



Appeal Decision

Site visit made on 9 May 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: June 1, 2023

Appeal Ref: APP/X1118/W/23/3314324

Broadlands Farm, road from Higher Yetland to Wheel Cross, Berry Down, Combe Martin, Devon EX34 0NZ

- 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 Brunt against the decision of North Devon District Council.
 - The application Ref 75492, dated 20 June 2022, was refused by notice dated 11 November 2022.
 - The development proposed is replacement dwelling and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal, the Council has confirmed it now has a 5-year housing land supply. The appellant has had an opportunity to review this position and raises no additional comments.

Main Issue

3. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the provisions of the local settlement strategy and national policy; and (ii) whether the proposal constitutes a replacement dwelling.

Reasons

Location

4. The appeal site is within part of a large field located in an exposed countryside position. It is not well connected to or adjoining the nearest settlement. Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP) sets out the Council's settlement strategy which is to focus development on Local Centres which provide a broad range of services and facilities. In the countryside, beyond the towns and villages, development is only permitted where it would meet local economic and social needs, the reuse of a rural building and development that is necessarily restricted to a countryside location which is consistent with chapter 5 of the National Planning Policy Framework (the Framework).
5. The supporting text to Policy ST07 of the LP explains that there is support for local needs housing adjoining villages or rural settlements. Additionally, paragraph 79 of the Framework says that to promote sustainable development

in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. However, the proposed open market property would not meet any of the requirements of Policy ST07 of the LP and consequently there would be conflict with the settlement strategy.

6. Therefore, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to the provisions of the local settlement strategy and national policy. For the above reasons, the development would be in conflict with policies ST01, ST04, ST07 and DM04 of the LP which collectively in this respect seek to meet social needs, creating sustainable and inclusive environments. There would also be conflict with paragraph 79 of the Framework.

Replacement dwelling

7. It is not appropriate for me to determine whether the current use of the mobile home is or is not lawful. This can only be formally determined by a lawful certificate application.
8. At the time of my visit, I observed the mobile home to be lived in and it was of a domestic appearance. However, the supporting evidence suggests the mobile home on the site was granted a lawful certificate in 2005 for "occasional use only" purposes. Even if the property were to be defined as C3 having a residential use, using the natural and ordinary meaning of the word "occasional", the restriction behind the use is clear and unequivocal. The mobile home is therefore not permitted to be used for other purposes such as on a permanent basis.
9. Although mobile homes may have been located at the appeal site for many years and Council Tax records, a statutory declaration and estate agent's particulars are included within the submitted documents, none of this categorically demonstrates that the mobile home can be used for residential purposes on a permanent basis and consequently, I afford very limited weight to this evidence in support of the proposal. Additionally, I have no substantive evidence to disagree with the Council's assertion that it withdrew an Enforcement Notice in 2014 after the appellant's then agent confirmed the mobile home was not being used on a permanent basis.
10. Therefore, I conclude on this main issue that the proposal does not constitute a replacement dwelling where support could be given under Policy DM26 of the LP. For the above reasons, the development would conflict with Policy ST07 of the LP and paragraph 79 of the Framework.

Other Matters

11. The proposal would deliver a well-designed, adaptably accessed and energy efficient property. It would include a comprehensive landscape scheme with new hedgebanks, planting and wildlife foraging area, achieving a net gain in biodiversity. However, any such benefits would not outweigh the harm I have identified above.

Conclusion

12. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the

development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR