Appeal Decision

Hearing held on 20 April 2023

Site visit made on 20 April 2023

Hearing closed in writing on 24 April 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/W1145/W/22/3312832
Pewson Barton, Road from Upcott Cross to Furzepark Cross, Dowland, Winkleigh EX19 8PG

- 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 R Hadden against the decision of Torridge District Council.
- The application Ref 1/1407/2021/FUL, dated 13 December 2021, was refused by notice dated 10 June 2022.
- The development proposed is six holiday pods, sewerage treatment plant and change of use of agricultural building to covered parking for visitors (affecting public right of way).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended by the Council to reflect the potential effects on the public right of way. I have taken the description from the Council's decision notice in the interests of clarity.

3. Following receipt of correspondence in connection with a planning condition requested during the proceedings, the hearing was formally closed in writing.

Main Issues

4. The main issue is whether the tourism proposal would represent an acceptable farm diversification scheme in accordance with development plan policies relating to the same.

Reasons

Existing site context

5. Pewson Barton is a farmhouse with an associated range of curtilage outbuildings and pastureland. It is situated in the countryside, near Dowland.

6. The farmhouse is a Grade II listed building (List Entry Number 1104601). The List Entry details that the farmhouse was almost certainly built during the late medieval period as an open hall, constructed from rendered cob and exposed rubble with a thatched roof. It also has C17 and later additions and alterations, including an L-shape range which projects to the front with later infill sections behind connecting to the house, a dairy wing to one side and a prominent chimney stack on the principal elevation.

7. Lying in close proximity to the farmhouse around the yard, the outbuildings are also considered to be curtilage listed by association. The group includes a substantial L-shaped threshing barn, byre, stables, attached horse engine house, cart shed and detached linhay. The evidence depicts that the threshing barn, byre, stables and cart shed are older than 1840s as they are depicted on the tithe apportionments map of the same year. The horse engine house and the linhay appear to have been built at some point between 1840 and 1888.

8. All of the outbuildings have been constructed from traditional vernacular materials consisting of local carboniferous sandstone and cob, but with areas of brick where repairs have taken place. The roof and floor framing of the buildings is a hardwood and whilst they would have originally been thatched, the roof coverings have been replaced with corrugated iron sheets.

Proposals

9. Permission is sought for the construction of six holiday pods which are described as glamping structures, each capable of accommodating a double and two single bedspaces. A new sewerage treatment plant would be installed for wastewater and modest areas of pedestrian access track would be provided to and in between the pods. Four of the pods would be sited around a small paddock to the north of the farmyard and outbuildings, with the additional two units sited within part of a larger field further beyond them to the north-west.

10. A change of use of the linhay building would provide parking under cover, albeit no physical works are proposed that would require listed building consent under the Listed Building and Conservation Areas Act 1990.

11. It is relevant that for business purposes, the site preparation works, servicing of the pod plots and provision of the land would be the responsibility of the Appellant. A partner firm, Further.space, would provide the pods on the site and a capital repayment plan and profit share arrangement would be in place.

Policy Context

12. The North Devon and Torridge Local Plan 2011 - 2031 was adopted in 2018 (NDTLP). NDTLP Policy ST07 sets out the spatial strategy of the plan and details that in the countryside, beyond named local centres, villages and rural settlements, 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.

13. NDTLP Policy DM18 sets out that outside of the named sub-regional, main and local centres, the development of new or expansion or rationalisation of existing tourism accommodation will be supported where it is either: a) related to and compatible in scale with an existing tourism, visitor or leisure attraction; b) reuses or converts existing buildings; or, c) improves facilities for, diversifies the range or improves the quality of existing tourism accommodation. There are other criteria relating to design, highways and environmental considerations with which such proposals must also comply.

14. The proposal would represent the creation of a new tourism development in the countryside without a relationship with any existing accommodation or visitor facility and would not, in substance, involve the reuse of existing buildings. The signed Statement of Common Ground (SoCG) submitted with the appeal sets

out the agreement between the parties that the proposal is contrary to NDTLP Policy DM18 and I find no reason to conclude differently.

15. Policy DM15 of the NDTLP is a policy that seeks to support the agricultural sector through schemes for farm diversification and sets out five criteria for compliance, (a) – (e). The parties agree that the proposal would comply with criteria (c), (d) and (e), relating to design and landscape, effects on neighbouring occupiers and highway considerations respectively. As such, the consideration of the proposal is principally focussed on whether it would comply with Policy DM18 (a) and (b), which caveat support for schemes based on whether:

    "(a) the scale of the development is justified by the operational needs of the enterprise and will reinforce the viability of the farm business;

    (b) the prospects for the reuse of the vacant buildings, underused or redundant agricultural buildings or their sites have been explored fully and opportunities exhausted."

Reasons

DM15 (a) – operational needs and reinforcement of viability

16. The supporting text to Policy DM15 sets out that the Council will expect an appropriate farm diversification plan to be submitted, which must set out the short and long term business plan of the existing farm business and explains how, in functional and financial terms, the proposal would support the long-term viability of the farm business.

17. The Council's evidence identifies concerns about the relatively passive form of farming undertaken at present, which is considered to be tokenistic when compared to a farm in the truer sense of the word, one in which the farmer and their relations may be living and working on the land to make a living through a variety of means. The Council also emphasised the overarching spatial strategy of the plan which seeks to limit development in the countryside unless where, in the interests of supporting the agricultural sector, diversification schemes are genuinely needed to ensure the ongoing viability of a farm. In essence, the Council allege that the scheme is not in accordance with Policy DM15 (a) in substance or in spirit.

18. Whilst there is no one specific 'business plan' document submitted with the appeal, numerous documents detail functional and financial information relating to Pewson Barton. However, in terms of context, it is relevant that the farm was inherited by the Appellant and his family members in around 2011 with some debts associated with care home fees, inheritance tax and tenancy buy-out arrangements. The evidence refers to a '10 year plan' which was started in 2015 to restore the business. The '10 year plan' is described loosely, but was not submitted and some of its content will have been superseded by events, touched upon below.

19. The Appellant owns the farm enterprise along with his wife and mother. It is not disputed that there is a holding number/s relating to Pewson Barton and that the Appellant or his family business, Anstey LLP, are recognised by HMRC and for accounting purposes as responsible for the farming enterprise.

20. Neither the Appellant or his family members live at the farmhouse. It is instead occupied by a part-time farm manager whose hours contracted to the farm

have reportedly recently increased. The farm manager is able to undertake contract work using farm machinery that he owns on other farms at his will.

21. In 2015, the farm comprised of c.39 hectares (95 acres). In 2018 another tenancy fell in so that the farm totalled an area of c.56 hectares (140 acres). Up until 2020, the farm was being operated on a dairy farm share arrangement. The rationale behind this share arrangement is explained as relating to the farm's small acreage, absence of any modern farm buildings and its own herd. The unexpected early retirement of the share partner forced the cessation of dairy farming activities.

22. Since 2020, the farm has sold its grass to other farmers by way of grazing license arrangements. In 2025, another longstanding tenancy will come to an end which will see another block of 71 hectares (175 acres) returned to the farm. The current 'grass keep' arrangement is intended to continue at least until this land is returned. The evidence details plans to invest in modern farm buildings and/or livestock herds, or find another share farming collaborator once the 71 hectares has been reacquired, albeit, these plans appear relatively loosely defined at the present time, unlike the proposed diversification plans.

23. The evidence details that a key reason behind the need to diversify is the reduction in income that will imminently take effect through the reduction in the Basic Payment Scheme (BPS) which is a subsidy payment made to holdings based on their qualification, size and the nature of agricultural uses. After 2027, the BPS will cease entirely, although it will be replaced, in part, by the Environmental Land Management Scheme (ELMS). The precise detail on ELMS was not known at the time of submission of the appeal, and though a relatively recent announcement has allegedly clarified such, the written evidence was confirmed as being generally reliable in this regard. It details the different rates payable under the ELMS, which would be around 10% of the value of BPS for those under the entry level and around 50% for those qualifying under the higher level.

24. For an analysis of the financial situation, I refer to Table 2 of the document submitted at the hearing (Document 1[1]). This suggests that in 2022, the farming income was £10,300 from grazing licences and £9,715 from payments under BPS, i.e. total £20,015.

25. As a comparison, the abridged farming accounts 2018-2021 show that the income in 2021 was £10,502 from the grazing income and £12,144 from BPS, i.e. total £22,646. The modest decrease in the value of BPS is noted, but across these pieces of evidence, it is useful to note that the income was similar between 2021 and 2022. Also of note is that the highest BPS income appears to have been paid in the year 2020, at a figure totalling £13,983.

26. As the reacquisition of the 71 hectares in 2025 will materially change the forecasted farming income, the 2026 projections are £22,550 for the grazing income, £3,036 for the BPS payments and £13,860 for the ELMS payments, i.e. a total of £39,446. These figures do not reflect any particular change to the farming arrangement, i.e. a grass keep with licenses secured with other livestock farmers.

[1] Document 1 (referred to at the hearing as Document 5) – titled 'Background to current farming business and viability (undated)

27. In 2027, the farming income is predicted to be £37,928, comprised of £22,550 grazing income, a reduced BPS income of £1,518 and £13,860 from ELMS, i.e. comporable income to that anticipated for 2026.

28. It came to light at the hearing that the income from the longstanding lease on the 71 hectares of c.£8,500 pa is not accounted for under the grazing income or indeed anywhere as part of the farming income in the submitted accounts. Whilst there may be some specific accounting reasons for disaggregating this figure from the grazing income, it distorts the picture of the current viability of the farm. From my basic calculations, even if the excluded £8,500 pa is added back into the 2022 farming income, the financial future of the business will still be healthier in 2027 than was the case in 2021 or 2022.

29. Drawing this together, despite the Council's misgivings about the legitimacy of the way the landholding at Pewson Barton is farmed out, there is nothing in Policy DM15 or its supporting text that seeks to prescribe what style a farming enterprise should take. Though the evidence suggests that the ELMS income will only reach to a figure around that of the 2020 BPS peak, and would perhaps be expected to increase materially with the return of the main block of farmland, in my view, the accounts and projections do not suggest that the farm enterprise would have a bleak financial future, even if the grazing licence arrangement remains the principal farming operation.

30. Turning to the tourism element, taking into account the financial projections with the revenue from the proposed pods, in the year 2027 (i.e. the fifth year of trading), the gross margin share income is predicted to be £36,222. As a figure in isolation from the predicted spin-off retail sales to guests, this is comparable to the total projected farming income in the same year of £37,928. Therefore, it is evident from this that over a relatively short period, the diversification enterprise and the farming enterprise would be relatively equal contributors to the total income of the Appellant's business.

31. It became clearer at the hearing that on the expiration of the initial five year period, the capital repayable for the pods to Further.space would no longer need to be paid in full, which, as detailed in the Diversification Statement with the appeal (author/date unknown), would be a figure of c.£53,527. Whilst it was suggested that some proportion of this would need to be reinvested back into refitting the interior of the pods to maintain the brand standard, there is a potential that some of this additional income would come into the business, even if the profit share arrangement were to stay fixed beyond this point. From this point on, the diversification enterprise would represent an obviously larger proportion of income than the original farming enterprise.

32. Table 2 also details a material jump in wages and overhead expenses over the period 2022 – 2027. These costs are provided but it is not clear which proportion is attributable to the farm enterprise as distinct from the diversification enterprise. Furthermore, though the evidence loosely suggests that there would need to be some capital investment into the laying out and servicing of the pod plots, it was acknowledged that these costs were not reflected in the account projections. In the same vein, although there was some suggestion that the scale of a diversification scheme could not reduce beyond a certain point as to do so would be economically unviable, there was an absence of clarity on the extent of these costs to support this point.

33. From my reading of the evidence and from what I heard, it is clear that a farm enterprise exists, but one which has become complicated through business, accounting and ownership arrangements. Nonetheless, the farming operation at Pewson Barton is likely to be sufficiently viable going forward.

34. However, in income terms, the scale of the diversification proposal would relatively quickly overtake that of the primary farming operation on site, which combined with the lack of clarity of the future farming plans and associated financial projections, suggests that it would be out of scale with the existing business and, rather than reinforce its viability, it would become the primary business. Therefore, based on the evidence submitted, I do not consider that the scale is justifiable as a means to reinforce the enterprise.

35. The scale of the proposal is not therefore justified by the operational needs of the enterprise, and thus, it conflicts with NDTLP Policy DM18.

DM15 (b) – considerations as to reuse of existing buildings

36. The essence of the Appellant's argument is that the curtilage listed outbuildings are, and would continue in agricultural use for storage of implements, food and fertiliser and for some stock handling as the farm expands its operation, thus avoiding the requirements of Policy DM15 (b).

37. It is also suggested that as the buildings are located around a single courtyard, the noise, smell and disturbance from continuing farm operations would provide an additional reason not to convert them into tourist accommodation. However, the pods would still have a relatively close connection with the noise and smells from the yard and the Council's Environmental Health Officer suggests that tourism uses can be acceptable within a mixed agricultural and residential setting. In my view, there would not be a specific conflict that would strictly prevent consideration of their reuse for tourism purposes.

38. Additionally, the Heritage Impact Statement[2] submitted with the appeal sets out that the group of buildings "…*has additional heritage value on account of the increasing scarcity of unaltered traditional farmyards"* which enhance the significance of the farmhouse and that to convert the barns would involve works, such as the provision of services, insulation, floor and roof structures, new or wider openings and landscaping that would harm their historic value.

39. From my site visit, it was clear that the buildings are in a deteriorating condition, elements of them appear relatively fragile, and in my view, they are not particularly suited to use by modern machinery or livestock. On the whole, whilst I saw that parts of a few buildings appeared to be in use for low level agricultural storage purposes, the group of buildings appeared relatively underused and with limited prospects of being practical for such. The underuse of the buildings is understandable given the way the farmland is currently grazed through the licensing arrangement. These circumstances are also consistent with the Heritage Impact Assessment insofar as it notes that the outbuildings '*have remained <u>until recent times</u> in continuous agricultural use'.*

40. Moreover, as the specific growth plans for the enterprise are likely to be largely predicated on the grass licence arrangement in at least the short to medium term, I have no certainty that they will be anything other than underused in

[2] Heritage impact of converting traditional barns at Pewson Barton in favour of providing alternative holiday accommodation - Building Conservation Services, 6 December 2022

the future. Similarly, whilst the evidence details an intention to use part of the income generated by the pods to help finance the costly ongoing maintenance works, it was confirmed that the scheme is not intended as an 'enabling' scheme to secure the future of these designated heritage assets as described in paragraph 80 of the National Planning Policy Framework (the Framework). Other than the Heritage Impact Statement submitted with the appeal, there are limited details in the evidence pertaining to the theoretical capability of the conversion of the buildings, i.e. such as sketch floor plans or costings for the work or objectively based income projections for their use as converted barns for tourism purposes. The figure of £4,000 per sqm for conversion was offered anecdotally at the hearing, but I have no details on the floor areas on which to base any calculations of the outlay involved in their conversion.

41. I agree with the Appellant that converting the buildings would represent a far different scheme to that proposed in many ways; such as its inability to offer the same connection with nature as would be offered by glamping pods, and the more limited outlook that the units would offer towards Dartmoor National Park. However, it is clear that NDTLP Policy DM15 (b) seeks to ensure that the reuse of buildings has been fully explored before alternatives are proposed. The submitted evidence falls short of this expectation by providing only limited rationale as to why the group of buildings could not be converted for tourism purposes, particularly given their designation as heritage assets which triggers similar considerations under the Framework to consider optimum viable uses.

42. For the reasons outlined, the prospects for the reuse of the agricultural buildings has not been fully explored, contrary to NDTLP Policy DM15 (b).

S106 / Condition

43. The Council's Statement indicated that, in the event of the appeal being allowed, the pods would need to be tied to the wider agricultural holding by planning obligation under S106 of the Town and Country Planning Act 1990. The intention behind this would be to prevent them being sold off separately of each other or the farm, to enable it to remain a true farm diversification scheme to accord with Policy DM15 of the NDTLP.

44. A planning obligation was not submitted with the appeal and a version of a precise and enforceable condition that would satisfactorily secure the same outcome could not be agreed prior to or during the hearing. However, as the appeal is failing for other reasons in any event, this matter is not decisive.

Planning Balance and Conclusion

45. The proposal would not represent an acceptable farm diversification scheme and conflicts with NDTLP Policy DM15, parts (a) and (b), and consequently, also conflicts with Policy ST07 which outlines the broad spatial strategy for the area. There would also be conflict with Policy DM18. The proposal therefore conflicts with the development plan, when taken as a whole.

46. I do not attribute weight in favour of the aspects of the scheme which would be of overall neutral effect, such as its impacts on the local highway network, biodiversity or character and appearance of the area.

47. The main public benefit of the scheme would result from the additional income generated by the pods through guest bookings, which from the evidence, would not be insubstantial. In the absence of any means to secure this

specifically for the farm enterprise, I cannot be sure that this would be directed towards the purposes outlined in the evidence. Nonetheless, this would be economic benefit which attracts weight in favour of the scheme. The visitor stays would also generate a degree of additional employment, through demand for advertising and changeovers, and income for other businesses in the surrounding area, such as restaurants and local attractions. These economic benefits also attract a degree of additional weight.

48. However, I do not consider that the totality of the public benefits amounts to a consideration of such materiality that it outweighs the conflict with the development plan. Accordingly, there is no reason to indicate that a decision should be taken other than in accordance therewith.

49. For the reasons outlined above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Lewis Andrews	Tree Tops Planning
Mr R Hadden	Appellant
Mr P Thomas	Strutt and Parker
Mr Sam Percival	Building Conservation Services
Mr Kevin Hill	R T Marke & Co Ltd Chartered Accountants

FOR THE LOCAL PLANNING AUTHORITY:

Mr Angelo Massos	Principal Planning Officer
Mr K Evely	Development Management Team Leader
Ms Sarah Chappell	Conservation Officer

DOCUMENTS:

Document 1	Background to current farming business and viability
Document 2	Emails in relation to proposed planning condition