



Appeal Decision

Site visit made on 26 February 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/X1118/W/24/3353078

Land opposite Froude Arms, East Anstey, Tiverton, Devon, EX16 9JP

- 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 Lance Kingdon against the decision of North Devon District Council.
 - The application Ref is 77168.
 - The development proposed is outline application for proposed 2 x dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). The parties were asked to comment on the updated Framework in respect of this appeal. As part of these comments, the Council confirmed that they no longer seek to defend the reason for refusal, as they cannot demonstrate a five year housing land supply. The Council were subsequently asked to confirm the updated housing land supply figure, and this has been taken into account in my decision.

Procedural Matters and Main Issue

3. The application was submitted in outline form with the means of access, landscaping, layout and scale to be determined at this stage. The application is supported by limited details in respect of these matters. There are two submitted drawings, a landscaping drawing and an illustrative layout plan. The landscaping drawing shows ecological mitigation to the west of the site but does not propose landscaping on the appeal site and the layout drawing is labelled as illustrative. In addition, aside from the layout drawing, there are no further details of the scale of the proposed dwellings.
4. As a result, insufficient information has been submitted to consider the landscaping or scale of the proposed development. Notwithstanding the decision of the Council to no longer defend the appeal, I will proceed to determine the appeal based on the evidence before me. Given that the reason for refusal in the decision notice concerns the suitability of the site for market housing, this will be the focus of this decision.
5. The main issue is therefore whether the proposal would be a suitable location for two open market dwellings, having regard to the Council's spatial strategy.

Reasons

6. The appeal site is located in East Anstey which is identified in the North Devon and Torridge Local Plan 2011-2031¹ (NDTLP) as having no defined development boundary. As a result, policy DM23 of the NDTLP is relevant. This policy seeks to support residential development provided a site is located within the principal built form of the settlement, and it is not protected for any other use. Alternatively, the site must be well related to the main built form of the settlement and provide affordable housing in accordance with policy ST19 of the NDTLP.
7. In establishing whether a site is within the principal built form of the settlement, the Council refer to the North Devon and Torridge Local Plan Affordable Housing Supplementary Planning Document² (SPD). The SPD details that the starting point for establishing if a site is within a settlement should be to establish its contiguous built form. This should extend to the bounds of the substantive clusters(s) of buildings, their associated curtilage and any other developed land that collectively hold a strong physical relationship and sense of place.
8. The principal built form of East Anstey is set back but visible from the road that runs through the village, with the main cluster of buildings being north of the former Devon and Somerset Railway. The appeal site is positioned behind the recently approved three dwellings³, south of the former railway line, and as such would neither be visible from the road nor within the principal built form of the settlement. However, given its proximity to the road and other buildings, the site is well related to the settlement. As a result, to accord with policy DM23 the proposal would be required to provide affordable housing focused development.
9. Reference is made to the adjacent allocated site being within the principal built form of East Anstey. However, the evidence before me does not suggest this. In any event, policy DM23 is clear that schemes on allocated sites will be supported whether or not they are located within the principal built form of a settlement.
10. Policy ST07 of the NDTLP sets out the spatial strategy for North Devons Rural Area, it identifies East Anstey as a Schedule B Village where development will be enabled in accordance with the local strategy to meet local needs and growth aspirations. Alongside this, policy EAN of the NDTLP sets out the Spatial Strategy for East Anstey. Amongst other things, it seeks to reduce the average age of the population by the provision of affordable housing for young people with connections to the parish, with delivery through the provision of a minimum of 23 new dwellings to meet a range of housing needs in the local community.
11. Policy ST17 of the NDTLP emphasises the need for a balanced local housing market whereby tenure should reflect local housing needs. Additionally, policy ST19 seeks to promote affordable housing on exception sites where there is an identified need sufficient to justify the extent and nature of the proposed development. The Council have indicated that there is a need for affordable housing in this location, demonstrated in both the housing needs survey conducted in 2020 and the more recent Devon Home Choice in January 2024. As a result, the site would be required to provide affordable housing to reflect local housing need. This has been made clear to the appellant whom has been advised that the site

¹ Adopted October 2018

² Adopted July 2022

³ Reference 73012 approved in 2021 in accordance with a site specific Local Plan allocation (policy EAN01).

would be of a sufficient scale to accommodate two or three affordable homes with one open market dwelling, which would assist in meeting the identified local need.

12. Reference is made to a number of appeal decisions⁴ whereby sites have positively contributed to housing delivery. These examples are not comparable to the appeal scheme as in this case the spatial strategy identifies a specific requirement for affordable housing. As such the examples are not sufficiently comparable to the proposal to justify a permission.
13. Whilst the illustrative layout suggests that the proposed dwellings would be a modest size, that may be attractive to market, they are unlikely to be affordable to those in need of affordable housing.
14. For the reasons given above, the proposal would not be a suitable location for two open market dwellings, having regard to the Council's spatial strategy. It would therefore be contrary to policies ST07, EAN, DM23, ST17 and ST19 of the NDTLP. These policies amongst other things seek affordable housing on exception sites well related to a settlement and a balanced local housing market.

Other Matters

15. The appellant refers to pre application advice that was sought in 2022 which indicated that the principle of two open market dwellings would likely be acceptable. However, pre-application discussions are informal and would not influence any future decision the Council may make once a proposal has been subject to the formal planning process.

Planning Balance and Conclusion

16. The proposal would not be in a suitable location for two open market dwellings, having regard to the Council's spatial strategy and would fail to meet the identified local housing need. Substantial weight is afforded to this conflict.
17. The proposed development would provide two dwellings within easy walking and cycling distance of local services and facilities. This would make a small but useful contribution as indicated by paragraph 73 of the Framework, particularly given that the Council concedes it is unable to demonstrate a five-year supply of deliverable housing sites.
18. Paragraph 11(d) of the Framework is a relevant consideration as a result of the Council's housing supply. It indicates that in the circumstances of this case, 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.
19. Whilst the appeal proposal would create two additional properties, given the quantum of development and the Council's Housing land supply is 4.86 years and therefore just under the required provision, the benefits of the proposal are afforded moderate weight in favour of the development.
20. The proposal is contrary to five development plan policies which align with the aims of the overall aim of the framework to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.

⁴ APP/J1860/W/21/3289643, APP/D0840/A/13 2209757 and APP/A0665/A/14/2226994.

21. Taking all of the above into account, I consider that the harm identified in relation to the proposal not being in a suitable location for two open market dwellings, having regard to the Council's spatial strategy and failing to meet the identified local housing need, significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the Framework does not indicate in favour of the proposal. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
22. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR