
Appeal Decision

Site visit made on 19 August 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2025

Appeal Ref: APP/W1145/W/25/3362449

Land at Raleigh Hill, Northam, Bideford, Devon EX39 3NX

- 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 Darren Haime against the decision of Torridge District Council.
 - The application Ref is 1/0972/2023/OUT.
 - The development proposed is described in the application as “proposed dwelling”.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. The appellant has made an application for costs, which is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline with all matters reserved for later consideration. I have therefore dealt with the appeal on this basis and have treated any detail shown on the plans to be purely indicative. In that context, supporting information and plans attempt to demonstrate how the site could be accessed, though this nevertheless remains a reserved matter.
4. The Council changed the description of development to include reference to the outline and noted it would affect a public right of way. The appellant did not agree to this change in description. Nevertheless, I have determined this appeal on the basis that a single dwelling is proposed.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including trees;
 - biodiversity;
 - whether the site can be adequately drained; and
 - the effect of the proposal on highway safety.

Reasons

Character and appearance

6. The appeal site comprises a triangular wedge of densely vegetated land that fronts a narrow, steep, and characterful lane. A row of tall and impressive trees forms part of its frontage, the lower corner of which meets the entrance to a public right of way (PROW). This route is surrounded on both sides by trees and thick vegetation that make a positive contribution to its natural setting. Even if the appeal site area includes part of the PROW, it is conceivable that a scheme could be delivered in such a way as to avoid affecting the route.
7. The aforementioned trees make a significant contribution to the character of the area and are recognised as such, being part of a wider Tree Preservation Order grouping. The appellant queries the validity and timing of this designation, though this is a matter for the main parties. There are a number of properties upslope of the appeal site, though their setting is more urbanised due to the curve in the road and presence of other housing opposite them.
8. The appeal site is within the development boundary for the settlement as defined in the North Devon and Torridge Local Plan (LP) and also forms a small part of a wider allocation under LP Policy NOR09. Amongst other things, this policy supports the retention of wooded aspects of the large site, which provides for a required integration of green infrastructure. It is understood that a permission has been given for such a scheme and that the appeal site did not form part of it. Even so, its verdant setting adjacent to the footpath is part of the wooded area and has qualities the policy aims to preserve. Even with a newly planted native hedgerow adjoining the public footpath, the development would have an urbanising effect on this tranquil woodland setting. This would be likely to be exaggerated by the sloping nature of the appeal site rising above the footpath and would consequently not add to the overall quality of the area.
9. It is claimed that all trees fronting the highway are of poor quality with signs of early ash dieback. However, the appellant's arboricultural report highlights that only 2 of the trees are affected by the disease. Despite some having poor crowns, most have long life expectancies and are all in fair physical condition. Notably, there are trees within the group categorised as being of moderate quality and value whose retention is said to be desirable. Moreover, there is little to show these trees would have to be removed on highway safety grounds, or that they would be unlikely to survive on site for many years.
10. While access is a reserved matter, evidence has been provided to demonstrate how suitable visibility splays could be achieved. This indicates that the entire tree lined frontage would probably need to be removed. Accordingly, potential pressure from future occupiers to clear associated overhanging branches would not result. Even if it were possible to retain the frontage trees, there is sufficient space to site a property without this being a prohibitively restrictive constraint. Furthermore, having paid regard to site levels, a scheme could conceivably be advanced without significant excavation. However, the likely wholesale removal of the trees and hedgebank would irrevocably erode locally distinctive features and qualities found at the appeal site.
11. For the reasons given, I conclude on this main issue that the proposal would have a harmful effect on the character and appearance of the area, including trees. As a consequence, there would be conflict with LP policies ST04, DM04, DM08A, and NOR09 which, together in this respect, and amongst other things, require developments to maintain tranquillity in areas that are relatively undisturbed and

sympathetic to landscape features in the local neighbourhood, responding to the site's characteristics and its wider context.

Biodiversity

12. The appellant claims that no ecology report was requested during the application and that one would have been provided. While late in the process, the Council did however inform the appellant that in order to achieve the required visibility splays, more than 10m of trees would need to be removed, which could affect protected species, thus triggering the requirement for a suitable survey. No such survey accompanies this appeal.
13. The Planning Practice Guidance says that tree felling for development could affect a bat roost and that developers should submit information with their planning application on how their development proposal avoids and mitigates harm to bats. It adds that an ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate. Framework paragraph 193 says in this respect that when determining planning applications, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
14. Regardless of statutory requirements or otherwise for biodiversity net gain, without any survey of the relevant features, it is simply not known whether protected species are present and, if there are, whether mitigation measures would be appropriate. There is a further question concerning the implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
15. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposed development would be contrary to LP policies ST14 and DM08 which collectively seek to conserve biodiversity interests, avoiding adverse impacts on protected species.

Drainage

16. The Council is concerned that insufficient evidence has been submitted to demonstrate that existing rates of surface water runoff would be reduced within the Critical Drainage Area, as required by LP Policy ST03. While the removal of trees, hedgebank and site works could affect surface water runoff, the anecdotal evidence presented by the Council does not convincingly demonstrate that this would be inevitable. The Council's officer report highlights that in some circumstances the Environment Agency has required attenuation to control runoff and that these details should be required by condition. In the absence of any compelling evidence to the contrary, I find no reason to disagree.
17. I therefore conclude on this main issue that the scheme could be adequately drained. As such there would be no conflict with LP Policy ST03 in this regard.

Highway safety

18. The fairly steep access lane adjoining the appeal site is near a bend. It is narrow in places with no pavements, in an area where street lighting is limited. However, the presence of the adjoining public footpath, which appeared to be well used, means

pedestrian or cyclist activity along this lane would not be unusual. My observations are that these conditions are likely to encourage drivers of vehicles to proceed in either direction with a certain degree of caution.

19. In order to address the concerns of the Highways Authority, speed tests were carried out showing average speeds around 23mph. This seemed to me to be a fair reflection of movements at the time of my visit. While these were recorded fractionally downslope of the appeal site, they nevertheless give a reliable representation of movements where a new access would be required. Given the low speeds recorded, shorter visibility splays were presented to the Council in accordance with established guidance. The Highways Authority agreed that, subject to conditions, the assessment and visibility splays would result in a safe and suitable access.
20. While conditions for pedestrians and cyclists are sub-optimal, for the reasons given above, there is no compelling evidence that any such impacts would be unacceptable. There would consequently be no conflict with Framework paragraphs 115 or 116 in this respect.
21. I therefore conclude on this main issue that the proposal would not be likely to have a harmful effect on highway safety. Accordingly, there would be no conflict with LP Policy DM05 which aims to ensure developments include a safe access, considering the needs of all highway users.

Other Matter

22. The Council cite conflict with LP Policy DM01 in respect of overshadowing from trees, though I have set out above that the pressure to remove or fell trees relates to matters of character and appearance rather than living conditions.

Conclusion

23. Bringing together my conclusions on the main issues I have found the proposal would not cause harm to highway safety and could be adequately drained. In addition, the social benefits of housing delivery carry significant weight, although these are tempered by the fact that the dwelling would make a very modest contribution to the Council's housing supply. The scheme would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. However, this would not outweigh the harm to the character and appearance of the area and biodiversity.
24. For the reasons above, I conclude that the proposed development fails to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR