



Appeal Decision

Site visit made on 23 January 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Appeal Ref: APP/U1105/W/22/3305830

Land at Pitmans Farm, Dulford EX15 2ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Sophie, Harriet and Oliver Persey against the decision of East Devon District Council.
 - The application Ref is 22/0058/FUL.
 - The development proposed is demolition of existing buildings; construction of residential dwelling and detached garage; installation of solar photovoltaic array; landscaping; and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework, and has taken account of the representations made.
3. In November 2023, the National Landscapes Association reported that all designated Areas of Outstanding Natural Beauty (AONBs) had become National Landscapes. In this decision I have continued to use the term AONB, consistent with the evidence. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issue

4. The main issue is whether the appeal site is a suitable location for housing having regard to the spatial strategy of the development plan, including accessibility to services and facilities.

Reasons

5. The appeal site comprises a cluster of dilapidated agricultural buildings within a triangular parcel of agricultural land, accessed from a track leading to the A373. It lies on the edge of the hamlet of Dulford, which contains a small number of dwellings either side of the main road. The settlement is surrounded by a rural landscape of fields and occasional agricultural buildings.
6. In relation to growth outside of East Devon's main towns, Strategy 27 of the East Devon Local Plan 2013-2031 (the Local Plan) identifies a list of small towns and large villages with defined Built-up Area Boundaries, at which the Local Plan anticipates a moderate level of growth. These settlements are those

which offer a range of accessible services and facilities, and they have reasonable public transport. Dulford, and the nearby small settlements including Kerswell and Broadhembury are not listed in Strategy 27, and have not been defined by a Built-up Area Boundary. The appeal site and its surroundings are therefore in the countryside for the purposes of planning policy.

7. Alongside Strategy 27, the Council has refused the application against two further policies. Strategy 7 of the Local Plan says that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development, and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located. Policy TC2 of the Local Plan says that new development should be located so as to be accessible by pedestrians, cyclists and public transport, and also well related to compatible land uses so as to minimise the need to travel by car.
8. The appellants suggest that various aspects of these policies are inconsistent with the Framework, drawing my attention to two appeal decisions allowing dwellings at rural settlements in East Devon. In Clyst Honiton¹, the Inspector found that in the case of that appeal, there was a degree of inconsistency between Strategies 7 and 27 and the Framework, with reference made to the very high levels of local service provision and connectivity of the settlement, despite it not being listed in Strategy 27. In Colaton Raleigh², the Inspector found that the spatial strategy of the Local Plan was not inconsistent with the Framework, but that despite conflict with Strategy 7, no substantive planning harm in this respect would result from the proposal by virtue of the location of the appeal site, again referencing the local service provision and the high levels of connectivity.
9. Having regard to these decisions and my own reading of the determinative Local Plan policies, I do not find that there is an inherent conflict between these three policies and the provisions of the Framework as supported by the Planning Practice Guidance. Both seek to direct development to the most sustainable locations, recognising that a wide range of settlements can play a role in delivering sustainable development in rural areas. There is also consistency between the Local Plan and the provisions of the Framework which, amongst other things, seeks to locate development where it will enhance or maintain the vitality of rural communities; supports housing developments that reflect local needs; and seeks to actively manage patterns of growth in support of promoting walking, cycling and public transport use.
10. However, it is evident that the particular circumstances of a site play a significant role in a proposal's conflict with the overarching development strategy of the Local Plan and the Framework. As identified at Clyst Honiton, the combined effect of Strategies 7 and 27 does not generally allow development outside of the named settlements, and has little regard to the circumstances of these locations. It is therefore necessary to consider whether the circumstances of the appeal site would accord with the overarching provisions of the Framework, which in turn would require consideration of whether the above Local Plan policies are out-of-date.

¹ Appeal reference APP/U1105/W/21/3279651

² Appeal reference APP/U1105/W/20/3248042

11. The hamlets of Dulford and nearby Kerswell contain very little in the way of services and facilities. Further afield, Broadhembury contains a slightly larger range of local facilities including a public house, village hall, village shop and post office. The appellants have also highlighted the presence of several small rural business parks in the local area. Although the use of these services and facilities would be likely, this predominantly rural area lacks larger retail, employment, recreation and healthcare facilities, such as those in the closest towns. It would not therefore support the day-to-day living requirements of new occupiers.
12. The appellants contend that the proposed dwelling would sustain and support services in nearby villages. This objective echoes the Framework, where it recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, in this instance, the provision of services and facilities in the local area is low, even broadened to encompass neighbouring hamlets and villages within a wide area.
13. Moreover, the closest facilities in Broadhembury still lie a considerable distance from the appeal site at approximately 2.5 miles. My observations on site were that while the initial stretch of the A373 would allow for travel on a pavement lit by streetlights, the majority of the route to the village is on unlit, narrow country lanes, and included negotiating several footpaths through fields. I accept that the absence of pavements, hard surfacing, and lighting may not deter all persons from walking or cycling to local facilities. Nevertheless, I consider the distance and conditions of the route to reach Broadhembury would still be a hinderance that would deter most occupants of the proposed dwelling from using transport options other than the private car.
14. I made similar observations regarding the opportunities to travel to the closest business parks and to the proposed site of the 'garden village' to the east of Cullompton. Both would involve travelling some significant stretches of a busy, unlit, A-road with no pavements. While it would be possible to cycle these routes, in most instances, especially during adverse weather or periods of darkness, new occupiers would have considerable reliance on the use of the private car to access services and facilities in the surrounding rural area. It is therefore likely that, even if new occupiers of the proposed dwelling were to support the services and facilities in the local area, the location of the dwelling would not lead them to do so via sustainable transport modes.
15. I acknowledge that the Council 'groups' neighbouring parishes in order to assess and deliver affordable housing needs in rural areas. However, there is no substantive evidence indicating that these groups reflect the provision of necessary services or facilities, public transport provision, or other issues relating to the location of development. The grouping of neighbouring parishes highlighted by the appellants is therefore of little relevance to this appeal.
16. While the closest and largest village at Broadhembury is within the Blackdown Hills AONB and has a designated conservation area, these designations do not place a blanket restriction on new housing. The presence of these designations alone does not therefore provide a clear justification for development at the appeal site, particularly given my findings above on the generally low level of services and facilities in the area, and the transport options available to new occupiers of the proposed dwelling.

17. The appellants have provided some evidence of public transport links in the form of bus stops located on either side of the A373 which link Dulford to the nearby towns of Honiton and Cullompton. However, the evidence indicates that this is a limited service, running three times a week, including Saturday. This would therefore be unlikely to offer a useable alternative to the private vehicle for regular trips including travelling to and from work, appointments, or recreation. I also acknowledge the ambition to re-open a train station at Cullompton, however, the evidence does not indicate any timescales for the completion of this project. For my reasons above, I would also anticipate the use of a private car to travel to and from any future train station.
18. Mention is made of the potential for car-sharing opportunities given the site's location on the A373. While the Framework recognises car-sharing as a sustainable mode of transport, I have not been provided with any clear evidence that car-sharing opportunities in this location exist. Nor would it be possible to guarantee the future use of car-sharing for occupiers of a single dwelling. I also note that increases in remote and flexible working, and an increase in the use of home deliveries, are all having an effect on the dependence on private car use. Nevertheless, these would not obviate the need to travel away from the home, particularly where local services are limited, and there would be no certainty that future occupiers would work flexibly or use such services.
19. The Framework makes clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. However, even acknowledging the rural context of the appeal site, unlike at Clyst Honiton and Colaton Raleigh, the appeal site has decidedly limited options for public transport or other sustainable transport solutions. While I acknowledge the appellants' intentions to generate solar energy to allow charging of electric vehicles, there would be no certainty over the vehicle choices of future occupiers. I therefore attach limited weight to this provision as an alternative means of transport.
20. There are a number of existing dwellings close by in Dulford, and some dependency on car use is inevitable in rural locations. However, the cumulative effect of allowing further development in such a location that encourages regular car use to meet residents' day to day needs would harmfully increase the number of less sustainable journeys made. Accordingly, in the particular circumstances of this site, the proposal would not accord with the provisions of the Framework in relation to development in rural areas. It therefore does not follow that Strategies 7 and 27, and Policy TC2 of the Local Plan are out-of-date in this instance.
21. The appellants have highlighted particular excerpts of linked appeal decisions³ at Shute, which considered the conversion of a redundant agricultural building into a single dwelling, and into two holiday units. The appeal discussions focussed on the degree to which the locational policies of the Local Plan (in particular Policy D8, in relation to the re-use of buildings in the countryside) were in conflict with the Framework (in particular paragraph 84). The appeal before me is not for the conversion of existing buildings, and neither Policy D8 of the Local Plan nor paragraph 84 of the Framework are determinative in this case. The reasoning and conclusions of these decisions are therefore of limited

³ Appeal references APP/U1105/W/22/3294599 & APP/U1105/W/22/3294600

relevance to this appeal. I do however note that the Inspector did not regard Policy TC2 as being out-of-date.

22. Taking all of the above into account, I conclude that the site would be in an unsuitable location for housing, with poor access to services and facilities. This would conflict with the spatial strategy of the development plan as described by Strategy 7, Strategy 27, and Policy TC2 of the Local Plan. It would also conflict with the provisions of the Framework.

Other Considerations

23. The appellants suggest that there are other material considerations and benefits of the scheme which outweigh the conflict with the development plan. I will consider each of these in turn.

Character and appearance

24. The settlement at Dulford is surrounded by agricultural countryside. This use is reflected in the views across pasture and arable fields on the approaches to the settlement, and the presence of barns and other agricultural buildings located in the surrounding area. As such, the presence of the existing agricultural use of the appeal site on the edge of the settlement does not detract from or otherwise conflict with the character of the hamlet.
25. While the existing buildings are derelict and in poor condition, they are located some distance behind the primary building line of the hamlet, and have very limited visibility from within the public realm. They therefore do not noticeably harm the character or appearance of the area. Consequently, while there would be some aesthetic benefit from the removal of the dilapidated structures and the introduction of a well-designed property, this would be relatively minor, and would generally not be an appreciable change. This consideration therefore carries limited weight in favour of the appeal.
26. I note that the East Devon Landscape Character Assessment identifies the loss of orchards in this area as a change in the local landscape. The appeal scheme would introduce five fruit trees, four of which would be laid out as an orchard. While this would be a positive reflection of one of the key characteristics of the local landscape, this aspect of the proposal would result in a small-scale and largely imperceptible change to character. Accordingly, this also carries limited weight in favour of the appeal.

Biodiversity

27. The appeal scheme would introduce several features of biodiversity value, including the aforementioned fruit trees, areas of wildflower meadow, the provision of an open-fronted car port, an area of grassland allowed to grow long, and the creation of a reptile/amphibian hibernacula. However, the submitted Ecological Appraisal describes these primarily as 'compensation' measures, with only the hibernacula specifically described as an enhancement. Accordingly, the proposal would result in a small benefit to the biodiversity of the area.

Energy efficiency

28. The appeal building is proposed to be energy efficient, and designed to maximise passive solar gain. An area of solar panels is also proposed, with the

aim that the site be a net-exporter of energy. However, I have been provided with limited evidence as to the anticipated output of the panels, and of the likely level of supply over and above the needs of the dwelling. While these energy efficiency and energy generation measures are benefits of the scheme, a single energy-efficient dwelling and a small area of solar panels carry only modest weight in favour of the proposal.

Setting of Heritage Assets

29. The site lies relatively close to Dale House, which is a Grade II listed building. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to have special regard to the desirability of preserving a listed building or its setting. The evidence indicates that the special historic interest of the house lies in its evolution from the early 16th Century building, along with its interior carpentry and joinery. Two further listed buildings lie further away, on the other side of the A373, and together the three houses form a small group of historic buildings at the centre of the hamlet.
30. Although the Council indicates that Dale House and the appeal site may once have shared an access, it finds that the appeal site does not form part of the setting of the listed building. There is clear definition and separation between the two plots, including a neighbouring residential garden. The A373 also marks a significant physical divide between the appeal site and the two further listed buildings, and there is very little visual relationship between the appeal site and the historic centre of the hamlet. Due to this physical and visual separation, there is limited evidence to demonstrate that Dale House or the wider group of listed buildings derives any tangible aspect of their significance from the appeal site.
31. Accordingly, based on the evidence and my own observations, the appeal site does not contribute to the significance of the heritage assets by being located within their setting. The proposal would therefore neither harm nor enhance the significance of the listed buildings as designated heritage assets. As such, this matter is neutral in the planning balance, weighing neither for nor against the proposal.

Other Matters

32. While the appellants highlight that the appeal site has previously been included in the Council's Strategic Housing Land Availability Assessment (SHLAA), I have not been provided with any substantive evidence as to the assessment made by the Council, or whether the site is still part of the Council's most recent evidence documents. Moreover, the technical assessment of the SHLAA process is not the same as the consideration of a planning application. As such, the fact that the appeal site may have been included in previous SHLAA documents is not determinative to the consideration of the appeal before me.
33. Reference has been made by an interested party to an application⁴ which appears to consider an isolated dwelling in the countryside. I note that similar issues are considered to those within this appeal, and I have reached my own conclusion on these, based on the evidence before me. However, the Council's decision in that case, which did not support the introduction of a dwelling in the countryside, does not weigh in favour of the appeal.

⁴ Application reference 21/0811/FUL

34. I understand the appellants' desire to put the site to a viable use, and it is not a desirable outcome to leave deteriorating materials in the environment. However, any benefit in this regard, excepting the matters described above, would be predominantly personal to the appellant. As in general planning is concerned with land use in the public interest, this carries very limited weight in favour of allowing the appeal.
35. The appellants have highlighted a further appeal decision⁵ in which the Inspector found that the very appreciable material benefits of a scheme outweighed its conflict with the development plan, in relation to the location of a dwelling in the countryside. I do not disagree that material benefits can outweigh harms, and the planning balance is an exercise in planning judgement which is undertaken on many appeals. While I have had regard to this decision, the planning balance in this case is specific to the evidence and circumstances of this appeal.

Planning Balance

36. I have found that the proposed development would result in harm due to its unsuitable location with limited access to services and facilities, in conflict with Strategy 7, Strategy 27, and Policy TC2 of the Local Plan. In my reasons above I have found that in the case of the appeal site, the development plan approach described by these policies is consistent with that of the Framework. The most important policies for determining the appeal are therefore not out-of-date.
37. The Council's draft local plan has reached Regulation 18 stage. Paragraph 226 of the Framework indicates that where an authority has an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 stage, they will only be required to demonstrate a minimum of 4 years' supply of deliverable housing sites. The appellants initially disputed the Council's supply figure of 4.5 years, providing alternative calculations showing a supply figure of 3.76 years. However, the Government has since published amended advice within the Planning Practice Guidance⁶ which confirms the Council's calculation methodology to be correct. I am therefore satisfied that the authority is able to demonstrate the minimum of 4 years' supply, and have determined the appeal on that basis.
38. Accordingly, in the absence of any other circumstances engaging paragraph 11d) of the Framework, paragraph 12 says that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
39. The appeal proposals would bring about limited benefits in terms of landscape character and biodiversity, and would be energy efficient, aiming to be a net-exporter of electricity. The dwelling would also make a small contribution to the Government's objective to significantly boost the supply of homes, and there would be some limited social and economic benefits associated with the construction and subsequent occupation of the dwelling. However, even in totality, these benefits would be limited in scope and scale, and would not outweigh the harm I have identified above.

⁵ Appeal reference APP/B9506/W/19/3242767

⁶ Paragraph: 056 Reference ID: 68-056-20240205

Conclusion

40. For these reasons, I find that the proposal conflicts with the development plan when read as a whole. Material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

K Jones

INSPECTOR