



# Appeal Decision

Site Visit made on 7 September 2021

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 September 2021**

---

**Appeal Ref: APP/X1118/W/21/3276698**

**Land adjacent to New Barnstaple Road, Ilfracombe, Devon EX34 9PS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr Christopher Copner against the decision of North Devon District Council.
  - The application Ref 72380, dated 16 October 2020, was refused by notice dated 12 January 2021.
  - The development proposed is a dwelling.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (the PPG) 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 (technical details consent) stage, 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<sup>1</sup>. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. A proposed block plan has been submitted showing how a dwelling could be located on the site. However, it is labelled as indicative, and I have treated it as such, because the application only relates to the principle of the proposed development.
5. During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). The Framework represents the Government's up-to-date planning policies for England and how they should be applied. The Council's reasons for refusal refer to paragraphs 108, 109, 127 and 196, which have been re-numbered 110, 111, 130 and 202 in the revised version. The appeal timetable has allowed both parties the opportunity to make comments relating to the updated Framework.

---

<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

## **Main Issue**

6. The main issue is whether the site is suitable for a dwelling, having regard to its location, the proposed land use, and the amount of development.

## **Reasons**

7. The appeal site forms part of a roughly triangular area of undeveloped land, which is partly enclosed by a right-angle bend in New Barnstaple Road. The land slopes steeply down from the road to a watercourse that runs in the valley bottom. The land is surrounded by housing and lies within the Ilfracombe development boundary. Within this boundary, residential development proposals accord with the settlement strategy set out in Policy ST06 of the North Devon and Torrington Local Plan 2011-2031 (Adopted 2018) (the Local Plan). However, the spatial vision and development strategy for the town (Policy ILF of the Local Plan) includes conserving and enhancing its townscape quality and identity, reinforcing its distinctive character and sense of place, and respecting its landscape setting.
8. The land does not form part of a heritage asset, and does not lie within a designated landscape. Nevertheless, when seen from the bend in the road to the south of the site, it provides the green foreground in a characterful view to the sea, and the coastal headland that wraps around and above the buildings at the bottom of the valley. It is, therefore, a constituent part of a visual link between the built-up part of the town and its coastal landscape setting.
9. The land also features in views into the town, from the coastal headland and South West Coast Path at Hillsborough, to the north east. From here it is seen in conjunction with the sloping fields behind Westminster Villas, and the green hills beyond the southern edge of the town. These green swathes of land are important to the distinctive character of the settlement, as they break up the urban form, and provide visual links to the coastal landscape setting of the town.
10. The appeal site comprises a relatively small portion of this green wedge, at its southern extremity. It is contended that, due to the topography, and mature trees to the east boundary, this part of the site is not prominent from public viewpoints. However, it is visible from Hillsborough, and also from Gipsy Lane, over a gateway opposite Laston House. From both of these viewpoints, a dwelling on the site would appear as an intrusive feature in this undeveloped swathe of land, and would weaken the visual link between the green wedge and the hills to the south. The development would not, therefore, be respectful of the landscape setting of the town.
11. Much of the site is significantly below road level, and there is a stone wall along the road frontage. From some vantage points, therefore, a low-level dwelling could be concealed from view. However, the wall is only about 1.5 metres in height, so a dwelling would be readily evident to passing pedestrians. Furthermore, there are railings in the wall on the bend in the road, which allow views through the site, and across the wider green wedge, to the coast beyond. A dwelling on the site would either block these views, or form a prominent feature in the foreground. Either way, the visual link from within the town to its coastal landscape setting would be significantly diminished.

12. I therefore find that the absence of development on the site contributes positively to the role played by the larger area of undeveloped land in forming the distinctive character of the town. Consequently, a dwelling in this location would not conserve townscape quality and distinctiveness, or respect its landscape setting. The proposal would, therefore, be contrary to Policies ILF, ST14 and DM04 of the Local Plan. These policies seek, amongst other things, to ensure that development conserves and enhances Ilfracombe's distinctive character and landscape setting, and reinforces the key characteristics and special qualities of the area.
13. Paragraph 159 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided, by directing development away from areas at highest risk. The PPG clarifies that the aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3)<sup>2</sup>. The evidence indicates that the site lies within Flood Zones 2 and 3. Consequently, the sequential test set out in the Framework should be applied to the proposal, and paragraph 162 advises that development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding.
14. The PPG identifies that it is the local planning authority's responsibility to consider if the sequential test has been satisfied, informed by evidence from the developer<sup>3</sup>. The Council's evidence indicates that other sites are available in the locality outside Flood Zones 2 and 3. No contrary evidence has been provided to demonstrate that this is not the case. Furthermore, I have no evidence to establish that the dwelling could be accommodated within a part of the site that lies in Flood Zone 1. Therefore, based on the evidence before me, I cannot safely conclude that the sequential test has been passed.
15. It is suggested that a Flood Risk Assessment and details of the proposed means of drainage could be submitted as part of a subsequent application for technical details consent. However, the Framework and PPG state that the exception test should only be applied if it is not possible for the development to be located in an area with a lower risk of flooding. As this has not been demonstrated, I conclude that the proposal fails the sequential test, and is therefore unacceptable, in principle, on flood risk grounds. The location of a dwelling on the site would, therefore, be contrary to Policy ST03 of the Local Plan, which seeks to avoid the development of land for vulnerable uses which will be at risk from flooding. It would also be contrary to the advice on planning and flood risk in Section 14 of the Framework.
16. Laston House, a Grade II listed building, borders the wider site to the north. I have a duty, under Section 66(1) of the Listed Buildings and Conservation Areas Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. Whilst it is suggested that the land was once linked with the listed building, there is no longer any physical or functional association. It lies on the opposite side of Gipsy Lane beyond a dense hedgerow, so there is little intervisibility between the site and the listed building. In long views from Hillsborough, however, it is seen against the backdrop of the green wedge, which is

---

<sup>2</sup> PPG Paragraph: 018 Reference ID: 7-018-20140306

<sup>3</sup> PPG Paragraph: 034 Reference ID: 7-034-20140306

important to its setting. As the proposed dwelling would be approximately 100 metres away, the listed building would still be appreciated in a degree of isolation, albeit that there is other relatively recent development much closer, in Larkstone Crescent. Overall, I find that the distance and physical separation between the site and Laston House is such that, in principle, a dwelling in this location would not harm the setting of the listed building. In this regard the proposal would accord with Policies ST15 and DM07 of the Local Plan, which seek to conserve and enhance heritage assets and their settings.

18. The provision of a vehicular access to the site, with suitable visibility for traffic emerging onto the B3230 would be likely to require some realignment of the roadside boundary wall. Furthermore, the steeply sloping nature of the site dictates that changes in ground levels would probably be necessary to accommodate the construction of a dwelling. This could have ramifications for the stability of the wall that retains the highway. Detailed information has not been submitted to demonstrate how any of these matters would be resolved. However, the PPG advises that only 'in principle' matters should be considered at the permission in principle stage, and other matters should be considered at the technical details consent stage. Consequently, in the context of this appeal, the lack of information on these matters is not contrary to Policies ILF, ST10, DM04 or DM05 of the Local Plan.

### **Conclusion**

19. I have found that a dwelling on the site would not, in principle, harm the setting of the listed building. Furthermore, I have concluded that the provision of detailed information relating to the design of the access, and the impact of the development on the stability of the roadside wall, are not necessary at permission in principle stage.
20. However, these findings do not outweigh the harm that a dwelling would have, in principle, on townscape quality and distinctiveness, and on flood risk.
21. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR