the urban edge on Preston Down Road, there is otherwise little capacity to accommodate change without significant harm to this remnant small scale landscape. I acknowledge that existing development is present within the

surrounding landscape, such as the residential properties on either side of the site and other development along the road, but the conservation of the rural area within the informal green corridor is important in preventing urban sprawl.

6. The proposed development consists of two detached dwellings that would be set into the existing sloping ground. The dwellings would be two storeys and finished externally with natural stone and timber cladding under a natural slate roof. The gardens for the dwellings would be formed on the steeply sloping land and the proposal includes enhanced landscaping. The parking areas would be situated on the area of the site nearest the road. Ultimately, the sunken nature of the proposal means that only the roof and part of the elevations would be visible from the road. Although, other parts of the proposal, such as the driveway and turning head, would be prominent from the access into the site.
7. I note the contents of the appellants' Landscape and Visual Appraisal, prepared by Redbay Design, which comprehensively sets out the limited public visibility of the site. However, it is also important to note that views of the proposed development would still be easily attainable from the adjacent residential property and from within the appeal site itself. Furthermore, the verdant character of the site and the part it plays in forming a green corridor on the edge of Paignton would be significantly impacted on by the proposed development. The construction of residential development that is physically detached from the built edge of Paignton and within the rural hinterland of the settlement would result in harm to the character and appearance of the area.
8. The arboricultural assessment report, prepared by Advanced Arboricultural and dated 31 January 2023, confirms that five trees will need to be felled to facilitate the development, including a category A1 oak, a category B1 horse chestnut and a category B1 dawn redwood. Two further trees would be felled irrespective of the development. It is also proposed to reduce the crown of trees on the edge of the woodland by 1.5 metres to accommodate a new boundary fence. There is also potential impact on the roots of an oak on the site boundary, but the report advises that this can be mitigated by using a no-dig method for that section of the driveway.
9. I acknowledge that the trees are not protected but their close association with the woodland as nearby outliers leads to them contributing positively to the overall character and appearance of the rural and verdant landscape. As such, the material harm to the character and appearance of the area would be compounded to a degree by the removal of category A and B trees.
10. The appellants have drawn my attention to existing large-scale development in the countryside around Paignton, including the Sutton Seeds manufacturing plant and Occombe Farm visitor attraction. Furthermore, I understand that housing development on the edge of Paignton was approved by the Council last year. Whilst the aforementioned development somewhat erodes the rural nature of the settlement's fringe, it only strengthens the LCA's aim to conserve the remaining undeveloped land that is detached from the built edge of the settlement and forms part of the informal green corridor around Paignton. I acknowledge that the LCA suggests that small scale development could be accommodated within this area but it is clear that it expects such development to take place on the urban edge of Paignton. Moreover, the presence of the existing large-scale development in the wider area and the houses dotted along the edge of Preston Down Road do not, in

isolation, justify the introduction of further development into the countryside around Paignton.

11. My attention has also been drawn to a permission granted for the conversion of an ancillary swimming pool building to a dwelling near to the appeal site¹. However, as that scheme was for the conversion of an existing building, it is not a comparable form of development and therefore does not alter my judgment on the appeal scheme.
12. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area, having regard to the effect on trees. Consequently, the proposal would conflict with Policies DE1, C1 and C4 of the Torbay Local Plan 2012 – 2030 (LP) and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012 – 2030 (NP), which collectively seek, in part, that development in the countryside does not adversely affect the rural and landscape character, wildlife habitats or green corridors, and that existing trees are retained and protected wherever possible. Additionally, the proposal would conflict with the National Planning Policy Framework (the Framework), which seeks, amongst other things, for development to be visually attractive and sympathetic to local character, including the surrounding landscape, and for existing trees to be retained wherever possible.

Other Matters

13. The appellants have also raised concerns with aspects of the Council's handling of the planning application, including whether the Council's Tree Officer visited the site. However, this is a matter for the parties and outside the scope of the appeal.
14. Additionally, I understand that there have been no objections from interested parties. Nevertheless, I have considered the development on its merits based on all the evidence before me.

Planning Balance

15. The Council accepts that it cannot currently demonstrate a five-year housing land supply. In these circumstances, Paragraph 11(d) of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to, amongst other things, key policies for making effective use of land and securing well-designed places.
16. The proposal would result in the construction of two dwellings on the site. Whilst the evidence indicates that there is a chronic and substantial shortfall in housing delivery in the district, and Policy SS13 of the LP and the Framework support boosting the delivery of housing, the proposal would make a limited contribution to the district's housing supply and therefore attracts moderate weight. There would also be associated social and economic benefits, including during the construction phase, through financial contributions and future residents paying into the local economy. Although these types of benefits are supported by Policy SS11 of the LP and the Framework, given the relatively small scale of the proposal, they are given limited weight in the planning balance.

¹ Torbay Council application reference P/2021/0037

17. Weighing against the benefits is the conclusion that the proposed development would result in unacceptable harm to the character and appearance of the area and would conflict with the provisions of Policies DE1, C1 and C4 of the LP and Policy PNP1(c) of the NP. The proposal may comply with certain policies contained in the LP, but given the harm that I have identified, the proposal conflicts with the development plan when taken as a whole. According to the Framework, development should be sympathetic to local character, including the landscape setting and add to the overall quality of the area. Recognising the intrinsic character and beauty of the countryside including the benefits of trees and woodland are also essential considerations. Given that the policies that I have identified are consistent with the Framework, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development.
18. I have not found material harm in relation to the effect on the living conditions of the existing occupiers of nearby residential properties or the effect on highway safety, but the absence of harm is a neutral factor.
19. As described above, the benefits associated with two additional dwellings would be relatively limited even taking account of the objective of boosting significantly the supply of housing in the Framework and the Council's housing land supply position. Conversely, the Framework sets out that the intrinsic character and beauty of the countryside should be recognised, and planning decisions should contribute to and enhance the natural and local environment. Overall, I find that the adverse impact of the proposed development arising from the unacceptable harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

Conclusion

20. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves

INSPECTOR