



Appeal Decision

Site visit made on 2 July 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2024

Appeal Ref: APP/W1145/W/23/3333137

Higher Town Farm, Road from Woolsery Primary School to Duerdon Cross, Woolsery, Devon EX39 5QS

- 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 Mr M Fletcher against the decision of Torridge District Council.
 - The application Ref is 1/0919/2023/FUL.
 - The development is described as "retention of existing dwelling."
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by the appellant against the Council and by the Council against the appellant. These applications are the subject of separate decisions.

Preliminary Matters

3. The description of development on the application form refers to the retention of an existing dwelling. However, retention is not an act of development under s55 of the Town and Country Planning Act (the Act). I have therefore dealt with the appeal on the basis that permission is being sought retrospectively for the erection of the dwelling.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. The first reason for refusal refers to paragraph 80 of the previous Framework, the text of which is now found in paragraph 84 of the revised version. In its Appeal Statement the Council withdrew reference to this paragraph and amended the reason for refusal accordingly. The second reason for refusal also referred to paragraph 130 of the previous Framework, the text of which is now found in paragraph 135. I have determined the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the site represents a suitable location for a dwelling, having regard to development plan policy and other material considerations;
 - whether the development provides a satisfactory living environment for its occupants, with particular regard to its relationship to farming activities at Higher Town Farm: and

- if harm arises, whether this is outweighed by other material considerations such as to justify a grant of planning permission.

Reasons

Location

6. The Woolsery development boundary is identified in the North Devon & Torridge Local Plan 2018 (NDTLP) and runs to the rear of the houses in Lower Town. NDTLP Policy WFD sets out the spatial strategy for the village. Its housing needs are to be met through extant planning permissions supplemented by acceptable new proposals within the development boundary. Outside the development boundary, Policy ST07 limits development 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. The appeal proposal does not fall within any of these exceptions and it is therefore contrary to Policy ST07. The reasoned justification for the policy explains that in the countryside the NDTLP seeks to control development, guarding against development in unsustainable locations. The character of the countryside should be conserved and enhanced and new development will not detract from this.
7. The appeal site lies outside the development boundary, separated from it by a hardstanding, hedgerow and a group of small trees and bushes. It forms part of a wider strip of land which creates both a physical and visual separation between the farm buildings and the edge of the settlement. The site is close to two agricultural buildings, Barns 1 and 2, separated from Barn 2 by animal pens. It is on higher ground than the houses in Lower Town.
8. The appeal dwelling is already in situ. Its single-story, timber clad design gives the building a markedly different character and appearance both to the houses and to the barns. Although there is a separate private, pedestrian access to Lower Town, vehicular access is via a track to the road to the west of the site. As a result, although it is not isolated from the village, the site does not look or feel part of the village, regardless of the position of the NDTLP development boundary. It lies within the village's countryside edge. Whilst the dwelling is largely screened from public viewpoints, it is visible from surrounding properties and land from where the harmful spread of residential development beyond the development boundary into the countryside is apparent.
9. Reference has been made to the planning history of the site and in particular the appeal decision in 2011¹. Whilst the development plan policies have changed since then and, from my site visit, the surrounding vegetation appears to provide much greater screening, I nevertheless agree with that Inspector that the development does not complement the character and setting of the village and the timber cladding is not typical of the local vernacular.
10. I conclude therefore that the developments conflicts with NDTLP policies WFD and ST07 which seek to control dispersed development beyond village development boundaries and conserve the character of the countryside.

Living conditions

¹ APP/W1145/A/10/2138360/NWF

11. Barns 1 and 2 are currently used for storage, seasonal lambing and sheep shearing, respectively. Lambing takes place in Barn 2 for a short period in February and March whilst shearing currently takes place twice a year in May and September. Sheep are loaded on to trailers for market twice a year. No livestock were in either building at the time of my visit. Whilst these activities currently take place at a scale that would be unlikely to cause harm to the living conditions of future occupiers, noise, odour and flies could have an unacceptable impact if the use of the buildings or yard by livestock was to increase. In this respect, I am mindful that the nature of the farming activity on the farm could change in the future. Since agricultural uses do not constitute development under s55 of the Act, the Council would have no effective control over such intensification. Given the close proximity of the dwelling to the barns and farmyard, and in the absence of evidence to the contrary, the keeping of livestock and associated movement of vehicles and farm machinery, could lead to adverse impacts on the living conditions of the occupiers of the dwelling.
12. Whilst vehicular access to the site is across the farmyard, the existing pedestrian access to Lower Town means that occupants of the dwelling could walk to the village without having to traverse the yard. Although no evidence has been submitted to confirm that they would have a legal right of way, the appellant's evidence states there is a legal right of access for Higher Town Farm. In the absence of evidence to the contrary, I am satisfied that they would have an alternative to walking through the yard at times when farming activity is taking place. By being able to do this, otherwise harmful conflict with farm operations would be avoided.
13. I have given consideration as to whether an appropriately worded condition to control the use of the agricultural buildings or farming activities could be imposed if I were minded to allow the appeal. However, as the site is located on a working farm where practices may need to change over time, I have concluded that such a condition could hamper how the farm might operate in the future and would be unreasonable.
14. The development therefore conflicts with NDTLP Policies DM01 and DM04 which aim to ensure that the amenities of existing and future occupiers are safeguarded. It also conflicts with paragraph 135 of the Framework which seeks to ensure a high standard of amenity for existing and future users of developments.

Other Considerations

15. Set against the harm identified, the development would provide an additional dwelling to meet the demand from local people which may not currently be met in the village due to the suggested constraints of the development boundary. This could also include it being rented accommodation and representations from third parties have been submitted supporting the development. However, whilst the dwelling might play a role in meeting a need for rental accommodation, evidence of the scale of this need has not been provided. Nor do the proposals include a mechanism, such as the suggested Unilateral Undertaking, for securing this should I be minded to allow the appeal on this basis. It therefore carries limited weight. Future occupants of the dwelling would be able to use services and facilities in the village. However, the

economic benefits of this from a single dwelling would be relatively modest and therefore also attract limited weight.

16. The spread of development beyond the edge of the village and the subsequent harm to its countryside edge carries substantial weight. The standard of living environment for future occupiers to some extent depends on the nature of future farming operations and the potential for harm in this respect carries moderate weight. As there are no policies in the NDTLP which positively favour development of this kind and the proposal would be contrary to the policies referred to above, there would be conflict with the development plan as a whole. Paragraph 12 of the Framework reminds decision-makers that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
17. When the Council gave pre-application advice, it could not demonstrate it had a 5 year housing supply (HLS) and provided its advice on that basis. Since then, the Council has received an appeal decision which concludes that the supply of housing land is slightly in excess of 5 years. Although they do not challenge the findings of that Inspector, the appellant argues that the supply figure is only slightly above the 5-year threshold. Be that as it may, I must assume that the requisite supply exists for the purposes of my assessment. I have determined the appeal and apportioned weight to the relevant material considerations on this basis.
18. As described above, the benefits associated with a single dwelling would be relatively minor even taking into account the Framework's objectives to locate development where it will enhance or maintain the vitality of rural communities. Consequently, those benefits are not sufficient to outweigh the conflict with the development plan arising from the location of the site outside the development boundary for Woolsery.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR