



Appeal Decision

Site visit made on 3 July 2024

by **Colin Cresswell BSc (Hons) MA, MBA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th September 2024

Appeal Ref: APP/Q1153/W/23/3334616

Town Farm, Launceston Road, Bridestowe, Devon, EX20 4EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Leander Developments Ltd and Mrs Jean Northcott against the decision of West Devon Borough Council.
 - The application Ref is 2861/23/FUL.
 - The development proposed is 28 dwellings including access, appearance, landscaping, layout and scale, and associated infrastructure.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Leander Developments Ltd and Mrs Jean Northcott against West Devon Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the area.
 - whether the proposal would comply with policies that seek to deliver low carbon development.
 - whether the proposal would comply with policies that seek to enhance biodiversity.
 - whether the proposal would comply with policies that seek to manage the risk of flooding.
 - whether the proposal would secure adequate contributions towards community infrastructure.

Reasons

Character and appearance

4. Bridestowe is a small village surrounded by open countryside. The appeal site is part of a larger, open field on the edge of village and currently has more in common with the rural surroundings than the built-up area of Bridestowe. Although adjoining housing in Town Meadow can be clearly seen from within

- the site, the mature trees and hedgerows which run along the field boundaries provide the site with a distinctly green and open appearance.
5. The appeal proposal is similar to a previous application for development that was dismissed at appeal¹. However, the scheme before me in the current appeal proposes more housing (28 units compared to 24 units) and has a revised layout, including changes to the proposed two storey terraces.
 6. One concern expressed by the Inspector in his assessment of the previous proposal was that it would unduly exacerbate the impact of accommodating the motor vehicle at the expense of creating a positive place. This was a consequence of the proposed layout, which included garages set back from the road frontage behind driveways, along with a proposed parking area situated directly in front of the two-storey terraced housing.
 7. The layout in the current proposal is slightly different. Although the parking arrangements for the bungalows remains very similar, with garages and parking spaces set back from the road, the main terraces (plots 19-25) are now closer to the street frontage, with parking to the rear. This would create a notably better street scene, with the terraces appearing more closely integrated with the other parts of the development. Despite the increase in density, the housing would still offer ample space.
 8. As with the previous scheme, the appeal proposal is for a development that is dominated by bungalows. Many of the dwellings would be without chimneys and would have plain, rendered elevations. As such, the housing would maintain a relatively bland appearance in comparison to the more varied architectural styles found elsewhere in Bridestowe. However, the repositioning of the proposed terraces closer to the street frontage and the introduction of additional housing would make the development appear somewhat less homogenous than the previous scheme.
 9. The affordable housing units consist of two-storey 'Parsley' style houses rather than bungalows. However, there are both semi-detached and terraced variations of this design, as well as some open market homes. Together with the placement of terraces nearer to the road, it seems to me that the affordable housing units would be less distinguishable from the rest of the development in comparison to the previous scheme.
 10. I recognise that the changes to the proposed layout in comparison to the previous scheme are relatively slight. However, for the reasons above, there would be no conflict with Policy DEV10 of the Local Plan² in terms of the layout and design of the homes. Based on the evidence provided in this appeal, I am also satisfied that there would be no conflict with Policy DEV21 which seeks to protect heritage assets and their settings.
 11. That said, I am mindful that the northwest boundary of the site would have an unorthodox, stepped appearance. This is because it would closely follow the line of Flood Zone 1, as defined by pixelated flood map data. Although this may allow the site to accommodate more housing, it would create a somewhat contrived and unsightly boundary between the edge of the village and the open countryside that would draw undue attention to the development.

¹ Appeal Decision: APP/Q1153/W/22/3293078

² Plymouth & South West Devon Joint Local Plan 2014-2034. Adoption Version for Full Councils, March 2019

12. While the proposed hedge would help to soften the boundary, it would do little to reduce the visual impact. It is not apparent that other ways of softening the appearance of the boundary have been explored. I have considered the photographs of other hedgerows provided by the appellant but these examples do not closely resemble the appeal proposal and do not delineate a boundary between the open countryside and the edge of a village. I appreciate that the edges of the field contain mature trees and vegetation which would mostly obscure views of the boundary from roads and other public vantage points. However, there can be no guarantee that the site will always remain hidden and the housing would be a permanent landscape feature.
13. Although Natural England did not raise any objections to this aspect of the proposal, its main remit is nature conservation rather than landscape protection. Furthermore, based on the information available to me, it would appear that previous proposals for the northwest boundary did not take the same form as that currently proposed. In any case, I have assessed this appeal on its own merits. In reaching my decision, I have borne in mind the high landscape quality of the countryside in this location and the Local Plan imperative for good standards of design.
14. I therefore conclude on this issue that the proposed development would harm the character and appearance of the area. There would be conflict with the landscape protection measures of Local Plan Policies DEV23 and DEV20. For similar reasons, the proposed development would also be in conflict with Policies H5 and EH1 of the Neighbourhood Plan³.

Low carbon development

15. Policy DEV32 of the Local Plan aims to deliver low carbon development through a variety of means. This includes paragraph (5) which says *all major development proposals should incorporate low carbon or renewable energy generation to achieve regulated carbon emissions levels of 20 per cent less than that required to comply with Building Regulations Part L*.
16. The Local Plan was adopted in March 2019 and, at that time, the most recent version of the Building Regulations was from 2013. This remained the case when the SPD⁴ was published in July 2020. Indeed, the SPD makes specific reference to the 2013 regulations in paragraph 9.18.
17. However, an updated version of the Building Regulations Part L was published in December 2021 and came into force in July 2022. The Local Plan makes no reference to the version of the regulations that apply to Policy DEV32 and so it seems to me that the current version from 2021 should be used, even though the SPD refers to the 2013 version. I am conscious that planning law requires proposals to be determined in accordance with the development plan, unless material considerations indicate otherwise.
18. My view is reinforced by the Climate Emergency Planning Statement⁵ which was published in November 2022. Although this is not part of the statutory development plan, it is a more up-to-date document than the SPD and was subject to public consultation. It is therefore a material consideration to which I assign a good deal of weight in this appeal.

³ Bridestowe & Sourton Neighbourhood Development Plan 2016-2034

⁴ Plymouth & South West Devon Joint Local Plan, Supplementary Planning Document, Adopted July 2020

⁵ Plymouth And South West Devon Climate Emergency Planning Statement, adopted November 2020

19. Of particular relevance is paragraph 7.5 of the Planning Statement which states that *Building Regulation Approved Document Part L has been updated in December 2021 and introduced in June 2022, and this introduces higher standards of thermal efficiency for buildings. As such, it is appropriate to ensure that the DEV32.5 20% carbon reduction requirement is only secured through onsite renewable energy generation, with no mechanism to count alternative savings through a fabric first approach, as this has already been incorporated into the 2021 Part L uplift.*
20. The 'Sustainability and Energy Statement and Carbon Reduction Plan' aims to show that the proposal would comply with Policy DEV32. Yet while the report follows the methodology set out in the Council's guidance, it only demonstrates compliance with Policy DEV32 in respect of the 2013 regulations. It does not clearly show how a 20% carbon reduction would be achieved over and above the 2021 version of the regulations. As such, I am unable to determine that the proposal would comply with Policy DEV32 or the Planning Statement.
21. I understand that the Council found a similar proposal⁶ to be compliant with Policy DEV32. However, the Council appear to have assessed this application before the 2021 regulations came into force and before the publication of the Planning Statement. Hence, that scheme was determined against different criteria than those applicable to the appeal proposal.
22. While the appellant says that no photovoltaic panels were proposed in order to protect the Bridestowe Conservation Area and Dartmoor National Park, this does not avoid the need to comply with Policy DEV32. Even if photovoltaic panels were found to be inappropriate, other mitigation measures could be explored, in accordance with the energy hierarchy.
23. I therefore conclude on this issue that the proposal would not comply with policies that seek to deliver low carbon development.

Biodiversity

24. The appellant's Ecological Impact Assessment, dated November 2023, does not contain a biodiversity metric calculation. However, the appellant references a separate DEFRA biodiversity metric calculation provided during the validation stage of the planning application, which indicates a 10.34% biodiversity net gain. This has not been contested by the Council.
25. The SPD says that the Council consider a 10% increase in biodiversity to be compliant with paragraph 5 of Local Plan Policy DEV26, which seeks net gains from major developments. I therefore conclude on this issue that the proposal would comply with policies that aim to enhance biodiversity.

Flooding

26. The site is located in Flood Zone 1, indicating that it is at the lowest risk of flooding. The appellant has submitted an updated Flood Risk Assessment dated 6 December 2023 which, I understand, addresses the previous concerns of the Environment Agency. This leads me to determine that there would be no conflict with Policy DEV35 of the Local Plan which concerns flooding, nor the requirements of the National Planning Policy Framework⁷.

⁶ Council Ref: 2957/21/ARM

⁷ National Planning Policy Framework, December 2023

27. I therefore conclude on this issue that proposed development would comply with policies that seek to manage flood risk.

Developer contributions

28. The appellant has provided a signed unilateral undertaking which proposes contributions towards affordable housing and other community infrastructure. This would potentially enable the proposal to comply with Policies DEL1 and DEV30 of the Local Plan. However, as I am dismissing the appeal for other reasons, I have not considered the unilateral undertaking any further. Therefore I do not reach a firm view on this issue.

Other matters

29. The Inspector in the previous appeal found that the different types of dwellings and their sizes would be very unlikely to exacerbate any imbalance in the existing stock of local dwellings. Having considered the demographic data presented by the Council, I take a similar view in this appeal.
30. I am aware that the appellant has been in dispute with the Council regarding its handling of the planning application. Amongst other things, this led to the appellant making a Freedom of Information request. However, while these matters are noted, my considerations in this appeal are confined to the planning merits of proposed development.

Conclusion

31. I have found that the proposal would comply with policies designed to minimise flood risk and enhance biodiversity. As this simply fulfils policy expectations, it attracts little positive weight towards the scheme. I have also found that the proposal would harm the character and appearance of the area and would conflict with the Local Plan in terms of low carbon development.
32. There are some clear benefits of the development. This includes the boost to local housing supply, including affordable housing. However, this does not outweigh the harm I have identified above. There is nothing to prevent the site being developed in a policy compliant manner.
33. The appeal is therefore dismissed.

Colin Cresswell

INSPECTOR



Costs Decision

Site visit made on 3 July 2024

by Colin Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2024

Costs application in relation to Appeal Ref: APP/Q1153/W/23/3334616 Town Farm, Launceston Road, Bridestowe, Devon, EX20 4EQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Leander Developments Ltd and Mrs Jean Northcott for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for 28 dwellings including access, appearance, landscaping, layout, scale, and associated infrastructure.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Council's first, second and third reasons for refusal are all associated with the character and appearance of the proposed development. In my view, the Officer Report provides a comprehensive explanation of the Council's position in relation to these matters and is substantiated by evidence. Although the appellants may disagree with the Council's position, the issue of character and appearance is largely a matter of planning judgement which the Council was entitled to take its own view on. The fifth reason for refusal, concerning low carbon development, is also substantiated by detailed evidence. Indeed, I found in favour of the Council on this issue in my main decision.
3. In terms of the fourth reason for refusal (flooding) the Environment Agency recommended that the Council postpone its decision on the application until a Flood Risk Assessment had been carried out. This response was received very late in the process and the appellants had little chance to respond. However, the Council decided to press ahead with its decision and objected on the grounds that insufficient information had been provided.
4. The necessary Flood Risk Assessment was provided in time for the appeal and this confirmed that the proposed development would not present a flood risk. Although the Council's appeal statement stops short of withdrawing the fourth reason for refusal, it acknowledges that the Flood Risk Assessment appears to have addressed the concerns of the Environment Agency.
5. Considering that the Flood Risk Assessment needed to be provided in any case (whether during the planning application process or appeal stage) it seems to me that there was no wasted effort. The Council did not contest the issue in any detail once it had reached the appeal stage and so the appellant would not have needed to spend much time responding.

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6. In terms of the sixth reason for refusal (biodiversity) the Officer Report says that the Ecology Report does not contain a biodiversity net gain calculation. However, the calculation was already provided at the validation stage and the appellants attach a copy of this to their appeal statement.
 7. Although the Council appear to have made an error here, I am not convinced that this had much bearing on the appeal process. The Council did not elaborate on its objection any further during the appeal and the appellants did little other than reference the calculation in their appeal statement. There are inevitably small errors in the planning process and this particular error did not consume much time. The appellant would have needed to provide an appeal statement in any event, if only to respond to the Council's objections on the other substantive planning issues.
 8. The seventh reason for refusal concerned the lack of any legal agreement to secure developer contributions. A unilateral undertaking was subsequently provided for the appeal, but I understand that this was delayed because the Council failed to send a template on time. However, in practice, delays in communicating with local authorities are only to be expected and the appellants would have had earlier opportunities to pursue this matter with the Council, including before the application was submitted. Hence, I am not convinced that needing to chase the Council for this template would have consumed an unreasonable amount of the appellants' time. The appeal itself was not delayed and a unilateral undertaking would have need to have been provided at some stage in the process in any case.
 9. That said, I recognise that some of the reasons for refusal could have been withdrawn had the Council accepted the additional information provided by the appellant. This includes the objection concerning flood risk and developer contributions. However, the Council was not obliged to change its position. Furthermore, the Council's appeal evidence did not attempt to defend its objections on these issues any further in light of the most recent information. Therefore, I do not consider that the Council behaved unreasonably.
 10. Even if the Council had delayed determining the application to enable further information to be submitted, the application would have still been refused on the grounds of low carbon development and character and appearance (reasons for refusal one, two, three and five). Hence, the appeal could not have been avoided. This is not a case of preventing or delaying development which should clearly be permitted.
 11. I am told that, throughout the whole process, the appellants experienced various problems in communicating with the Council. The appellant also says that the Council failed to follow its own constitution and I am aware of a Freedom of Information Request as well as accusations of bias in the determination of the application. However, the scope of this Costs Decision is purely to determine whether or not the appellant has incurred unnecessary or wasted expense in the appeal process. It is not to investigate allegations of impropriety or maladministration by the Council.
 12. I have been provided with a copy of a previous Costs Decision¹ which concerns an earlier proposal to develop the site. In that instance, the Inspector granted a partial award of costs. Although that Costs Decision addresses some similar

¹ Costs Decision: APP/Q1153/W/22/3293078

matters, I do not have access to all the evidence that was presented to the Inspector and so it is difficult to make direct comparisons. I have assessed the merits of the current costs application on its own evidence.

13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR

Richborough