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# Appeal Decision

Site visit made on 13 April 2023

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

**an Inspector appointed by the Secretary of State**

**Decision date: 13th July 2023**

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**Appeal Ref: APP/Q1153/W/22/3312213**

**Lower Longwood Farm, Road From Church Road to Holsworthy Bridge, Highampton EX21 5LF**

- 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 B Bailey against the decision of West Devon Borough Council.
  - The application Ref 0529/22/FUL, dated 11 February 2022, was refused by notice dated 21 October 2022.
  - The development proposed is replacement dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. During the appeal the appellant submitted a signed Unilateral Undertaking (UU) seeking to ensure that should this appeal be allowed and permission granted, a fallback consent would not be implemented. I have had regard to this below.

## Main Issues

3. The main issues are:
  - whether the proposal would result in a replacement or new dwelling;
  - whether the site is a suitable location for the proposal having regard to accessibility;
  - the effect of the proposal on the character and appearance of the area;
  - whether the proposal would result in acceptable living conditions for future occupiers;
  - whether the proposal would provide housing of an appropriate size and type; and,
  - whether the proposal demonstrates suitable carbon reduction benefits.

## Reasons

### *Replacement or new dwelling*

4. The appeal proposal seeks to replace an existing workshop/barn for which prior approval<sup>1</sup> has been granted to convert to a four-bed dwelling, with a new three-bed dwelling in a slightly different position.

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<sup>1</sup> 0600/20/PDM

5. Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (LP) seeks to direct new homes to the identified main towns, smaller towns, key villages and sustainable villages. Policy HNPH2 of the Highampton Neighbourhood Plan (NP) relates to the settlement boundary for Highampton. The site lies outside of any identified town or village and is outside of the settlement boundary for Highampton. As a result, the site is in the countryside for planning policy purposes where development is only permitted where it complies with LP policy TTV26 or comprises a replacement dwelling under LP policy TTV29.
6. LP Policy TTV29 allows for the replacement of existing dwellings in the countryside. Policy TTV29 is subject to a number of criteria including that the number of new dwellings is no more than the number of dwellings to be demolished and replaced.
7. The appellant's case is that as there is a 'fallback' position in place for a dwelling on the site, the proposal would represent a replacement dwelling supported by LP Policy TTV29.
8. The principle established by the grant of prior approval could represent a genuine 'fallback' position. Even in the absence of the start of any construction works, there is every prospect that the building would be converted to a dwelling should this appeal fail. The appellant has already gone to the effort of submitting applications and an appeal which demonstrates a clear intent to develop the site. The prospect of the 'fallback' being developed is therefore greater than theoretical.
9. However, whilst the appellant has submitted a UU which seeks to ensure that the fallback consent would not be implemented if the appeal is allowed and the subsequent planning permission is implemented, the UU is not dated, and it refers to the prior approval consent as a planning permission. The submitted UU does not therefore prevent the prior approval scheme from proceeding if the appeal proposal were to be allowed and implemented. It has been put to me that the Class Q prior approval scheme could also not be implemented once work on the appeal proposal begins because the use of the barn would change from agricultural to ancillary residential at that point. Be that as it may, it seems to me that there is nothing stopping the prior approval scheme from being implemented first. As such, there is the possibility that the appeal could still result in the provision of two dwellings on the site.
10. A planning condition seeking that the fallback consent is not implemented would not satisfy the six tests for the imposition of conditions detailed in Paragraph 55 of the National Planning Policy Framework (the Framework). This is because it would not be reasonable to use a condition to prevent another approved development from being built.
11. Therefore, I conclude that the Prior Approval consent does not necessarily represent a genuine fallback to the appeal proposal and could be commenced even if the appeal proposal were to be allowed and subsequently built. As a result, the appeal proposal could result in an additional dwelling and cannot therefore be reasonably described as representing a replacement dwelling.
12. Within the countryside, isolated development is restricted by LP Policy TTV.26.1 to that which meet an essential need for a rural worker to live permanently at or near their place of work, secures the long-term future of a significant

heritage asset, secures the re-use of redundant or disused buildings and brownfield sites or secures a development of truly outstanding or innovative sustainability and design. The proposal for a new-build dwelling would not fall within any of these categories and consequently there is a clear conflict with LP Policy TTV26.1.

13. In conclusion on this matter, the proposal does not represent a replacement dwelling. As such, it would not accord with Policies TTV1, TTV26 and TTV29 of the LP, Policy HNPH2 of the NP and the Framework. Amongst other things, these seek to ensure that development follows sustainable development principles, prioritises growth through a hierarchy of sustainable settlements, avoids isolated development in the countryside, and restricts the number of new replacement dwellings to no more than the number being demolished.

#### *Suitable location*

14. LP Policies SPT1 and SPT2 seek to deliver sustainable development and sustainable rural communities. These policies support development with sustainable transport options that are well served by public transport, walking and cycling opportunities. The need for sustainable transport options and to locate development well served by public transport is to reduce the need to travel by motor vehicles, including the private car, in order to reduce carbon emissions.
15. The appeal site is a considerable distance from the nearest services and facilities via narrow unlit roads without pavements. The distance and nature of the roads is such that they would not be attractive to walkers or cyclists, particularly at night and in the winter months. As a result, the majority of journeys to and from the site would be reliant on a motor vehicle or car that would not aid the reduction in carbon emissions.
16. In light of my findings above that the proposal does not represent a replacement dwelling, and potentially result in the provision of an additional dwelling, the proposal would result in an increase in journeys and would thus generate additional motor vehicle/car trips.
17. In conclusion on this matter, the site is not a suitable location for the proposal having regard to accessibility. As such, it would conflict with Policies SPT1 and SPT2 of the LP. It would also be contrary to the Framework that promotes opportunities for sustainable transport.

#### *Character and appearance*

18. The appeal site is within the open countryside comprising a workshop/barn of a functional design and appearance finished mainly with metal sheeting. The site also comprises a raised concrete slab that previously formed a base to an agricultural building that has been demolished. The wider area surrounding the site has a rural character and appearance, with dwellings generally of traditional designs with predominately render facing materials under slate and tiled roofs. The site is screened by tree planting on approach along the access track.
19. The proposed dwelling, by reason of its roof form and facing materials, would not reflect the more traditional design and materials of dwellings in this rural area. Moreover, the narrow and regimented window configuration resulting in large areas of walling, in combination with the standing seam roof and walls,

even when weathered, would result in a building of a harsh utilitarian finish. That the development is said to reflect the barn and plot size of the property to the west, and that asymmetrical roofs are found elsewhere, does not lead me to a different conclusion.

20. Whilst of a residential scale, with parts of the roof profile reflecting the traditional outshoots to buildings, and steel cladding often used to face rural buildings, zinc or copper standing seam materials are not common features in the wider area. I acknowledge that the design aids its energy efficiency and would be resilient. However, I am not convinced that a similar rating could not be achieved through a different design approach more reflective of this rural area.
21. The building would benefit from views out across the valley, but as a result, the dwelling would also be visible from dwellings located across the valley. Moreover, the combination of the functional appearance of the retained barn and close relationship with the dwelling would make the wider site more prominent. The prominence of the site would also be exacerbated by the large residential curtilage proposed and associated paraphernalia such as play equipment and furniture that would be likely, but which could not be controlled by condition.
22. Taking account of all the above, I conclude that the proposal would harm the character and appearance of the area. As such it would conflict with Policy DEV20 of the LP and the Framework. Amongst other things, these ensure that development proposals meet good standards of design, contribute positively to the landscape, having proper regard to the wider development context, styles and materials, and achieve well designed places.

#### *Living conditions*

23. A side elevation of the proposed dwelling would be positioned close to, and directly facing, the existing workshop/barn. Whilst this close relationship would result in noise and disturbance for occupiers of the proposed dwelling from a continued agricultural use of the workshop/barn, the appeal proposal would result in this building becoming ancillary to the new dwelling. This could be controlled by condition. In light of this, the occupiers of the dwelling would have control over any noise and disturbance.
24. However, the above such condition would not stop the Prior Approval development from going ahead. In the absence of a suitable UU to prevent the conversion of the workshop/barn to a dwelling under the prior approval consent, as detailed above, there is the possibility that the barn could be converted to a dwelling alongside consent for the new dwelling forming part of this appeal. This would result in two dwellings and their associated windows and outdoor space in very close proximity resulting in insufficient privacy and noise and disturbance for both occupiers. Therefore, in the absence of a suitable UU, the proposal has the potential to result in unacceptable living conditions for future occupiers.
25. In conclusion on this matter, the proposed dwelling would fail to provide acceptable living conditions for future occupiers. As such, the proposal would be contrary to Policy DEV1 of the LP and Policy HNPEN1 of the NP. Amongst other things, these seek to ensure living conditions are protected and provided to a high standard.

### *Housing size and type*

26. Housing market data identifies a high proportion of four-bed and detached houses in the immediate area.
27. The absence of a suitable UU means that the detached four-bedroom prior approval conversion and the proposed three bed detached dwelling could both be provided. In this situation, the proposal would add to the high percentage of detached dwellings in the parish, failing to adequately add to the mix of housing or redress the imbalance in housing stock, even if it were to be initially occupied by the appellant and his family. Although the provision of a three-bed dwelling would not impact on the imbalance in the housing stock as three-bed properties do not represent a high proportion of the housing stock in the area, I find that the detached nature of the appeal proposal would not widen opportunities for home ownership or respond positively to the housing needs of the area.
28. In conclusion on this matter, the proposal would not provide housing of an appropriate type. As such, the proposal would be contrary to Policies SPT2.4, and DEV8 of the LP and Policy HNPH3 of the NP. Amongst other things, these seek to ensure that a good balance of housing types and sizes are provided to widen opportunities for home ownership and redress an imbalance within the existing housing stock.

### *Carbon reduction*

29. Policy DEV32 of the LP outlines the need to deliver a low carbon future for the area with the aim of reducing carbon emissions.
30. The appeal is supported by SAP Calculations for the new build dwelling, albeit based on the older methodology. In any case, the appeal details the use of PV panels, air source heat pump, highly insulated cladding, solar gain and overhangs to avoid overheating, double-glazing and underfloor heating. As a result, the building would be A Rated for Energy Efficiency and the proposal would provide suitable carbon reduction benefits. The proposal would also represent a likely improvement over and above any carbon benefits provided by the fallback position if a suitable UU had been provided with the appeal.
31. In conclusion on this matter, the proposal adequately demonstrates that it would provide suitable carbon reduction benefits. As such, it would comply with Policies SPT1.2 and DEV32 of the LP and the Framework. Amongst other things, these seek to ensure the delivery of a low carbon future by identifying opportunities to minimise the use of natural resources, help to reduce greenhouse gas emissions and minimise energy consumption.

### **Other Matters**

32. Whilst the proposal could aid the supply of self-build housing, I note that Policy DEV9 of the LP directs self and custom build housing to locations that meet the overarching sustainable development, general amenity and design policies of the LP. Given the location of the site contrary to the settlement hierarchy and given that I have found above that the proposal would be harmful to the character and appearance of the area, the proposal does not find support from Policy DEV9 of the LP.

33. Although I have found that the Prior Approval consent is not necessarily a genuine fallback to this appeal proposal, the appellant could proceed to implement the Prior Approval consent. Whilst this may not be as energy efficient as the appeal proposal, I see no reason why it would not provide a suitable living environment and opportunity for the appellant or provide continued security and supervision of the site and access.
34. I acknowledge that the living conditions of the nearest existing properties would not be harmed, and that the proposal would provide two car parking spaces, suitable access and drainage, and a home for the appellant and their young family. There would also be some economic benefits, including during construction and following occupation via future occupiers making use of local services and facilities and thereby supporting the vitality of the rural community. However, these matters do not outweigh the harm I have identified above.
35. I note that the planning application was a resubmission and that there is support for the proposal from a third party and the Parish Council. Nonetheless, these matters are neutral in my consideration.

### **Conclusion**

36. Although I have found that the proposal would provide suitable carbon reduction benefits, it would harm the character and appearance of the area, result in a new dwelling in the countryside in an unsuitable location not supported by development plan policies, provide inadequate living conditions, and result in a dwelling of a housing type that would not widen opportunities for home ownership. In my view, these are the prevailing considerations and, despite the proposal not conflicting with some LP policies as I have found above and as identified by the appellant, the proposed development should therefore be regarded as conflicting with the development plan as a whole.
37. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

*C Rose*

INSPECTOR