



Appeal Decision

Site visit made on 25 September 2017

by **Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI**

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

Decision date: 2nd October 2017

Appeal Ref: APP/Y1138/W/17/3178479

Land at OS GR 305557 112021, Uffculme, Devon

- 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 R & L Persey Vegetables against the decision of Mid Devon District Council.
 - The application Ref 17/00300/MOUT, dated 19 February 2017, was refused by notice dated 16 June 2017.
 - The development proposed is for the erection of 30 dwellings with details of access and all other matters reserved for future consideration.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 30 dwellings and new vehicular and pedestrian accesses at OS GR 305557 112021, Uffculme Road, Uffculme, Devon in accordance with the terms of the application, Ref 17/00300/MOUT, dated 19 February 2017, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The application is expressed in outline with all matters other than access reserved for future approval. I have considered the appeal on this basis.
3. The site address detailed in the application form is limited to the grid reference number only. However, a more precise description would be Land at OS GR 305557 112021, Uffculme Road, Uffculme, Devon. This is the address I have used in my formal decision.
4. An executed agreement under Section 106 of the Town and Country Planning Act 1990 (s106) was submitted following the appeal submission. The deed includes obligations relating to affordable housing, education contributions and off-site open space contributions.
5. The Council accepts that it is unable to demonstrate a five year's supply of housing against its housing requirement as set out in the National Planning Policy Framework ('the Framework'). My attention has been drawn to appeal decisions at Uffculme¹ in February 2016 where it was accepted that there was a deliverable supply of between 4 and 4.5 years and at Copplestone² in June 2017 where it was recognised that there remained a shortfall in housing land

¹ APP/Y1138/W/15/3025120

² APP/Y1138/W/17/3167891

supply despite the Mid Devon Local Plan Review 2013-2033 ('the LPR') having been submitted for examination in March 2017, which suggested that going forward, the Council would be in a position to demonstrate that it had a five year's housing supply. Given these factors, the tilted balance contained within paragraph 14 of the Framework would therefore apply.

Main Issue

6. The main issue is whether the proposal would be a suitable form of development in this location, having regard to the character and appearance of the area.

Reasons

7. The appeal site is located to the west of Uffculme and comprises part of an agricultural field with access onto Uffculme Road. Immediately to the east is a site that was granted planning permission at the above appeal. Further to the west lies the Langlands Business Park. Access would be taken from the site of the adjoining development allowed at appeal.

Planning Policy

8. The development plan includes the Mid Devon Core Strategy (the CS) adopted in 2007, the Allocations and Infrastructure Development Plan Document (the 'AIP') adopted in 2010 and the Mid Devon Development Management Policies Development Plan Document (the 'DMP') adopted in 2013.
9. The Council cites the following development plan policies in its reasons for refusal: CS policies COR 1 (sustainable communities) and COR2 (local distinctiveness); and DMP Policies DM1 (presumption in favour of sustainable development) and DM2 (Design - local character). However my attention has also been drawn to CS policies COR 17 and COR 18 which establish the Council's settlement policy position acknowledging that Uffculme is a moderately sustainable settlement but where developments falling outside the settlements would be strictly controlled.
10. It is common ground between the parties following the appeal decision in February 2016 that despite the conflict with CS policies COR3 COR17 and COR18, these policies relate to the supply of housing and in the absence of a five year's housing supply, these policies are out of date as noted above. This is despite the Council having granted planning permission for a number of dwellings and its increased confidence following presentation of the Mid Devon Local Plan Review for examination.
11. As a result of the above, paragraph 14 of the Framework is engaged. This states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless 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; or specific policies in the Framework indicate development should be restricted.
12. At the heart of the Framework is the presumption in favour of sustainable development. There are three mutually dependent dimensions to this: economic, social and environmental.

13. I would agree with the Inspector at the appeal for the adjoining site that development on a greenfield site on the edge of the village should not in itself be considered harmful and, in the context of Mid Devon, there is an acceptance that housing provision will inevitably result in the loss of agricultural land on the fringes of settlements. The Inspector concluded that the adjoining site was well related to the village, which has a wide range of facilities and services as well as good access to public transport, including bus and rail networks. Moreover, the site is well positioned in relation to nearby employment opportunities. From what I saw at my site visit, I have no reason to dispute this assessment and its applicability to the current appeal proposal.
14. The Council accepts that the proposed development would increase the mix and choice of housing and would help in part to address the housing supply shortfall. I also consider that an additional 3% increase in the number of households in the village would be unlikely to undermine social cohesion in Uffculme. Furthermore, the Council also accepts that subject to securing the necessary planning obligation, the proposed development would also assist in meeting the need for affordable housing.
15. Consequently, I concur with the previous Inspector's findings in line with paragraph 55 of the Framework that housing can enhance and maintain the vitality of this as well as other rural areas and that these benefits would equally apply to the current appeal development. Housing development would in turn contribute towards the achieving of a thriving rural community as advised by the Planning Practice Guidance (PPG)³.

Character and appearance

16. Setting aside the out-of-date settlement policies, the Council's principal concerns appear limited to the further encroachment of unplanned development into the open countryside, which together with the development on the adjoining site allowed at appeal, would individually and cumulatively further erode the rural character of the area through unacceptable ribbon form of development and the further closing of the gap between Uffculme and the Langlands Business Park.
17. The appeal site represents a continuation of the existing field that was the subject of the 2016 appeal. Access would be gained from the adjoining development, which therefore enables the retention of existing hedgerows and trees on the three presently enclosed sides. The inclusion of the site within landscape character type (LCT) 3E 'lowland plains' as defined in the Mid Devon Landscape Character Assessment (MDLCA) reflects the site's landscape characteristics. However, importantly, the site is generally flat, low lying and well screened from public vantage points.
18. From my observations of the appeal site, concerns relating to the possible linear ribbon nature of the proposed development and the potential erosion of the rural setting between the villages of Uffculme and Willand and between Uffculme and the Business Park are not well founded. Indeed, the current appeal site is considerably better screened than the adjoining land the subject of the 2016 appeal, which will have a markedly open aspect onto Uffculme Road as a consequence of the highway works required to facilitate that development. The officer report to the Council's Planning Committee explains

³ Reference ID: 50-001-20140306

the benefits that would accrue to green infrastructure and biodiversity enhancement and I agree with that assessment.

19. Neither would the development of the current appeal site as an additional phase to the adjoining development materially close the gap between the settlements of between Uffculme and the Business Park to any significantly unacceptable degree.
20. The Council in this regard also draws my attention to the Copplestone appeal decision where the Inspector at appeal concluded that the development of circa 60 dwellings would erode the rural setting of the village and detract from the 'sense of place'. I have not been provided with the full details of that case but importantly, the Inspector also considered that the development at that location would be out of scale with the size of the settlement, something that would not be applicable in the case of this site and the size and status of Uffculme.
21. Consequently, I conclude that the development would comply with CS policy COR1 and DMP policy DM1 that requires amongst other things for developments to be sustainably located, and; with CS policy COR2 and DMP policy DM2 in so far as protecting the distinctive character and landscape quality of Mid Devon.

Planning Obligations

22. A signed section 106 Agreement accompanied the appeal, which accords with recommendations contained within the planning officer's report to the Council's Planning Committee. This is in line with Policy COR8 of the CS.
23. The proposed 35% provision of affordable housing on the appeal site would accord with the provisions of AIP policies AL/DE/2 and 3. I am content that the obligation with respect to affordable housing would comply with paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL).
24. Devon County Council has forecasted that both the local primary and secondary schools are at capacity and therefore a contribution towards increased facilities at these schools would be justified. This contribution equates to £3,413 per dwelling for the primary school contribution and £3,288 per dwelling for the secondary school contribution. This would comply with AIP policy AL/IN/5 and with the Framework and CIL.
25. The development would give rise to pressures on public open space facilities in the village. The Agreement has identified the play areas earmarked for improvement in the village and which may be suitable recipients for the contribution. The Council has demonstrated that it would not contravene the 'five obligation limit' to which Regulation 123 (3) of CIL applies. I am satisfied that the obligation with respect to open space provision would comply with CIL.

Other matters

26. Representations have been received in relation to the capacity of the local highway infrastructure to accommodate the additional housing proposed. However, I have no reason to conclude that the access approved for the adjoining scheme would not be capable of accommodating the additional traffic generated by this development. Moreover, I note the lack of objection from the local highway authority who also believes that the development would not

be prejudicial to highway and traffic conditions experienced at junction 28 of the M5.

27. Flood risk has also been raised. I have noted that the southern boundary of the site that adjoins the River Culm is within Flood Zone 3 where there is a high probability of flooding. However, the proposed dwellings are sited within Flood Zone 1. The Environment Agency does not object to the development and I have no evidence before me to suggest that I should take a different view.

Conditions

28. The Council has suggested a number of conditions that I have considered having regard to the provisions of paragraphs 203 and 206 of the Framework and advice contained in the PPG. I have omitted one condition on grounds of necessity and revised others to provide clarity.
29. Given the appeal proposals are expressed in outline, conditions are necessary regarding commencement of development and submission of reserved matters. A condition is also necessary to specify approved plans in the interests of providing certainty and to ensure that access is taken from the adjoining site.
30. The Council has suggested a condition requiring details of boundary treatment, site and floor levels and ecological mitigation. I would concur that approval of such details are necessary having regard to character and appearance and protection of biodiversity interest.
31. Conditions are necessary requiring approval and implementation of sustainable urban drainage systems and temporary arrangements for surface water drainage as the development is built out to ensure satisfactory rate of surface water discharge to ground and water systems and to protect living conditions.
32. A condition is necessary given the importance of trees on site for an arboricultural method statement to be submitted to and approved by the Council prior to commencement of development on site.
33. A condition is necessary that would require the provision of highway works in the interests of highway safety and the free flow of traffic. Conditions are also necessary for the same reasons to ensure that roadways, access and associated engineering operations are carried out in a timely and satisfactory manner. Finally a condition is also needed for a footway to be provided linking the site frontage with the nearby business park in the interests of ensuring that occupiers have a choice of transport mode and encourage walking to work if that opportunity is available to them.
34. I do not consider a phasing condition is necessary having regard to the relatively small scale development that is proposed and has not been included.

Planning Balance/Overall Conclusions

35. The Council acknowledges that it is unable to demonstrate an adequate five year deliverable housing land supply. The Local Plan Review despite being presented for examination cannot at this time be considered sound and the weight attached to this Plan is limited. In such circumstances, paragraph 49 of the Framework deems that relevant policies for the supply of housing should not be considered up-to-date. Whilst the Council has sought to rely on policies

that do not relate specifically to housing supply, I have concluded that COR 18 of the Core Strategy is relevant to the supply of housing.

36. In accordance with the guidance in the Framework, a separate balancing exercise needs to be undertaken given the above circumstances, which is the weighted balance set out in the second bullet point of the decision-taking section of the Framework at paragraph 14. This indicates under its first limb, that planning 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.
37. From the conclusions I have already reached on the main issue, I consider that the proposed development whilst falling within the open countryside for planning purposes would not have any significant adverse impacts in terms of character and appearance or in terms of closing the gap between existing settlements or Uffculme and its outlying business park. There are no other matters which weigh against the development, which could not satisfactorily be addressed by conditions, or at reserved matters stage.
38. Turning to the benefits of the appeal proposal, I have concluded that there would be substantial benefits arising from the provision of up to 30 additional dwellings, including 35% affordable housing provision. I give significant weight to the provision of market and affordable homes. I also accord significant weight to the economic and social benefits which the scheme would give rise to as described elsewhere in this decision.
39. Having regard to my findings on the main issue, my overall conclusion is that the adverse impacts of the proposal would not significantly and demonstrably outweigh the substantial benefits which would arise from the development. I therefore conclude that this appeal should be allowed.

Gareth Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the 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 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: 0172-LP-001 rev B; 0172-SK-202 rev B; 0172-PHL-002 rev A and 2044-SK02-rev B (in so far as the scheme indicates the means of access connection into the adjoining site estate roads to the east).
- 5) The detailed drawings required to be submitted by condition 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and materials, an ecological management plan based on the recommendations for ecological mitigation and enhancement contained in the submitted Ecological Appraisal by Ecological Surveys Ltd., dated August 2016.
- 6) No building hereby permitted shall 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. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) No development shall begin until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the construction phase will be managed for the full construction period, has been submitted to and approved in writing by the local planning authority. The plan must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the

construction site and must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved the management plan shall be implemented in accordance with the approved details.

- 8) No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Arboricultural Survey dated February 2017 (including the supplementary TPP dated 21/04/2017) and to include engineering details for any areas of no dig construction, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 9) The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the local planning authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority.
- 10) No other part of the development hereby approved shall be commenced until:
 - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.
- 11) The occupation of any dwelling shall not take place until the following works have been carried out:
 - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;

- E) The car parking and any other vehicular access facilities required for the dwellings by this permission have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.
- 12) None of the dwellings permitted shall be occupied until such time as a footway from the site to Langland's Business Park has been constructed and made available for use in accordance with design and construction details that shall first have been submitted to and approved in writing by the local planning authority.

Richborough Estates