The Planning Inspectorate

Appeal Decision

Site visit made on 21 June 2016

by Robert Gully MEng CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 July 2016

Appeal Ref: APP/W1145/W/16/3147166
Land at Woodacott, Woodacott Cross, Woodacott, Holsworthy, Devon EX22 7YG

- 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 Andy Pett against the decision of Torridge District Council.
- The application Ref 1/0805/2015/OUT, dated 19 June 2015, was refused by notice dated 13 October 2015.
- The development proposed is a dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a dwelling at Land at Woodacott, Woodacott Cross, Woodacott, Holsworthy, Devon EX22 7YG in accordance with the terms of the application, Ref 1/0805/2015/OUT, dated 19 June 2015, subject to the following conditions:

    1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

    2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

    3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

    4) The development hereby permitted shall not begin until full details of the means of disposal of the surface water have been submitted to and approved in writing by the local planning authority. The agreed details shall be implemented prior to the development being first occupied and shall thereafter be retained as such.

Preliminary Matter

2. The appeal relates to an application for outline planning approval with all matters reserved.

Main Issues

3. The main issues are:

   - whether or not occupants would have adequate access to services; and
   - the effect on the character and appearance of the area.

4. Whilst Torridge District Council did not identify the effect on character and appearance as a reason for refusal, I note that Thornbury Parish Council and some interested parties have raised objections on this matter generally. The effect on character and appearance is also a main criterion of the Local Plan policy referenced by the Council in this case. In light of the above, I have considered this matter as a main issue since it weighs in the planning balance.

Reasons

5. Policy DVT2C of the Local Plan[1] addresses development in the countryside away from the villages. The appellant acknowledges that Woodacott is not within one of the named villages, which would otherwise mean that this policy should not apply. Whilst the appellant argues that Woodacott lies within the same parish as Thornbury, which is a named village in the policy, it is physically separate from it by some distance and I find this to be determinative in this case as to whether DVT2C applies. Criterion (2) of Policy DVT2C requires that development should comprise one of 4 types of development. The proposal would not constitute one of these forms and hence would be contrary to the policy in this respect.

6. However, the Council state that they cannot identify a 5 year supply of deliverable housing land. Therefore, paragraph 49 of the National Planning Policy Framework (the Framework) applies, where policies related to the supply of housing land should not be considered up-to-date. Policy DVT2C seeks to restrict development outside named settlements and on this basis I consider it to be a policy controlling the supply of housing land in this case. Paragraph 14 of the Framework, in respect of the presumption in favour of sustainable development, therefore applies. I return to this matter later in my decision.

Access to services

7. Woodacott is a relatively coherent hamlet located a few miles from the rural centre of Holsworthy which offers a broad range of shops and services, including a secondary school. Woodacott does not possess facilities that could meet day-to-day needs. However, the relationship between Woodacott, the primary school at Bradford and the extensive services offered in Holsworthy is not substantially different to that of Thornbury or the other hamlets in the area which I saw on my visit. Furthermore, paragraph 34 of the Framework accepts that the minimisation of travel and the maximum use of sustainable transport should be focussed on developments that generate significant movements. This paragraph also notes that decisions on such matters also need to take account of policies set out elsewhere in the Framework, particularly in rural areas. The appeal site would be afforded access to a substantial range of facilities approximately a 10 minute or so drive away and, as a single dwelling, would result in limited travel movements.

[1] Torridge District Local Plan 1997 – 2011, adopted 2004

8. It is highly unlikely that the daily bus service from Holsworthy Beacon would provide a viable travel option given the distance to it from the appeal site. However, some sustainable transport opportunities to reach key facilities would be provided by the school bus, weekly public bus, community ring-and-ride service and cycle route connections.

9. Overall, I conclude that the occupants of the appeal site would be afforded adequate access to services. However, I acknowledge that the generation of private car travel movements is a matter to be weighed in the planning balance.

10. Paragraph 55 of the Framework specifically addresses development in rural areas and states that new isolated homes in the countryside should be avoided, unless they satisfy certain special circumstances. In light of my conclusion above, and the appeal site's location adjacent to domestic residences on two sides in an established hamlet, I find that the appeal site would not be isolated and the special circumstances set out in paragraph 55 would not apply.

11. Furthermore, I find that the proposal would provide the opportunity to make a small but material contribution to rural vitality in support of existing services, such as transport and education, including those outside Holsworthy. In this respect paragraph 55 of the Framework does not suggest that development should be restricted.

12. The Council reference appeal cases at Bucks Cross[2] and Fairy Cross[3] to support their argument that the site lies in an unsustainable location. In the former the Inspector's decision to refuse against Local Plan Policy DVT2C was based on the character and appearance of the proposal rather than its location relative to services. He found that the site was not isolated despite appearing visually distinct and divorced from the settlement on a site comprising an agricultural field. The effect on character and appearance is addressed in my next main issue and is not comparable to this case. In the latter appeal the case related to the conversion of an outbuilding adjacent to a dwelling which itself did not lie on the edge of either of its nearby settlements. In this respect the Inspector found the site to be isolated and therefore that it was required to demonstrate the special circumstances set out in paragraph 55 of the Framework, and the similar requirements in Policy DVT2C. In this respect the case is not comparable. However, as set out above, my consideration of private car use weighs in the planning balance, as it did in the Fairy Cross case.

Character and appearance

13. The appeal site lies on the periphery of the hamlet of Woodacott and is bounded on all sides by established vegetation. A footpath runs adjacent to its western boundary, whilst the opposite boundary abuts the large domestic grounds of an existing property Frogapool. To its north lies Woodacott Cottage and the nearby Old Post Office, with the rest of the hamlet lying beyond and predominantly fronting the public highway.

14. Although the appellant argues otherwise, on my visit the appeal site appeared to be put to non-domesticated use and could not reasonably be considered as 'long time brownfield'. However, the site was clearly distinguishable from the open agricultural countryside to the south and west and showed some evidence

[2] APP/W1145/W/15/3020553
[3] APP/W1145/W/15/3139917

of former use to keep small livestock. Walking along the adjacent public right of way the sense of being at the edge of the village was very evident. This character was reinforced by the substantial continuous vegetation along the village side of the footpath, including that bounding the appeal site. Glimpses of domestic use are available from the footpath, over the hedgerow near the property Phyllen and along the lane which runs to the north of the appeal site.

15. The planning application was for outline permission with all matters reserved and the appellant has provided a site plan for illustrative purposes only. However, the application boundary shown on the submitted Location Plan on drawing 0616 01 C would constrain the location of the site access to the northwest corner on the northern boundary. This would require the removal of some existing hedgerow and create some visibility of the urbanisation of the appeal site, altering its existing rural character. However the north-south continuity of the hedgerow running along footpath would be preserved. Furthermore, a suitable layout and landscaping scheme could be controlled at reserved matters stage such that the residential nature of the site would be relatively unobtrusive, even where the opening is created for access. In this respect the proposal would represent an extension of the glimpsed residential character along the initial length of the footpath from the highway, and not impinge on the appreciation of open countryside on the other side.

16. On my visit I also viewed the appeal site from the public highway some distance to the south and found that the lie of the land and existing boundary vegetation would afford good screening. The enclosure and limited visibility of the site from this direction would mean that the proposal would not be seen from there as an incongruous extension towards or into the open countryside. Adequate control over retained and future landscaping would be available at reserved matters stage to ensure that this remains the case.

17. Overall, the proposal would cause some localised harm to character and appearance seen from a short length of the public right of way. However, this harm would not be significant.

18. On the basis of the above, I conclude that the appeal proposal would cause some localised harm to character and appearance of the settlement, but not to the surrounding countryside. Therefore, the proposal would detract from the character and appearance of the area to the extent that it would be contrary to criterion (1) of Policy DVT2C.

Other Matters

19. The Council identified a second reason for refusal in respect of their statutory duties in relation to wildlife. However, the appellant included a Wildlife, Geology or Invasive Species Report checklist with the planning application which indicates that a wildlife report is not required. The Council does not dispute the checklist. A short length of hedgerow would be removed to facilitate access and the somewhat overgrown site would be cleared. However, there is nothing substantive in the Council's submission to lead me to conclude that there is a reasonable likelihood of protected species being present and that there is a risk of them being adversely affected by the proposal.

20. I note a number of other matters raised by interested parties. There is no evidence to suggest that the works to install services would be anything other than temporary and of limited effect. If services are installed above ground

then their scale and appearance to serve a single dwelling would be unlikely to result in material harm to character or the outlook of nearby occupants.

21. Access is a reserved matter such that adequate control would be available to the Council to achieve satisfactory arrangements during construction and to preserve the rural nature of the access. The movements of occupants associated with a single dwelling would be infrequent and low speed, and the separation to existing dwellings sufficient, such that the amenity of neighbouring occupants would not be materially harmed. Furthermore, the length of the track, its frequency of use and low speeds would be unlikely to result in conflict with other users, whether on foot or in a vehicle. I note that the Council's consultation with Devon County Council on Public Rights of Way did not raise concerns in this regard. The reserved matters stage would provide adequate control of turning arrangements to ensure safe access and egress. Precedent is rarely a compelling reason for withholding permission and the potential for any future development or change of use would be for consideration as a separate proposal on its own merits.

Planning balance

22. I have found that the proposal would be contrary to criteria (1) and (2) of Local Plan Policy DVT2C. However, as set out earlier in my decision, I have found that Policy DVT2C is one related to housing supply and should not be considered up-to-date. Furthermore, part (2) of the policy is significantly more restrictive than paragraph 55 of the Framework regarding homes that are not isolated. In this respect the policy does not accord with the Framework. Considering the provisions of paragraphs 49 and 215 of the Framework regarding out-of-date policies, I afford Policy DVT2C limited weight in this decision.

23. Where the relevant Local Plan policy is out-of-date, paragraph 14 bullet 4 of the Framework requires that permission is granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. The provision of a new dwelling in a district with a lack of demonstrable housing supply weighs in favour of the proposal. I have also found that the proposal would provide adequate access to services for occupants, with limited traffic generation, which I note is not a primary concern of the Framework on smaller schemes. I have identified some impact on character and appearance, but this would be limited and localised. I therefore find that the benefits of the appeal proposal are not significantly and demonstrably outweighed by the adverse impacts and it would therefore constitute sustainable development. The application should therefore be granted permission according to the Framework.

Conditions

24. I have imposed standard conditions relating to the outline nature of the application. However, a condition referring to the approved plans is not necessary as all the details are reserved. Furthermore, I have not imposed the Council's suggested conditions on landscaping, access, parking and manoeuvring as these would also be controlled adequately within the reserved matters application. I have imposed a condition relating to surface water drainage disposal to ensure that an adequate system is implemented and retained. Details of the drainage scheme are required to be agreed prior to commencement as surface water drainage is integral to the layout of the scheme and cannot be altered easily once construction commences.

Conclusion

25. Although the proposal would be contrary to Local Plan policy DVT2C, this is outweighed by the presumption in favour of the appeal proposal, in light of my finding that it would constitute sustainable development.

26. I therefore allow the appeal subject to conditions.

R Gully

INSPECTOR