



Appeal Decisions

Site visit made on 9 August 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th September 2022.

Appeal A: APP/Y1138/W/22/3295785

Land at Westcott Park, Cullompton, Devon EX15 1SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs S, J, C, V Rowe against the decision of Mid Devon District Council.
 - The application Ref 21/02137/MFUL, dated 28 October 2021, was refused by notice dated 3 March 2022.
 - The development proposed is construction of 21 dwellings with associated open space, landscaping and infrastructure.
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Appeal B: APP/Y1138/W/22/3297653

Westcott Park, Westcott, Cullompton, Devon EX15 1SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Steve Rowe, c/o Rowe Atlantic, against Mid Devon District Council.
 - The application Ref 22/00490/PIP, dated 3 March 2022, was refused by notice dated 7 April 2022.
 - The development proposed is Permission in Principle for the erection of up to 6 'self-build' residential dwellings and associated works.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Application for costs

3. An application for costs was made by Rowe Atlantic against Mid Devon District Council in respect of Appeals A and B. This application is the subject of a separate Decision.

Preliminary Matters

4. As set out above there are two appeals, both at the same site albeit that Appeal A covers a larger area extending to the B3181. They differ in respect of the type of application, and the number and tenure of the dwellings. I have considered each proposal on its individual merits but, to avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
5. The Appeal B proposal is for a Permission in Principle. This consent route has two stages. The first stage establishes whether a site is suitable in principle, and the second stage, for Technical Details Consent (TDC), is where the

detailed development proposals are assessed. The Appeal B proposal is at the first stage and therefore I have considered the principle of the scheme.

6. The scope of the first stage, to establish whether a site is suitable in principle for development, is limited to location, land use and amount of development. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application.
7. In this instance, permission in principle has been sought for between three and six dwellings and I have determined the appeal on that basis, having regard to the requirements of the relevant legislation¹, the Development Plan, the Planning Practice Guidance and any other material considerations.
8. At final comments stage, a Landscape and Visual Assessment was submitted by the appellants. However, I am mindful of the advice in the Planning Inspectorate's 'Procedural Guidance: Planning Appeals England', that comments at this stage should not introduce new material or technical evidence because the other parties may not have seen it or had the opportunity to comment on it. For this reason, I was unable to accept the LVA and it has not formed part of the evidence for my decision. I have however taken into account the remaining information submitted at that stage.

Main Issues

9. The reason for refusal for Appeal A refers to two issues, namely the effect on the character and appearance of the area and the accessibility of the site to services and facilities. That for Appeal B only refers to the second issue, but both issues have been commented on by the main parties in respect of Appeals A and B.
10. I consider the main issues in respect of Appeals A and B are:
 - the effect of the proposal on the character and appearance of the area, and
 - whether the location is suitable for housing having regard to the accessibility of services and facilities.

Reasons

Character and Appearance of the area

11. The site is located within the existing hamlet of Westcott consisting of a cluster of buildings around the junction and a public house, with another grouping of buildings further towards Cullompton. Opposite the site is the Bear Trail, an outdoor adventure assault course. Nevertheless, these uses are surrounded by fields, trees and hedges. These give the area an essentially open, rural character.
12. The site itself consists of a substantial detached dwelling and its extensive grounds, which slope upwards from the B3181. The site has approval for domestic residential use and so is not open countryside but consists of previously developed land. Even so, it has the appearance of a soft, closely

¹ The Town and Country Planning (Permission in Principle) (Amendment) Order 2017

mown small golf course and has a stronger affinity with the surrounding countryside than with built form.

13. The dwellings proposed under Appeal A at the site entrance would be single storey dwellings, in contrast to the taller dwellings proposed deeper into the site. The extent of development would be broken up internally by open space and there is significant boundary screening, which would hide much of the site.
14. However, the attractive green and open appearance of the site is visible from the B3181, including from the entrance into the site, as well as from wider locations, such as within the car park serving the Bear Trail. The sloping nature of the site, and the form and extent of the dwellings, garages and associated development means that the Appeal A proposal would have an urbanising and built-up appearance. This would detrimentally affect and fail to preserve the site's current soft, green and essentially rural appearance, harmfully diminishing the positive contribution it makes to the rurality of the area.
15. Appeal B would be set significantly further back into the site. The precise number, size and design of these dwellings does not fall for consideration now. Nevertheless, the position of this part of the site is higher than the B3181, making the site and the proposal more visible, including from the road. As a result of this, and the form and extent of the built form inherent to any proposal of at least three dwellings, Appeal B would also result in encroachment of buildings and urbanisation into the currently open land, having a harmful visual effect.
16. Therefore, in respect of both Appeals A and B, I conclude that the proposals would have a harmful effect on the character and appearance of the area. They would therefore be contrary to Policies S1 and S14 of the Mid Devon Local Plan 2013-2033, adopted July 2020 (MDLP), which requires that development respects local character and preserves the character and appearance of the countryside. For similar reasons they would also conflict with the National Planning Policy Framework (the Framework), that development should be sympathetic to local character, recognising the intrinsic beauty of the countryside.

Accessibility to Services and Facilities

17. Policy S1 of the MDLP seeks to focus development on the most sustainable settlements in Mid Devon, and to reduce the need to travel by car. It supports a limited level of development in identified villages, which have some services to support a vibrant rural community, but Westcott is not identified as such a settlement. Therefore, the site is treated as countryside under Policy S14, where only certain types of development, such as affordable and low-cost housing to meet local needs are permitted.
18. Appeal A includes provision for affordable housing but would be market-led and so does not benefit from the exceptions provided by MDLP Policy S14 and Policy DM6. It is therefore common ground that Appeal A consists of development that is not in accordance with the Development Plan.
19. In respect of Appeal B, MDLP Policies S12 and DM6 permit the development of predominantly low-cost housing, including self-build housing as proposed here, subject to (amongst other matters) the site adjoining a settlement and being in a suitable location which takes account of relevant planning issues. The

supporting text to Policy DM6 takes a broad interpretation of 'settlement', but only where there is reasonable access to local services and infrastructure.

20. The nearest large settlement is Cullompton which is a strategic focus for new development and offers a wide range of services. However, facilities within the hamlet of Westcott are limited to a public house and café, together with the Bear Trail. As such, the hamlet has few public services or facilities, and for example no school or shop.
21. Permission in Principle was granted on appeal² at the site for up to five affordable houses in October 2020. In that case, the Inspector found that bus services to both Cullompton and Exeter would be frequent, with short journey times. With a regular, daily service on different routes to different settlements from early morning until late in the day, my colleague was satisfied that the appeal site would be in a settlement with reasonable access to services and facilities.
22. Although the Transport Assessment submitted with the Appeal A application refers to a half-hourly service, the evidence before me³ is that only Service 1C directly serves the site. It runs roughly hourly Mondays to Fridays, and more frequently to Exeter in the morning peak.
23. However, it provides no service after 18:00 on these days, nor to Cullompton before 09:30. Fewer buses run on Saturdays (starting and finishing later), with none on Sundays. Although Service 1C provides access to a range of destinations, and commuting opportunities principally to Exeter, it does not provide services every day, or in the evenings, or on more than one route.
24. As part of the planning obligation for Appeal A, a financial contribution would be made to support transport to local schools, but the long-term future of rural bus services is by no means certain, particularly post-Covid. Furthermore, I saw that no shelters, bus stop flags, timetables, road markings or other information is provided at the bus stops for intending passengers. Therefore, whilst the stops are close to the site, the restricted bus service and infrastructure would provide only limited and not particularly appealing opportunities for accessing wider services and facilities.
25. I share the view of my colleague that the distance and highway environment would not necessarily discourage journeys to Cullompton by bicycle. Even so, I saw few facilities for cyclists. There is little footway, which is poorly maintained and not continuous. Access to Cullompton along this rural road by bicycle or on foot would not be attractive, particularly at night, in poor weather or for those with limited mobility.
26. I have carefully considered the previous appeal decision, but I am conscious that it was made in the context of different proposals for fewer dwellings than now proposed, particularly in respect of Appeal A. Furthermore, I understand that TDC has not been approved to date, for that scheme or the subsequent Permission in Principle for a further six self-build dwellings⁴ on part of the site of Appeal A. As they do not have planning permission, this limits the weight I can give to these decisions.

² PINS reference 3256062

³ Appendix 5C to the Appellants' Statements of Case

⁴ LPA reference 21/00763/PIP

27. For the reasons given above, I have reached the same conclusions in respect of both Appeals A and B, that the proposals would not adjoin a settlement with reasonable access to local services and infrastructure and would be reliant on the private car. Opportunities to maximise sustainable transport solutions will vary from urban to rural areas and vehicle journeys between rural settlements are to be expected.
28. However, with limited public transport options, future occupants would realistically be reliant on private vehicles for day-to-day facilities and services. There would also be visitor and delivery trips associated with the dwellings. Such reliance would ultimately cause environmental harm because the proposal would not be located where it would contribute to a cumulative reduction in harmful greenhouse gas emissions, and an improvement in air quality and public health.
29. As such, the location would not be suitable for housing, having regard to the limited accessibility of services and facilities. Both Appeals A and B would therefore be contrary to Policies S1 and S14 of the MDLP, with Appeal B also being contrary to MDLP Policy DM6. For similar reasons, they would conflict with paragraph 105 of the Framework, which seeks to manage patterns of growth to promote walking, cycling and public transport and to focus significant development on locations which offer a genuine choice of transport modes.

Other Considerations

Fallback

30. The site has an extensive history of previous permissions for residential dwellings. Some of these, particularly the six self-build units⁵, are on the same site and so are mutually exclusive of Appeal A. The others consist of the re-use of the existing swimming pool building⁶, division of the dwelling into flats⁷ and conversion of its garage⁸. With five affordable dwellings allowed on appeal⁹, these permissions would amount to the same number of dwellings as Appeal A. These dwellings would equally be reliant on the private car for access to services and facilities, and the environmental effects of this.
31. I have no reason to believe that they would not be viable or could not be implemented, and so as a matter of fact and degree they represent a real prospect. As part of the submitted planning obligation for Appeal A, an undertaking has been given that, if the proposal is commenced, the fallback permissions will not be progressed or implemented.
32. However, planning permission runs with the land, and the obligation would not prevent subsequent applications for similar development being made. The planning history of the site would also be relevant, and any future applications would be assessed principally against the Development Plan, against which these proposals have already been found acceptable. In my view it is highly likely the council would be unable to resist any future applications, defeating the purpose of the obligation.

⁵ LPA reference 21/00763/PIP

⁶ LPA reference 19/01127/FUL

⁷ LPA reference 19/01421/FUL

⁸ LPA reference 19/01582/FUL

⁹ LPA reference 19/02122/PIP, PINS reference 3256062

33. The proposal seeks to provide a more comprehensively designed scheme than the fallback. However, the fallback permissions are, with the exception of the self-build units, close to or for the conversion of existing buildings, forming a cluster with the existing built form of the hamlet. In contrast, Appeal A would be more spread out and less cohesive in comparison, resulting in greater encroachment into open land than the fallback, and relating less well to the form of the settlement.
34. Given this, and the proposed position of the dwellings, which would be closer to and more visible from the site entrance than those indicated on the fallback self-build scheme, Appeal A would have a more harmful effect on the character and appearance of the area than the fallback. It would also be closer to adjoining neighbouring dwellings, but I have no evidence that the living conditions of occupiers of these dwellings would be harmed by the fallback.
35. For the reasons given above, I conclude that the fallback would be preferable to the Appeal A proposal. As such, I give the fallback limited weight and so it does not justify the harm I identify above, in respect of Appeal A and B, or their conflict with the Development Plan.

Benefits of the Proposals

36. Appeal A would deliver nine units of affordable housing, as First Homes. It is common ground that there is a need for affordable housing within the wider parish of Cullompton, and the proposal would reflect the size of dwellings needed locally. It would be market-led but could deliver two more units than the fallback, although until TDC has been secured, this cannot be confirmed. Nevertheless, I give significant weight to the potential benefit of these additional affordable units.
37. Appeal B would deliver up to six units of self-build accommodation. The Council have been unable to provide full details of the number of self-built units consented or delivered locally, but has confirmed that up to 17 people have identified Cullompton as a locational preference on the self-build register. Whilst provision of self-build dwellings on strategic sites in Cullompton is made in the Development Plan, the timescales for delivery are unclear. Six self-build dwellings have already been approved at the appeal site, but the Appeal B proposals would further help to meet this demand, to which I give significant weight.
38. The proposals would include dwellings designed from the outset to low-carbon standards. However, in respect of Appeal A, the fallback would also include new-build dwellings which could have this advantage, whilst the conversions would re-use existing fabric and so would be somewhat more efficient in their use of natural resources.
39. The Appeal A proposals would also deliver on-site open space as well as an off-site financial contribution and education contributions for Early Years, Primary and Secondary levels, and for school transport. Both proposals would provide economic benefits during the construction phase and by supporting local businesses. Both proposals would also contribute to the supply of housing in the District on previously developed land. I give these benefits moderate weight.

Other Matters

40. Representations have referred to the effect of the proposal on Palmer's Farm, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest.
41. In determining the applications, neither main party identified any harm to the listed building or its setting. Given the distance between the appeal site and the listed building, I have no reason to disagree in respect of this matter and its setting would be preserved.
42. I have also noted comments made by the appellant about the Council's handling of the case, including at pre-application stage and at committee, but this has no bearing on my consideration of the planning merits of the appeal. Both proposals would provide privacy and suitable living conditions for the occupiers of proposed and existing dwellings, but as a requirement of the Development Plan these matters are neutral in the planning balance rather than positive benefits.

Planning Balance and Conclusion

43. I have found that both proposals conflict with the Development Plan, when read as a whole. I have given appropriate weight to the material considerations identified above, but in undertaking the planning balance, I conclude that these considerations do not have sufficient weight, individually or cumulatively, to outweigh the harm and conflicts I have identified and that warrant a decision other than in accordance with the Development Plan.
44. Appeal A and Appeal B are therefore dismissed.

O Marigold

INSPECTOR