
Appeal Decision

Site visit made on 1 June 2017

by Neil Pope BA (Hons) MRTPI

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

Decision date: 16 June 2017

Appeal Ref: APP/Y1138/W/17/3167891

Land and buildings east of Dulings Farm, Copplestone, Devon, EX17 5PE.

- 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 Louis Dulling of PCL Planning against the decision of Mid Devon District Council (the LPA).
 - The application Ref.16/00924/MOUT, dated 15 June 2016, was refused by notice dated 6 January 2017.
 - The development proposed is the erection of circa 60 dwellings (Use Class C3), doctor's surgery (D1) and means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Other than the means of access, all matters of detail have been reserved for subsequent consideration. I have treated the proposed masterplan as illustrative only.
3. Prior to the LPA determining the application the description of the development was amended to: the erection of up to 60 dwellings and means of access.
4. Within its Statement, the LPA has informed me that it has withdrawn reasons for refusal (RfR) nos. 4 (primary school pupil places) and 5 (highway safety). I note that a similar application (ref. 17/00136) was refused by the LPA in April 2017 and three RfR¹ were given.
5. A planning obligation² has been submitted by the appellant under the provisions of section 106 of the above Act. This includes financial contributions towards the cost of: educational infrastructure; a footpath at the junction of Bewsley Hill/A377; sports field enhancement and; a Travel Plan. It also includes provision for affordable housing. I address these matters below.
6. The LPA accepts that it is unable to demonstrate five years worth of housing against its housing requirement as set out within the National Planning Policy Framework (the Framework). My attention has been drawn to an appeal decision dated April 2016 (ref. APP/Y1138/W/15/3025120) where it was found that there was a deliverable supply of between 4 and 4.5 years. The tilted balance contained within paragraph 14 of the National Planning Policy Framework (the Framework) therefore applies.

¹ These RfR appear identical to the three remaining reasons in the appeal before me.

² This includes an amendment to the obligation dated 22 May 2017.

7. An application for costs has been made by the appellant against the LPA. This application is the subject of a separate Decision.

Main Issue

8. The main issue is whether any adverse impacts of the proposed development, having particular regard to: the effect upon the character and appearance of the area; the extent to which the development would be accessible by means of transport other than the car and; the likely flood risk, would significantly and demonstrably outweigh the benefits.

Reasons

Planning Policy

9. The development plan includes the Mid Devon Core Strategy (CS) adopted in 2007, the Allocations and Infrastructure Development Plan Document (AIP) adopted in 2010 and the Mid Devon Development Management Policies Development Plan Document (DMP) adopted in 2013.
10. The most relevant development plan policies to the determination of this appeal are: CS COR1 (sustainable communities); COR2 (local distinctiveness), COR3 (meeting housing needs); COR9 (access); COR11 (flooding); COR17 (villages); COR18 (countryside); AIP policies AL/DE/2 and 3 (affordable housing) and; DMP policies DM1 (presumption in favour of sustainable development) and DM2f (design – drainage).
11. My attention has also been drawn to the Mid Devon Local Plan Review 2013 – 2033 (eLP) which was submitted for examination in March 2017. Policy CO1 allocates a 1.5 ha site for residential development and a car park at land known as The Old Abattoir, Copplestone. I note that in April 2017 the LPA resolved to grant outline planning permission for 40 dwellings and a 64 space car park on that site (ref. 16/01888/MOUT). As the examination into the eLP has yet to be completed the provisions of the eLP can be given only limited weight.

Benefits

12. The proposed development would increase the mix and choice of housing within the district and help address the shortfall in supply. The provision of an element of affordable housing would assist in meeting the needs of those members of the community who are unable to afford their own homes and would accord with CS policy COR3. Occupiers of the proposed dwellings would support local services and facilities and during the construction phase the development would support the construction industry. The totality of these matters can be given considerable weight in the overall planning balance.
13. I also note that the development would include some new landscape planting, open space provision, a pedestrian/cycle link through the site, a dropped crossing along the A377 and some enhancements to biodiversity. These matters can be given some limited weight in the planning balance.

Character and Appearance

14. This 3.81 ha site³ forms part of the countryside that surrounds the village of Copplestone. The southern boundary of the main body of the appeal site is set

³ The appellant has calculated that the net developable area would be 2.06 ha.

back from the A377 and Elston Lane, whilst the northern boundary comprises a small watercourse that runs east to west. The gradient of the main part of the site rises towards the main road. Residential development at Dulings Meadow adjoins the western boundary and the dwellings at Fernworthy Park/Fernworthy Gardens lie to the east of the proposed cycle/footpath to Bewsley Hill. A public footpath⁴ crosses the site linking the A377 to Bewsley Hill.

15. The appeal site forms part of landscape character type (LCT) 3B 'lower rolling farmed and settled valley slopes' as defined in the Mid Devon Landscape Character Assessment 2011. The key characteristics of this LCT include: gently rolling and strongly undulating landscape with low lying land adjacent to the rivers in a series of irregular rolling hills; tightly rolling, medium to small scale landform; well managed hedgerows; Red Devon Sandstone soil giving fertility for arable farming; open vistas and framed views obtained from many routes.
16. As I saw during my visit, the appeal site displays many of the above noted key characteristics of this LCT. These distinctive qualities can best be appreciated from the public footpath that crosses the site. From here, there are also views of the village and the wider Devon landscape. The pleasing, unspoilt open qualities of the appeal site form part of the attractive setting to Copplestone and make an important contribution to its identity and sense of place. For high sensitivity receptors walking the footpath the attributes of the site add to the amenity of this public right of way and form an integral part of an alluring rural Devon scene. From the A377, the hedgerow along the southern boundary of the site provides a break with the housing to the west, sets it apart from a 'finger' of development to the east and is part of the character of Elston Lane.
17. The proposed development would not fall within the remit of a minor proposal within the settlement limits for Copplestone as provided by CS policy COR17. More importantly, given the housing land supply position, the proposal would significantly change the character and appearance of the appeal site. However carefully designed the new buildings, estate roads, hardsurfaces, street lighting and inevitable domestic paraphernalia would markedly erode the unspoilt open qualities of the site.
18. Whilst the proposal, together with planned residential development at Copplestone, would not be out of scale⁵ with the size of the settlement, the appeal scheme would erode the rural setting of the village and detract from the sense of place. This would be especially evident when viewed from the public footpath to the north of the site. From here, the development would appear as a rather awkward enlargement of the village extending behind the 'finger' of buildings to the east of the A377 junction with Elston Lane, encroaching into the countryside and diminishing this important rural edge to the settlement. The proposal would conflict with CS policy COR2.
19. From the southern end of the existing footpath through the site the new houses and roads would considerably detract from the amenity of this public right of way. Instead of passing through open countryside with fields on either side and views to the east across the rural landscape, in future, those using this section of footpath would walk between a new housing estate and an area

⁴ The 'Public Access' map provided (and the extract of the Ordnance Survey map that I also used during my visit) shows this footpath running in a straight line. However, during my visit, I noted that the footpath had been diverted in an easterly direction when travelling south and after crossing the watercourse.

⁵ The LPA has calculated that in total this would equate to an increase of 18% in the number of dwellings.

given over to informal public open space and water attenuation. There would be a high magnitude of adverse change for high sensitivity receptors.

20. In addition, the proposed access works would require the removal of a sizeable length of established hedgerow from along Elston Lane. From the A377, these engineering works, including new junction arrangement, visibility splays and view of the new dwellings and internal roads would appreciably extend the settlement limits into the surrounding countryside. This would detract from the pleasing qualities of the rural scene and erode the character of Elston Lane.
21. The proposed development would harm the character and appearance of the area. This would not be outweighed by the new landscape planting, including the reinstatement of hedgerow along the eastern boundary of the site. This harm carries very considerable weight in the overall planning balance. The proposal would conflict with CS policies COR17 and COR18.

Accessibility

22. The LPA accepts that the village of Copplestone is a suitable location to accommodate some new residential development. It also accepts that there are sustainable transport options available including regular bus and train services, such as those operating along the Barnstaple and Exeter branch line. Furthermore, amongst other things, the village includes a convenience store and post office, a primary school and pre-school and some business premises.
23. The appeal site is located further from the train station than the development permitted at The Old Abattoir. In addition, accessing the station and most other services/facilities within the village would involve walking or cycling down/up a gradient. However, having walked to and from the site from various services/facilities, including the train station, occupiers of the proposed dwellings would have convenient access to a range of services and a reasonable choice of modes of transport. Encouragement for reducing the need to travel by car would be provided in the form of a Travel Plan, as well as the proposed cycle/footpath link along the western boundary of the site.
24. The appeal site is conveniently located with regards to services and facilities. The proposal would accord with CS policy COR9.

Flood Risk

25. I note the LPA's concerns regarding the adequacy of information to determine whether or not surface water from development would be satisfactorily controlled and discharged to the Salix Stream channel so as to avoid any unacceptable flood risk downstream. In this regard, the CS, DMP and the Framework recognise that development should not increase flood risk elsewhere and decisions should be informed by flood risk assessments (FRA).
26. In support of the application the appellant submitted a site-specific FRA and, in response to matters raised by Devon County Council as the Lead Local Flood Authority (LLFA), a separate addendum FRA was produced. Amongst other things, the addendum revised the outfall arrangement for the two attenuation ponds that were proposed as part of the development.
27. The LLFA subsequently confirmed to the LPA that subject to the use of a pre-commencement condition on any approval it had no in principle objection to the proposed development. The FRA and addendum indicate that the proposal

could be provided without increasing the risk of flooding downstream and could offer betterment of existing runoff rates.

28. I note that the LLFA has not made any representations as part of the appeal. Furthermore, the Environment Agency, in its consultation response informed the LPA that it had no "in principle objections". The LLFA's suggested condition, requiring the submission and approval of a surface water drainage management plan, would accord with the tests set out in paragraph 206 of the Framework. It would be unreasonable to withhold permission on the basis of land drainage issues.
29. The information submitted in support of the proposal demonstrates that the proposed surface water drainage strategy is likely to be adequate and that sufficient land would be available within the site to deliver an appropriate surface water drainage strategy. The proposal would accord with CS policy COR11 and DMP policy DM2f.

Other Matters

30. I note the concerns of some interested parties regarding traffic and the proposed access arrangements. Having carefully considered the proposal and the detailed Transport Assessment that was submitted in support of the appeal scheme, neither the LPA nor the Highway Authority raised highway objections. There is no cogent evidence to justify reaching a different view on this matter.
31. The appeal site does not contain any designated heritage assets. However, there are numerous such assets and undesignated assets within the surrounding area. Due to distance and/or topography and the respective heritage values, the proposed development would not affect the settings of most of these assets.
32. Nevertheless, the appeal site forms part of the surroundings in which several designated heritage assets are experienced. These comprise the grade II listed buildings at Bewsley Cottage and Beers Farmhouse and the grade I listed Church of St. Andrew which lies within the Colebrooke Conservation Area. The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged.
33. Having seen these assets during my site visit, I concur with the findings within the detailed Heritage Assessment that was submitted in support of the application that the proposal would not harm their significance. I note that neither the LPA nor Historic England have identified any harm to these or any other heritage assets.
34. The proposed development would entail the loss of some grade 2 agricultural land. Whilst there is no evidence before me to demonstrate that this would have any significant effect on the agricultural industry, the permanent loss of some of the best and most versatile agricultural land erodes the sustainable (environmental) credentials of the proposal. This carries some limited weight in the overall planning balance.
35. Having carefully considered the appellant's Protected Species Report, the proposal, on balance, would be likely to offer some very modest enhancement to biodiversity. I shall afford this some limited weight in the planning balance.

Planning Obligations

36. The development plan and the consultation response from the LPA's Housing Enabling and Business Support Manager demonstrate, like the situation in most parts of the country, that there is a significant shortage of affordable dwellings within Mid Devon. Whilst I note that affordable housing would also be provided as part of the planned developments in Copplestone, it would be very surprising, when delivered, if this obviated the need for additional affordable dwellings in this part of the district.
37. The proposed 35% provision of affordable housing on the appeal site would accord with the provisions of AIP policies AL/DE/2 and 3, paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL). I have therefore taken this obligation into account.
38. Some occupiers of the proposed dwellings would increase the pressure on educational infrastructure. I note that the contribution of £170,422 for improved facilities at Copplestone Primary School is based on the Department for Education extension rate per pupil of £11,361.50. The £23,940 contribution for transport to Queen Elizabeth's Academy Trust Crediton is based on 9 pupils x £2.80/day x 190 academic days x 5 years.
39. These education contributions would be necessary to enable the local primary school to accommodate the expected increase in pupil numbers and to provide older pupils with the necessary transport to Crediton. Whilst these obligations meet the requirements of paragraph 204 of the Framework and Regulation 122 of CIL, the LPA has not informed me whether or not these would be within the 'five obligation limit' to which Regulation 123(3) of the CIL applies. If the appeal was to be allowed clarification would be required on this matter.
40. Some residents of the proposed dwellings would also increase the pressure on sports fields and associated facilities within the village. Whilst I note the provisions of the LPA's Supplementary Planning Document 'The Provision and Funding of Open Space Through Development' (2008) it is unclear to me what deficiencies exist in the existing sports fields and how the contribution of £247,666 has been derived. Whilst there could be evidence to demonstrate the necessity for this contribution it has not been presented to me. As a consequence, I find that this obligation does not satisfy the tests in paragraph 204 of the Framework and Regulation 122 of CIL. There is also nothing before me in respect of the 'five obligation limit' to which Regulation 123(3) of CIL applies. I have not therefore taken it into account in determining the appeal.
41. Whilst the provision of the new public cycle/footpath through the site would provide a necessary link to the primary school, it is unclear to me how the contribution of £100,000 has been calculated. I am unable therefore to determine whether this contribution is fairly and reasonably related in scale and kind to the development. On the basis of the information before me it does not meet the tests in paragraph 204 of the Framework and Regulation 122 of CIL. I have not therefore taken this contribution into account.
42. The proposed Travel Plan would be necessary to encourage occupiers of the proposed dwellings to travel by means other than the private car. Whilst there are no detailed costs as to how the contribution of £250/dwelling has been derived, in my experience, this is not dissimilar to the scale of contributions for

Travel Plans. On balance, it accords with the provisions of the Framework and CIL. I have therefore taken it into account in determining the appeal.

Planning Balance / Overall Conclusion

43. I have noted the shortfall in housing land supply and have attached appropriate weight to the benefits of the appeal scheme. However, in undertaking the tilted balance the shortfall in supply does not override all other considerations. In this instance, the harm that I have identified to the character and appearance of the area significantly and demonstrably outweighs the benefits that would be derived from the scheme. The proposal would not satisfy the environmental dimension to sustainable development, as defined within the Framework, and in failing to meet overall sustainability objectives it would also conflict with CS policy COR1 and DMP policy DM1.
44. I have found that the appeal scheme would accord with some development plan policies but would be contrary to other important policies. In particular, the scheme would be at odds with those policies aimed at protecting the character and the appearance of the countryside and settlements in Mid Devon, as well as those which seek the provision of sustainable development. When the development plan and the Framework are each read as a whole the proposal would be in conflict with them.
45. Given all of the above, I conclude that the appeal should not succeed.

Neil Pope

Inspector