

Appeal Decision

Hearing held on 10 September 2024

Site visit made on 10 September 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/Y1138/W/24/3340023

Lydcott Nursery, Black Dog, Crediton, EX17 4QE

- 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 Robert Moore against the decision of Mid Devon District Council.
 - The application Ref is 23/00217/FULL.
 - The development proposed is for the erection of a rural workers dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a rural workers dwelling at Lydcott Nursery, Black Dog, Crediton, EX17 4QE in accordance with the terms of the application, Ref 23/00217/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and the appeal form. At the hearing it was formally agreed by parties that the latter more succinctly and accurately reflects the scope of the proposed plans which were submitted, consulted upon, determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the latter description for the purposes of the heading above and paragraph 1 of my Decision.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to paragraph numbers are to this version.

Main Issue

5. The main issue of the appeal is the degree to which the rural enterprise will remain viable for the foreseeable future.

Reasons

Viability of the rural enterprise

6. Policy DM8 of the Mid Devon Local Plan (MDLP) 2013-2033 sets out how proposals in the countryside for rural workers will be assessed. Development will be permitted where it is demonstrated that there is a clear established functional need for a full-time worker to live on the site; the need cannot be met elsewhere in the locality; the scale of development is commensurate with the operation and location of the existing rural enterprise; and the rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so. There is no dispute between the parties that there is an essential need for residential occupation at the site, given the lack of suitable alternative properties in the vicinity and that the proposal would be in keeping with the surrounding environment.
7. Both parties are also in agreement that the current rural enterprise has been established for at least three years, with oral evidence at the hearing indicating that the appellant has been operating Lydcott Nursery from the appeal site since at least 2016.
8. Regarding the financial soundness of the rural enterprise, the appellants have provided profit/loss information and abridged accounts for the business for a three year period between January 2021 and December 2023 in support of the proposal. The submitted details provide that the rural enterprise has made profit within the provided timeframe, albeit that records pre-dating 2021 have not been submitted. The appellant acknowledges there are limitations in respect to the submitted financial evidence which provides a degree of uncertainty in respect to its existing financial status. However, given there is no specific requirement in policy DM8 of the MDLP to demonstrate any level of successfulness, the test is whether the business is "currently" financially sound or not.
9. The appellant contends that significant reinvestment has been undertaken at the premises to ensure the business remains financially sound. Specifically, that £40,000 of the profits were reinvested in 2021 and a further £25,000 in 2022. It is unclear from the submitted financial details where this reinvestment has been accounted. Nevertheless, what is clear, is the appellant has invested heavily in the business through the provision of additional polytunnels¹, facilities and equipment such as propagators, heating tables and irrigation systems which provide evidence of an established rural enterprise over the accounted timeframe. Given the longevity of the existing business (established in 2016) and the evidence of the growth of the premises through reinvestments, I am satisfied that the rural enterprise is currently financially sound.
10. Moving on to whether the business has a clear prospect of remaining as such, I have been presented with little substantive evidence in respect to any

¹ Granted planning permission by Mid Devon Council Refs: 20/01212/FULL, 21/01328/FULL and 23/01037/FULL

forecast income, future profitability targets, future plans for the business or indeed a business plan. Furthermore, little evidence has been presented to demonstrate that the appellants have the means to fund the construction of the new dwelling without the need for mortgages, loans or other financial assistance, which could have implications for the viability of the enterprise in the longer term.

11. At the Hearing I heard representations from the appellant and other interested parties that the Lydcott Nurseries is a well-established community business, that is well run and with every prospect of remaining viable and providing profit for the foreseeable future. Plants are sold to a wide range of trade customers across the Cornwall and Devon areas including garden centres, farm shops, landscapers, village shops and market traders. Furthermore, there is an established list of over 100 subscribers to the business. As such, there is a clear indication that the appellant is focused on growing the potential of Lydcott Nurseries. This is evidenced through the reinvestments previously referred to, and further enhanced by the submission of other planning applications for additional facilities in the future including, but not limited to, the erection of a horticultural shade net tunnel, alterations to the accessway and other longer-term plans outlined orally at the hearing.
12. Whilst no formal business plan or alike has been provided, I am satisfied that there are sufficient details that show that there is clear potential for the proposed business to be viable for the foreseeable future. This would comply with the requirements set out in section d) of MDLP Policy DM8, and thus allow such a rural enterprise to develop, which is consistent with both that development plan policy and the aims of the Framework to support a prosperous rural economy.

Other Matters

13. I recognise that the proposal has generated public interest, with several consultation responses submitted in response to the planning application and further representations submitted at appeal. I have taken into account all of the other matters and concerns raised in the submissions by the interested parties, which include but are not limited to, the essential need for development, impact on character and potentially unauthorised works.
14. In terms of essential need for this type of development, each scheme needs to be considered on its own merits and circumstances. I have been presented with little substantive evidence to counter the findings of the appellant that residential accommodation needs to be provided on site. As such, I have no reason to disagree with the Council, that the essential need has been demonstrated.
15. With respect to the impact of the development on the character of the area, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to the character of the rural area. Whilst I acknowledge that local materials have not been incorporated, a condition could be attached to ensure materials are agreed by the Council to provide an acceptable visual effect.
16. In regard to the matters raised in respect to potential unauthorised works, whether or not the works have commenced does not provide a reason to alter

my judgement, and in any event, any potentially unauthorised works would be a matter for the Council. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed.

Conditions

17. The Council has provided conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without altering their fundamental aims.
18. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
19. A condition relating to materials is necessary to secure the satisfactory appearance of the rural landscape and the enhancement of the immediate rural setting.
20. To satisfy the requirements of the relevant development plan policy, a condition is required limiting the occupation of the dwelling to a person employed in an agricultural business.
21. I have also attached a condition restricting permitted development rights to secure the satisfactory appearance of the development in the interests of the surrounding rural character.
22. Conditions relating to biodiversity and external lighting are also necessary to secure adequate protection for nesting birds, bats and other wildlife on and around the site and for the enhancement of biodiversity.

Conclusion

23. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Robert Naylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Robert Moore	Appellant
Mr John Gower	Quiet Waters Consultancy
Ms Daisy Gower	Quiet Waters Consultancy
Mr Urwin Moore	Father of appellant
Mrs Rosemary Moore	Mother of appellant
Mr Adrian Miller	Local resident
Mr Ash Cann	Local resident

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adrian Devereaux	Mid Devon District Council
Mr Daniel Sims	Mid Devon District Council

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the unnumbered plans entitled Site Location Plan at 1:1250 scale; Block/Site Plan at 1:500 scale and Lydcott Dwelling at 1:100 scale.
- 3) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
- 4) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined by Section 336(i) of The Town and Country Planning Act 1990), or in forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 5) Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2016 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C and E of Part 1 of Schedule 2, relating to extensions, dormers, alterations to roof and outbuildings shall be undertaken within the dwelling curtilage without the Local Planning Authority first granting planning permission.
- 6) Prior to the occupation of the development hereby permitted, details of biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority. The details shall include but not limited to measures for bird and/or bat boxes, hedgerow improvement and areas for wildflower planting etc. These shall be located at the site in positions suitable for their intended purpose, and thereafter be retained for the lifespan of the development.
- 7) No external lighting shall be provided unless an application in that regard is first submitted to and approved in writing by the Local Planning Authority and shall be retained in accordance with the approved details for the lifespan of the development.

END OF CONDITIONS