The Planning Inspectorate

# Appeal Decision

Site visit made on 10 May 2017

**by Andy Harwood CMS MSc MRTPI**

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

**Decision date: 21 June 2017**

**Appeal Ref: APP/W1145/W/17/3168734**
**Chestnut, Road from Graddon Cross to Chilla Methodist Church, Chilla, EX21 5XE**

- 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 Mr and Mrs Tony and Christine Madge against the decision of Torridge District Council.
- The application Ref 1/1110/2016/OUT, dated 4 November 2016, was refused by notice dated 10 January 2017.
- The development proposed is a single storey dwelling.

## Decision

1. The appeal is allowed and planning permission is granted for a single storey dwelling at Chestnut, Road from Graddon Cross to Chilla Methodist Church, Chilla, EX21 5XE in accordance with the terms of the application, Ref 1/1110/2016/OUT, dated 4 November 2016, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The proposal is made in outline form with all matters reserved for future consideration. The submitted plans show a possible position for the proposed dwelling and that the existing driveway will be utilised although these are illustrative of one particular way of developing the site. I will however consider the proposal on the basis that a single storey dwelling is proposed as that is explicitly set out within the description of development.

3. Following my site visit, the *Supreme Court Judgment of Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council* was issued. The Council and the appellant have been given an opportunity to comment upon any implications for the present appeal.

## Main Issues

4. The first is the suitability of the site for residential development with particular regard to the accessibility of the location. The second is the effect of the proposal upon the character and appearance of the area. The third is, taking account of local housing needs, whether any adverse impacts would significantly and demonstrably outweigh any benefits (the planning balance).

## Reasons

*Accessibility*

5. There is no disagreement between the main parties that the appeal site is outside of a recognised settlement as defined within the Torridge Local Plan[1] (LP). LP Policy DVT2C refers to the countryside as being away from villages and sets out the types of development allowed there. The appeal site is within a group of buildings. It has The Chestnuts on one side and a field on the other. The opposite side of the road includes a line of bungalows.

6. The site and these neighbouring dwellings are around 2km according to the Council and 1.2 miles according to the appellant, from the nearest settlement, Halwill Junction. That settlement includes a good range services. Closer than that to the site is a Methodist Chapel, as recognised in the address of the site and that is the only facility that I could see that is within a reasonable walking distance from the site.

7. There may be times when it is a pleasant walk to the chapel and possibly even further into Halwill Junction. I have no information about the regularity of any bus or coach services. However given the nature of the roads which are rural, without street-lighting or any significant stretches of footpaths, during the hours of darkness and within poor weather conditions, prospective residents would rely upon the use of private vehicles to reach most everyday services and facilities such as schools, pubs, shops or places of employment.

8. I have been referred to 2 other appeals by the appellant. One of those relates to a site in Essex (Appeal 1: APP/X1545/W/15/3038219) which although not close to the appeal site, is in a rural location. The other relates to a site within Torridge District at Woodacott Cross (Appeal 2: APP/W1145/W/16/3147166) which is also in the countryside for the purposes of the LP and where the proposal was contrary to LP Policy DVT2C.

9. In appeal 1, the Inspector states that a realistic approach is necessary where sites are in rural areas where residents are generally more likely to be reliant upon private transport to travel to work, shops or services. I agree with this as a matter of principle as it echoes what is said within paragraph 29 of the National Planning Policy Framework (the Framework). This states that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. I have little additional information about that appeal but take it into account as far as it sets out this principle.

10. In relation to Appeal 2, again, I do not have much information about that proposal but it includes the consideration of a site in a rural hamlet within the same district. The Inspector in that case considered that the site was within a 10 minute or so drive away from a substantial range of facilities. I agree with the Inspector and his consideration of paragraph 34 of the Framework in particular. This states that decisions should ensure developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The same paragraph also says that this needs to take account of other policies in the Framework particularly in rural areas.

[1] Torridge District Local Plan, adopted September 2004

11. Although residents of a dwelling on the appeal site would rely upon vehicle use, a single dwelling is unlikely to create a significant number of traffic movements and many of the day to day facilities will be a short drive away. Taking this paragraph together with paragraph 55 of the Framework, I do not consider that the site is isolated from other dwellings or that this location would be significantly isolated from day to day services given the rural nature of the community.

12. In relation to the first main issue, this is an accessible location by rural standards. Notwithstanding that conclusion, the proposal is within the countryside and is not a type of development complying with those that LP Policy DVT2C accepts. This policy also requires an assessment of the effect upon character and appearance to which I will now turn.

*Character and appearance*

13. The appeal site is part of the garden to the south-western side of The Chestnut. At the moment, the site is set behind a robust roadside hedge that leads along the frontage of the site. The surface of the site is laid to grass which is gently sloping, manicured and subtly landscaped. The site is close to the crest of the hillside which falls away to the south-east which therefore allows for panoramic views from the site towards the rural area beyond.

14. An opening close to the existing dwelling provides the access to the site although this is a detailed matter not being considered at this stage. The robust roadside hedge could however be largely retained whilst allowing for access. The site does currently form part of a substantial gap without buildings to the south-west of the side of The Chestnut and the nearest agricultural building on that side of the road. The roof of a dwelling even if limited to single storey would be noticeable over hedge and would therefore lead to an urbanising impact which would make a limited incursion into the rural surroundings of this small hamlet. Furthermore, the hedge downhill on the south-eastern boundary of the site would not screen views of the building from the open rural area beyond. I have not been advised to view from any particular points to the south east of the site. Whilst the development is likely to be noticeable from that direction it would be largely at a substantial distance and the impact upon the setting of the hamlet would be a minor one. This would be a greater impact than the development previously approved within the garden of the dwelling.

15. The effects would also depend upon the scale of the development proposed which is not a matter before me. However, in relation to this main issue, even a modest single storey dwelling would make a noticeable but minor harmful impact upon the character and appearance of the area which would not comply with LP Policy DVT2C.

*Planning balance*

16. The Council acknowledges that they cannot demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date in these circumstances. I will apply the planning balance required by paragraph 14 of the Framework. That requires the balance to be tilted in favour of the granting of planning permission except where any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

17. The proposal would provide an additional dwelling which would be an advantage in terms of the social dimension of sustainability set out in the Framework given the housing supply position in the Council area. Furthermore although Chilla is small, it nevertheless is a community in itself as well as being a part of a wider community within the rural area. I am not provided with information to indicate a particular magnitude of the housing shortfall. I can therefore only give a moderate degree of weight to the social benefits.

18. The proposal would also provide some short term economic benefits from the construction process and also due to the added value to the appellants of the site. The services and facilities within the surrounding area would also enjoy additional patronage, helping to sustain them. The proposal would therefore provide benefits in these respects and I will give this limited additional weight.

19. Other matters to consider include the effect upon living conditions particularly those properties opposite the site. However, the site is a substantial distance away from Allserene and Pinecrest. A single storey dwelling in the proposed location would make little difference to the general outlook from the fronts of those properties. There are no local policies drawn to my attention that seek to resist the development due to its location within a residential garden. Whether or not this is previously development land is not of much significance in this case.

20. There would be some reliance upon the use of private vehicles but the site is not isolated in the terms set out within the Framework overall and the proposal would not be harmful in these respects to the environment. These and the other matters I have set out in the paragraph above are therefore neutral, not weighing in favour or against the proposal.

21. The proposal would not comply with LP Policy DVT2C due to the limited harm to the character and appearance of the area and also because the proposal does not fall into its allowable criteria. However, due to the housing supply position, I only give that policy limited weight. Set against the limited harm, the proposal would result in social benefits of moderate weight as well as economic benefits of limited additional weight. The adverse impacts are not sufficient to significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.

**Conditions**

22. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the act.

23. The Council has suggested a condition removing permitted development rights for alterations and additions to the dwelling and development within its garden. The Planning Practice Guidance makes it clear that such restrictions should only be used in exceptional circumstances. It has not been demonstrated that there are exceptional circumstances in this case and I have not imposed such a condition.

24. Landscaping details will be required as a part of the reserved matters and so will need to be submitted anyway at that stage. I have included a condition

requiring the implementation of the landscaping in accordance with an implementation programme. I have included a condition requiring the submission of drainage details which combines the effect of 2 of the suggested conditions. Furthermore, I have also included a condition relating to finished levels.

**Conclusion**

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*A Harwood*

INSPECTOR

**Schedule of Conditions**

1) Details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place 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 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: ASP001, ASP002 and ASP003; as well as those approved in relation to the reserved matters.

5) The landscaping works shall be carried out in accordance with the approved details in accordance with an implementation programme that shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

6) The dwelling hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

7) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.