



Appeal Decision

Site visit made on 10 September 2024

by **K Reeves BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 November 2024

Appeal Ref: APP/Q1153/W/24/3336207

Hawley House, Church Road, Highampton, Devon EX21 5LS

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Janet Urand against the decision of West Devon Borough Council.
 - The application Ref is 0998/23/OPA.
 - The development proposed is residential development for up to 19 dwellings to include public open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline with all matters reserved for future consideration. I have dealt with the proposal, including the indicative layout of the proposed development on the plans, on that basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether planning obligations are necessary and have been suitably provided; and
 - whether adequate arrangements are made for the disposal of surface water from the site.

Reasons

Character and appearance

4. The appeal site consists of a large agricultural field that sits one side of Church Road between detached residential dwellings. The other dwellings around the site are also predominantly detached. The field wraps around the rear of some of those properties. The properties along Church Road all face directly on to the road and are accessed directly off the road. They run on both sides of the road in linear forms.
5. The site is allocated for housing under Policy HNPH1 of the Highampton Neighbourhood Plan 2014 – 2034 (NP). The policy states the allocation is for a minimum of 14 dwellings with related community facilities, including the

provision of a minimum of 0.3 hectares of public open space. This also requires that the form and layout of development should reflect the rural character and landscaping setting of the settlement.

6. The final scale and layout of development would be determined at reserved matters stage. However, the application is for up to 19 dwellings and thus I must consider the likely effects of that scale of development. Moreover, the constraints on the site, such as the position of the main water pipe and overhead cables that runs across the site, leave minimal potential to deliver this scale of development in a form substantially different to that set out in the illustrative plans.
7. The illustrative plans suggest that the proposed dwellings would be laid out in a group that extends away from the road, with no dwellings facing on to Church Road. The individual dwellings are also shown being accessed from the new internal estate road. This would therefore be at odds with the character and appearance of the existing built form around the site. Given my conclusions about the scope for alternative approaches to layout, this is a significant concern.
8. The existing hedgerow that forms the boundary of the site with Church Road would remain, except for the section of hedgerow removed to facilitate the creation of the vehicular access to the proposed development. This would help to screen the development to an extent. However, as already noted, accommodating development of up to 19 dwellings is likely to result in an incongruous layout, positioning and orientation of development that would clearly be visible across the open front of the nearest neighbouring dwelling and from the new vehicular entrance into the site. As such, the development would fail to integrate with its surroundings and would have a harmful effect on the distinct rural hinterland around Highampton.
9. As already acknowledged, the scheme could be varied at the reserved matters stage. However, the appellant has not sufficiently demonstrated how the proposal could be varied to secure a development that reflects, and responds to, the layout, positioning and orientation that forms the established and prevailing character of residential development along Church Road. In the absence of this information, I cannot be certain that the harmful effect on the character and appearance of the area can be addressed at the reserved matters stage.
10. For these reasons, I conclude that the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies DEV20 and DEV23 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (JLP); and Policies HNPH1, HNPH4 and HNPEN1 of the NP. These policies collectively seek, in part, for proper regard to be given to the pattern of local development and the wider development context in terms of siting, layout, orientation, visual impact and views, for development to conserve and enhance landscape and scenic and visual quality, avoiding significant and adverse landscape or visual impacts, and for the layout of development on this site to be reflective of the rural character and landscape setting of the settlement and maintain the existing character of the settlement.

Planning obligations

11. The Community Infrastructure Levy Regulations 2010 and the National Planning Policy Framework (the Framework) require that a planning obligation can only be sought where it is; (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
12. The appellant is proposing that six of the proposed dwellings would be affordable housing. This would represent a proportion of over 30% of the maximum number of dwellings proposed and would mean that the proposal complies with the JLP in respect of affordable housing provision. In order to secure the provision and management of affordable housing, a planning obligation would be necessary to make the development acceptable in planning terms, including compliance with Policy HNPH1 of the NP, which requires a minimum of four affordable dwellings.
13. Policy DEV30 of the JLP sets out that proposals for major housing developments will need to be considered in the context of the sufficiency of the existing community infrastructure to meet the needs of the development. If there are existing or anticipated capacity issues, then financial contributions to appropriate projects shall be sought to ensure that the development's impact on the community is mitigated.
14. The County Council has provided advice on the likely additional numbers of primary and secondary school pupils generated by the proposed development. It concludes that there is sufficient capacity at the nearest primary and secondary schools to accommodate the housing development. Additionally, the primary school is within walking distance of the appeal site. As such, financial contributions are not required in these respects. However, as there is an entitlement to transport to the secondary school from the site, it is necessary for a financial contribution to be made for the additional costs associated with pupils using that transport to travel to and from the school.
15. No play spaces are shown on the indicative plan and it is therefore likely that the future occupiers of the proposed development would be reliant on the existing play space in Highampton. The proposal would generate an increase in the use of the play space next to the village hall. As such, a financial contribution towards the improvement and upkeep of the existing play space in Highampton is necessary to make the development acceptable in planning terms.
16. The indicative site plan shows the land adjacent to the housing development being left as green open space. Policy HNPR1 of the NP requires at least 0.3 hectares suitable for outdoor recreational use is provided on this site. A planning obligation would be an appropriate means to ensure that a minimum of 0.3 hectares of open space is provided at the reserved matters stage. This would be necessary to ensure compliance with Policy HNPR1. The long-term future management of the open space could then also be secured through the obligation.
17. Having reviewed the evidence, I am satisfied that obligations in relation to the above matters would be necessary to meet the statutory requirements set out above.

18. A draft heads of terms for an agreement for the financial contributions and open space provision has been provided. However, no such detail has been given in relation to delivering the affordable housing. Additionally, executed and certified copies of the planning obligations are not before me. As these would be necessary to make the development acceptable in planning terms and as it would not be appropriate to secure the obligations by way of planning conditions, there is no mechanism before me that would guarantee the necessary provision and management of affordable housing and open space, and the provision of the required financial contributions.
19. For these reasons, I conclude that the planning obligations are necessary, but they have not been suitably provided. Consequently, the proposal would conflict with Policy DEL1 of the JLP, which seeks, in part, the use of planning obligations to secure the delivery of affordable housing and developer contributions to meet infrastructure needs. Additionally, the proposal would conflict with Policy DEV30 of the JLP and Policy HNPR1 of the NP insofar as they require community impacts of development to be mitigated and green open space to be secured on this site.

Disposal of surface water

20. The Flood Risk Assessment and Surface Water Strategy, dated 29 March 2023, was submitted to the Council, and advised that surface water runoff arising from the introduction of impermeable surfaces as part of the proposed development could be managed through the installation of a detention basin, which would in turn discharge into a watercourse to the south of the site.
21. The Lead Local Flood Authority raised an objection to the proposal as the detention basin would be outside the red line area for the appeal site. This forms part of the concern raised by the Council. Whilst the red line could be amended to include the drainage basin, I do not have a plan before me showing the enlarged red line area with the drainage basin included.
22. The detention basin does not form part of the application area and, as such, there is no guarantee that any planning condition requiring the construction of this infrastructure would be able to be discharged. It would therefore not be appropriate to address this by means of condition. Without a mechanism to secure the implementation of a surface water drainage scheme to serve the proposed development, it has not been demonstrated that surface water can be disposed of in a satisfactory manner.
23. For these reasons, I conclude that the proposed development would not make adequate arrangements for the disposal of surface water from the site. Consequently, the proposal would conflict with Policy DEV35 of the JLP, which seeks, in part, to ensure that development is safe without increasing flood risk elsewhere. The proposal would also conflict with the Plymouth & South West Devon Joint Local Plan 2014 – 2034 Supplementary Planning Document (2020) insofar as it expands on the requirements of Policy DEV35 to sufficiently manage flood risk. Additionally, the proposal would conflict with the Framework, which requires sustainable drainage systems to be incorporated into schemes for major development unless there is clear evidence that this would be inappropriate.

Other Matters

24. I am mindful of my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as Beacon Down, a Grade II listed building, is located to the north east of the site, and the Golden Inn, another Grade II listed building, is situated to the south west of the site. The Golden Inn and Beacon Down derive their significance from their respective 17th and 18th Century origins, architectural execution and surviving historic fabric.
25. The site is located a substantial distance from both listed buildings, and it appears to not be intervisible with, or seen in the context of, the listed buildings. At this stage of the process, I am satisfied that the proposal would not materially harm the significance of the designated heritage assets. However, given that any detailed design would need to be addressed at the reserved matters stage, my finding is not decisive at this stage of the process.
26. The appellant has drawn my attention to Highampton Parish Council resolving to support the application. Nevertheless, I have considered the development on its merits based on all the evidence before me.
27. The appellant has raised concerns with aspects of the Council's handling of the planning application. However, this is a matter for the parties and outside the scope of the appeal.

Planning Balance

28. Highampton is defined as a 'Sustainable Village' in the JLP and the appeal site is allocated for housing under the NP. The proposal would result in the construction of up to 19 dwellings on the site. As such, there would be a moderate contribution to the district's housing supply, and I therefore afford this benefit moderate weight.
29. There would be associated social and economic benefits, including during the construction phase, through financial contributions, and future residents paying into the local economy. However, given the relatively small scale of the proposed development, these associated benefits would be limited.
30. Although the appellant has made reference to the provision of up to six affordable homes, there is no mechanism before me to secure their delivery. As such, I have given no additional weight to the provision of affordable housing.
31. The proposed development would result in unacceptable harm to the character and appearance of the area. Additionally, there would be an inadequate arrangement for the disposal of surface water from the site and necessary planning obligations have not been suitably provided. The policies that I have identified conflict with are consistent with the Framework. Accordingly, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development, and I find that the adverse impacts of the scheme would outweigh the scheme's benefits.

Conclusion

32. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the

appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

K Reeves

INSPECTOR

Richborough