

Beth Hobbs

From: west3@planninginspectorate.gov.uk
Sent: 06 February 2023 12:01
To: Planning Support
Subject: Planning Inspectorate APP/W1145/W/22/3305611: Land at Grid Reference 245310 125398, EX39 5HB
Attachments: Despatch Cover Letter - Helen Smith - 06 Feb 2023.pdf; Appeal Decision.pdf
Categories: Beth

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Your Ref: 1/0372/2022/FUL
Our Ref: APP/W1145/W/22/3305611

Helen Smith
Torrige District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

06 February 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr Robert Kay
Site Address: Land at Grid Reference 245310 125398, Upcott, Bideford, Devon,
EX39 5HB

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Sophie Woodruff

Sophie Woodruff

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Appeal Decision

Site visit made on 10 January 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th February 2023.

Appeal Ref: APP/W1145/W/22/3305611

Land directly East of Higher Marsh, New Road, Bideford.

- 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 Robert Kay against the decision of Torridge District Council.
 - The application Ref 1/0372/2022/FUL, dated 10 April 2022, was refused by notice dated 17 June 2022.
 - The development proposed is proposed single storey dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy and the effect of the proposal on the character and appearance of the area.

Reason

3. The spatial strategy for the location of housing in the area is outlined in Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP). The Policy supports the positive contribution people can make to rural communities allowing villages to grow to maintain the viability of these areas. Whilst supporting appropriately located development, the policy seeks to ensure that development outside of settlements does not exacerbate the areas dispersed settlement pattern, does not compromise the quality of the landscape and minimise any conflicts with the principles of sustainable development.
4. As the site is not located within a Local Centre, Village or Rural Settlement as defined by the policy, the appeal site falls within the Countryside. Within the Countryside, Policy ST07 states that development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.
5. There is no compelling evidence that the appeal proposal is meeting a specific identified local economic or social need, does not propose the re-use of a building and is not a use that is restricted to a Countryside location. As such, the proposed does not meet any of the exceptions for residential development in the Countryside and is contrary to Policy ST07.
6. There is agreement between the parties that the Council cannot demonstrate a five-year supply of housing land. In such circumstances, Policy ST21 of the LP can apply. Policy ST21 states that where completions fall below 90% of the

annualised dwelling requirement, and the housing trajectory for that year indicates that the rate would not recover to an average of at least 100% for the subsequent two monitoring years, proposal for residential development outside of defined settlement limits will be supported where four criteria ((a)-(d)) are met. Although I have limited information in front of me in relation to completions and trajectory, the policy is relevant to the proposal.

7. Of the four criteria to Policy ST21 of the LP, there is no dispute between the parties that the proposal would comply with (a), (b) and (c). I have no reason to disagree with this. In relation to criteria (d), this requires that the proposal accords with relevant LP policies in all other respects. The proposal may therefore meet the criteria to Policy ST21 subject to the consideration of the effect of the appeal proposal on the character and appearance of the area.
8. The site is located on partly sloping land raised above the bank of the River Torridge. There are a number of small buildings on the site, and it benefits from its own access and space to park a number of cars. The site has the appearance of a domestic garden.
9. The site lies with the Landscape Character Type '4a Estuaries' that identifies the special qualities of the area being it 'open feeling and expansive views' with a need to 'protect the open character of the estuary and its importance views to and from the surrounding landscapes.' There is fencing and mature landscape features to the boundaries of the site. Nevertheless, the site is still visible, and prominent in views from the river and the nearby footpath on the opposite side of the river. The wider area has a natural and generally undeveloped character and appearance.
10. The small scale of the buildings, landscaping on and adjoining the site, and use of timber materials for the seating area and cabin, ensure that the existing buildings are not highly prominent in the landscape. Therefore, the appeal site currently contributes positively towards the open character and appearance of the landscape.
11. The prominent position of the proposed dwelling in such close proximity to the river would introduce a built form that is larger in scale and bulk in comparison to the existing structures on the site would result in a development that would be very prominent. When viewed on approach from up and down the river and the Tarka Trail, it would detract from the open, generally undeveloped natural green river corridor and its expansive undeveloped views. Such development would not be characteristic of the area and wider local landscape. The proposed planting strip fronting the river, by reason of its narrowness limiting the extent of planting, would not address these concerns or adequately reduce the prominence and relationship of the proposed dwelling with the river and Tarka Trail.
12. In light of the harm identified above to the character and appearance of the area, the proposal does not comply with criteria (d) to Policy ST21 of the LP. As a result, this does not give reason to go against the spatial strategy outlined under Policy ST07 of the LP.
13. I note the lack of any lawful development certificate for the site but also note the letter from the Council stating that they were satisfied that the use of the area as a garden has been carried on for more than 10 years. Even if I

- considered the site part of the garden to Higher Marsh, it would still not meet any of the exceptions in the development strategy for housing in this location.
14. Although I find above that the built form would be harmful to the character and appearance of the area due to its position and prominence, given the existing buildings on the site and its historic use as a garden area, I do not find the possibility of further paraphernalia harmful to the character and appearance of the area in itself. Given the location of the site adjacent to a busy road with its associate noise and activity, and its position raised above the river and across the water from the Tarka Trail, I do not find that the proposal would be harmful to the tranquillity of the area.
 15. In light of the above, I conclude that the appeal site is not an appropriate location for housing, with particular regard to the local development strategy, and would significantly harm the character and appearance of the area. As such, the proposal would conflict with the requirements of Policies ST07, ST09, ST14, DM04 and DM08A the North Devon and Torridge Local Plan 2011-2031 LP and Paragraph 80 and Part 15 of the National Planning Policy Framework (the Framework). Amongst other things, these state that within the Countryside, Undeveloped Coast and estuary should not detract from the unspoilt character and appearance of the area and be required because it cannot reasonably be located outside of these areas, is of an appropriate scale, mass and design that respects the landscape character, and protect and enhance valued landscapes in accordance with paragraph 174 of the Framework.
 16. While referred to in the decision notice, Policy ST10 of the LP relates to accessibility and therefore weighs neither for nor against the scheme with regard to the main issue

Other Matters

17. The lack of harm to highway safety is a neutral factor. There would be benefits to the supply of housing, the local economy from the build and occupation of the property and biodiversity. Given the scale of the scheme these would be small. No details of single dwellings elsewhere in the district that have been approved have been provided. Therefore, I cannot be certain they are directly comparable to the scheme before me.
18. The development would harm the character and appearance of the area and be contrary to the local development strategy. The relevant policies are largely consistent with the Framework where it states that planning decisions should guide development towards sustainable solutions whilst reflecting the character of an area and safeguarding the environment. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
19. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. the Framework should be applied. The appeal proposal would provide a number of benefits, including providing much needed housing which would contribute towards the supply and mix of housing in the area, benefit the local economy from construction works and future occupiers using local services and facilities and contributing to local tax revenue, be designed not to affect any wildlife, and would provide additional open market accommodation with good

accessibility to services and facilities. However, given the scale and nature of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in significant harm to the character and appearance of the area and the local development strategy. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR