



Appeal Decision

Site visit made on 17 February 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th March 2025

Appeal Ref: APP/U1105/W/24/3349912

2 Lime Grove, Exmouth EX8 5NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Jake Huntley against the decision of East Devon District Council.
 - The application Ref is 24/0913/PIP.
 - The development proposed is a permission in principle for 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle, and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use, and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. The appeal has been considered on that basis.
4. Article 5B(1) of the Town and Country Planning (Permission in Principle) Order 2017 provides that permission in principle cannot be given for habitats development. This is defined as development that would likely have a significant effect on a European site or an offshore marine site, either alone or in combination with other plans or projects. The scheme would impact upon the Exe Estuary Special Protection Area (SPA) and the East Devon Pebblebed Heaths SPA and Special Area of Conservation (SAC). Accompanying the appeal was a Section 111 agreement and evidence of a contribution payment having been made to the Council which had been provided to address the second reason for refusal. This matter will be returned to below.
5. Two block plan drawings have been submitted with the appeal, both of which have been described as indicative (dwg Nos 2324.005.HUNTLEY.02SV and 2324.005.HUNTLEY.03SV), with the former having been submitted for the original application. The appeal has been considered on the basis of both these plans showing indicative layouts.

6. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024, and the comments of the main parties have been sought. Consideration has been given to those received in reaching the appeal decision.

Main Issue

7. The main issue in this case is whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

Reasons

Location, Land Use, and Amount of Development

8. The appeal site comprises the side garden and garage of 2 Lime Grove (No 2). This property is positioned upon a steeply sloping hillside and occupies a corner plot formed by the junction of Lime Grove with Spider's Lane. It is part of a large residential estate that has a distinctive appearance, due to the repeated heights, sizes and styles of houses, their construction from a limited palette of materials, and the concentrated grouping of similar house types together. Most of the houses along Lime Grove are semi-detached, and they are set back from the public highway behind similar sized, regularly shaped front gardens, and they form long, harmonious frames to either side of the road.
9. No 2 is at one end of the long row of houses to the southern side of Lime Grove. Despite being detached, this house maintains the planned cohesion of the estate. It continues the building line that exists along the road, and is constructed of similar materials to those nearby, as well as being of a similar size and height. In addition, the side garden to this property creates an open setting to the road junction, which is another repeated and distinct characteristic found throughout the estate.
10. There is no disagreement between the parties that the site is within the built-up area of Exmouth, and that future occupiers would be near to a variety of services, facilities and employment opportunities. The provision of an additional single dwelling within an existing residential area would be acceptable in this respect.
11. However, as with the other houses within corner plots in the estate, No 2 is set back away from the public highway. These side gardens create a deliberate planned openness to either side of the road junctions that enhances their visual and functional importance within the estate. Whatever the size of the dwelling, the presence of an additional building in such a location would appear conspicuously intrusive and incongruous as it would erode the open spacious nature of the road junction. A dwelling within the small side garden would result in a building being very close to the public highway with little open garden remaining, as evidenced by the indicative plans provided by the appellant.
12. Furthermore, the side garden of No 2 has been levelled, and any proposed dwelling would be elevated high above the level of Spider's Lane. Having regard to this and the loss of the openness to the road junction, a dwelling in this location would be an overbearing and dominating addition within the area. Given the prominence of the site and the slope of the hillside the loss of the open setting to the junction would be visible from long distances away. In an estate with a

distinctive, planned cohesion where the junctions have a deliberate spacious openness, a single dwelling in this position would disruptively erode this character and appearance.

13. Whether a detached dwelling or attached to No 2, in this particular location it would appear disruptively intrusive. Indicative drawings show a dwelling could be provided, but they also demonstrate that the narrow breadth of the side garden is such that whatever the form of dwelling, it would be noticeably very close to Spider's Lane. It might be the case that a two storey house could be provided along with external space to serve future and existing occupiers. However, a dwelling would dominate such a small plot, contrary to the grain of the estate, appearing conspicuously cramped and constrained, and prominently and unacceptably disrupting the planned cohesion of the estate.
14. The appellant has referred to 1A Lime Grove being an example of an infill plot. This house is on the opposite side of the road to the appeal site and has a generous side garden that has retained the open setting to the road junction that is such a distinctive feature of the estate. Furthermore, although it extends a pair of semi-detached houses into a terrace, in doing so it has replicated their size, form, materials and mass. Unlike the appeal scheme, this dwelling responds to its context, respecting the planned cohesion of the host buildings and that of the estate, and for these reasons it does not form a binding precedent for allowing the appeal.
15. Given these findings a single dwelling in such a location would have a significantly harmful impact upon the character and appearance of the area. This harm would conflict with Strategy 6 and Policy D1 of the East Devon Local Plan (2016) (LP), and also with Policy EB2 of the Exmouth Neighbourhood Plan (2019) (NP). As these seek, amongst other things development that would be compatible with the character of the site and its surroundings, that which respects the key characteristics and special qualities of the area in which the development is proposed, and that which would be mindful of surrounding building styles, the scheme would fail to accord with such objectives.

Other Matters

16. The site is within 10 kilometres of the Exe Estuary SPA and Pebblebed Heaths SAC and SPA. These habitat sites are of international importance. The Exe Estuary SPA is designated for its internationally important populations of birds, whilst the Pebblebed Heaths designations recognise the wet and dry heathland vegetation that supports a diversity of species and associated communities that include rare insects and birds. Natural England has advised that the estuary and the heaths are under significant pressure from increased public access and use, and that a net increase in the number of dwellings and occupiers in the area would have an adverse effect upon these important habitat sites and species.
17. LP Strategies 47 and 50 and the supporting South-East Devon European Site Mitigation Strategy (2014) (MT) seek to protect the habitat sites through requiring prevention, mitigation and compensation measures to maintain their integrity. All residential development within 10 kilometres of any part of the SAC and SPAs will be required to provide mitigation, and this can include through unilateral undertakings and Section 111 agreements.

18. Given the location of the scheme, future occupiers would be likely to visit the habitat sites, and this use would have an adverse effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment (AA) where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to occur with the appeal.
19. A Section 111 agreement has been provided with the appeal, although it has not been signed, nor is it linked in any way to the proposed development by an application or appeal reference or red-edged plan. Although the Council has confirmed receipt of a payment for the required contribution to provide for mitigation, the absence of a completed Section 111 provides a degree of uncertainty that the necessary mitigation would be secured. However, as the appeal is being dismissed for other reasons, the matter has not been pursued with the main parties and it has not therefore been necessary to undertake AAs.
20. Local residents have raised other matters, including on-street parking and access issues, as well as a loss of privacy and sunlight. Following the findings on the main issues, there is no need to consider these matters further.

Planning Balance

21. The appellant has drawn attention to the Council's lack of a 5 year housing land supply, citing a figure of 3.24 years. The provision of an additional dwelling in a location near to services, facilities, and employment, would be a modest benefit of the scheme. The Framework attributes great weight to the development of windfall sites within an existing settlement.
22. Weighing against these benefits would be the significant harm arising from the location of an additional home within a residential estate that would erode the area's distinct character and appearance. These harms weigh heavily against the proposal, as LP Strategy 6, LP Policy D1, and NP Policy EB2 are broadly consistent with the Framework, as the Framework also requires the provision of development that is sympathetic to local character.
23. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse impacts in this case amount to cumulative harm that significantly and demonstrably outweighs the modest benefits that accrue from the scheme, even the great weight deriving from the provision of a home that would make an effective use of land in a sustainable location. It follows that the presumption in favour of sustainable development does not apply.

Conclusion

24. There would be conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR