



Appeal Decision

Site visit made on 1 December 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2021

Appeal Ref: APP/W1145/W/21/3273230

Oaklands Park, Road From Branches Cross To Woodacott Cross, Woodacott Cross EX22 7BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Barbara Hunter against the decision of Torridge District Council.
 - The application Ref 1/1151/2020/OUT, dated 10 December 2020, was refused by notice dated 18 February 2021.
 - The development proposed is 1 to 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline, with all matters reserved, and I have dealt with the appeal on that basis.
3. The Council's reasons for refusal refer to paragraphs 11, 78, 108 and 110 of the National Planning Policy Framework (2019). During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). In the revised version some of these paragraphs have been renumbered, but they otherwise remain largely unaltered. The appeal timetable has allowed both parties the opportunity to make comments relating to the updated Framework.

Main Issues

4. The Council's third reason for refusal related to the lack of evidence to demonstrate that the buildings on the site do not provide a habitat for protected species. An Ecological Impact Assessment was submitted with the appeal, which concluded that the buildings do not provide a suitable habitat for bats, and no nesting birds were present. Consequently, the Council has confirmed that the third reason for refusal on the decision notice has been overcome.
5. Therefore, the main issues are:
 - a) Whether the site is suitable for 1 to 2 dwellings, bearing in mind the settlement policies of the development plan and the accessibility of services and facilities; and,
 - b) Whether suitable foul drainage could be provided to serve the development.

Reasons

Settlement policies and accessibility of services and facilities

6. The settlement strategy for the area is set out in the North Devon and Torridge Local Plan 2011–2031 (adopted 2018) (the Local Plan). It directs most new development to northern Devon’s Sub-regional Centre, Strategic Centre, and Main Centres. Policy ST07 addresses the spatial strategy for the rural area, where Local Centres will be the primary focus for development. Lower in the hierarchy, in Schedule B Villages, development is enabled in accordance with the local spatial strategy. At the bottom of the hierarchy are Rural Settlements, which contain at least one prescribed service or community facility, where appropriately located development of a modest scale will be enabled to meet locally generated needs.
7. Paragraph 4.15 of the Local Plan clarifies that the prescribed services that are necessary to qualify as a Rural Settlement are a community/village hall, post office, public house, convenience shop, place of worship, sports playing field, or primary school. Although there is a cluster of dwellings and a small holiday park, the evidence indicates that Woodacott Methodist Chapel closed in 2018. Consequently, and notwithstanding that there are proposals for a new village hall in the area, there are currently no public services. Woodacott is not, therefore, a Rural Settlement for the purposes of Policy ST07.
8. The Local Plan Glossary defines the countryside as the area beyond development boundaries, as identified on the Policies Map; the principal built form and sites allocated for development in defined Settlements without development boundaries; and Rural Settlements. The appeal site therefore lies in the countryside for the purposes of the Local Plan. In the countryside, Policy ST07 limits development to that which is enabled to meet local economic and social needs, rural building reuse, and development which is necessarily restricted to a countryside location.
9. Apart from the appellant’s desire to provide an opportunity for members of her family to reside here, there is no evidence that the proposal would meet local or economic and social needs, such as the provision of affordable housing in perpetuity. The proposal does not involve the re-use of the existing buildings on the site, and no exceptional circumstances have been advanced to demonstrate that the development necessarily requires a countryside location. Consequently, the development would conflict with the spatial development strategy set out in Policy ST07 of the Local Plan.
10. The appeal site lies on the northern edge of a cluster of dwellings, so is not isolated from other buildings. It does, however, lie a considerable distance from any public services and facilities. The nearest primary school is approximately 2¾ miles away by road, whilst the nearest public house, at Brandis Corner, is at a road distance of about 3¾ miles. The appellant accepts that most employment, shopping, and leisure needs for the occupants of the dwelling would need to be met elsewhere. The closest settlement where these services could be obtained is Holsworthy, approximately 3½ miles away by road.
11. Access to these services would be via narrow, unlit lanes with no segregated footways or cycle paths. Consequently, it is unlikely that occupants of the development would regularly access these facilities by foot or bicycle. The

evidence indicates that Woodacott is only served by a weekly bus service, with the nearest regular service being two miles away at Holsworthy Beacon. Whilst there is also a community ring and ride bus, I am not persuaded, on the available information, that bus services would be sufficiently accessible or regular to provide occupants with a reliable means of reaching facilities that are necessary for daily life. Consequently, the residents of the development would be heavily dependant on the use of the private car.

12. I am mindful that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. I have also had regard to the appeal decisions that the appellant has drawn to my attention in this respect. However, on the limited information available, neither would appear to be directly comparable. The Tiptree decision¹ appears to relate to a site that was closer to a large settlement, and where the Inspector noted that there was "*a limited range of local services nearby*". The site at Bucks Cross² lies on an A road, within 500 metres of a Schedule B Village that has a shop, post office and regular bus services. In both cases, therefore, day to day services would be more accessible to occupants of the developments.
13. By contrast, residents of the appeal proposal would be at a considerable distance from any services, and heavily reliant on long private car journeys for everyday needs. The inaccessibility of the site to services and facilities makes it unsuitable for the development. Consequently, the proposal would be contrary to Policies ST10 and DM06 of the Local Plan, which seek to reduce the need to travel by car, and to encourage the use of sustainable modes of transport. The proposal would also conflict with the Framework's aim to promote sustainable transport.

Foul drainage

14. The site lies in a rural location, and the evidence indicates that there are no mains foul water drains in the locality. It is not unusual for dwellings in such locations to be served by non-mains foul drainage solutions. The submitted foul drainage assessment form indicates that a private system, with soakaway drainage, would be used. The appellant controls a large area of agricultural land to the north of the appeal site which could be used for this purpose. Whilst percolation tests have not been provided, there is no evidence to suggest that a suitable means of disposal could not be achieved within the extensive area of land available.
15. Even if satisfactory percolation tests could not be demonstrated, I have no reason to doubt that a cesspool could be accommodated within the appeal site, or on the adjacent land. Whilst this is the least favoured option in the foul drainage hierarchy, it is, nevertheless, not prohibited.
16. In view of the extent of the land within the appellant's control, and the range of technical solutions available for dealing with foul drainage, I have no reason to doubt that this matter could be adequately addressed at reserved matters stage. Therefore, had I been minded to allow the appeal, it would have been reasonable to impose an appropriately worded planning condition, to ensure that a suitable system of foul drainage was in place, prior to occupation of the

¹ Appeal Ref: APP/X1545/W/15/3038219

² Appeal Ref: APP/W1145/W/20/3258520

dwelling(s). This would have ensured that the development met the requirements of Policy DM02 of the Local Plan regarding environmental protection.

Other Matters

17. The Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites. Where such a shortfall of housing land arises, Policy ST21 (2) of the Local Plan sets out the location and scale of proposals for additional residential development outside of defined settlement limits that would be supported. Paragraph 7.65 of the supporting text indicates that it is expected that such sites will normally adjoin development boundaries or the principal built form of defined settlements.
18. Considered against the requirements of Policy ST21 (2) (a), the site is not in a location that is suited to new housing, due to its inaccessibility to everyday services by sustainable transport options. Furthermore, the proposal is modest, at one or two dwellings, so would not make a significant contribution to the shortfall. Nevertheless, the appellant has indicated a willingness to accept reduced timescales for implementation of the development, and there are no obvious impediments to its delivery, so it could help to address the shortfall in a timely manner, as required by ST21 (2) (b).
19. In terms of ST21 (2) (c), the proposal would not be consistent with the spatial vision and strategy of the Local Plan, as it would involve residential development in the countryside, without any overriding justification. Whilst it would be modest in scale, it would be a significant distance from any recognised settlement in the hierarchy, so the conflict with the spatial strategy would be marked.
20. It is not contested by the Council that the development would preserve the character and appearance of the area, and would not harm biodiversity. I have concluded that foul drainage details could be controlled through a planning condition. Consequently, in consideration of criterion ST21 (2) (d), the proposal would accord with other Local Plan policies. Nevertheless, the conflict with the spatial strategy, and the unsuitable location of the site with regard to sustainable transport options, means that the development would, overall, be contrary to Policy ST21 (2) of the Local Plan.

Planning Balance

21. I have found that the proposal would conflict with the spatial strategy of the Local Plan, and with its policies that seek to reduce the use of the private car. It would also be contrary to Policy ST21, which seeks to accelerate the delivery of housing in appropriate locations if a shortfall arises. However, as the Council cannot currently demonstrate a five-year supply of deliverable housing sites, Paragraph 11 d) of the Framework advises 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.
22. The Local Plan dates from 2018, but the weight to be attached to it does not hinge on its age. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Paragraph 79 of the Framework says that, to

promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. I see no fundamental conflict between these aims and the strategy of Policy ST07 of the Local Plan, which directs rural housing growth to a hierarchy of Local Centres, Schedule B Villages, and Rural Settlements, where community facilities are present. The conflict between the proposal and the spatial strategy of the development plan should, therefore, be given significant weight in this appeal.

23. The Framework has an environmental objective of moving to a low carbon economy, and Section 9 promotes sustainable transport. Policies ST10 and DM06 of the Local Plan are in general accordance with these aims so, again, should continue to carry significant weight in my decision.
24. Set against the harm that I have identified, there would be benefits associated with the development. It would support the Framework's objective of significantly boosting the supply of homes as set out at paragraph 60. The proposal would also provide economic benefits through the creation of employment during the construction process, and the future spend of residents in the local economy. However, as the proposal is only for one or two dwellings, these benefits would be limited. Furthermore, its position away from any settlement with public services means the development would not be located where it would readily enhance or maintain the vitality of the rural community.
25. The benefits of the development are limited. Consequently, when assessed against the policies in the Framework taken as a whole, they are significantly and demonstrably outweighed by the harm to the settlement strategy and the increased reliance on private transport. The advice at paragraph 11 d) does not, therefore, indicate that my decision should be otherwise than in accordance with the development plan.

Conclusion

26. 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