

Appeal Decision

Hearing held on 29 August 2024

Site visit made on 29 August 2024

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd of September 2024

Appeal Ref: APP/Q1153/W/24/3341365

Tumley Lofts Stud, Blackhill Lane, Beaworthy EX21 5AA

- 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 & Mrs Cook against the decision of West Devon Borough Council.
 - The application Ref is 1397/23/FUL.
 - The development proposed is the provision of a rural workers dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of a rural workers dwelling at Tumley Lofts Stud, Blackhill Lane, Beaworthy, EX21 5AA in accordance with the terms of the application, Ref 1397/23/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council has acknowledged that its first reason for refusal should have been more precise through referring to an 'essential rural need', as opposed to an 'essential agricultural need', given that the appeal scheme is not in connection with an agricultural use. Still, main parties agreed at the hearing that the development plan policies quoted on the decision notice remained the most relevant to determine the appeal scheme against.
3. The Council has also acknowledged that an incorrect floorspace figure was quoted within the case officer's report, but that the proposal was nevertheless accurately considered against the submitted plans. At the hearing the main parties continued to dispute the precise floorspace of the proposed development. The appellant calculated the proposed dwelling to have a gross internal area (GIA) of approximately 240sqm, whereas the Council considers the GIA to be approximately 247.5sqm.
4. The reasons for refusal on the Council's decision notice include references to a previous version of the National Planning Policy Framework (the Framework). Both main parties have though referred to the updated Framework through the appeal process. In respect of the matters of interest in this appeal, although relevant paragraph numbers have changed, there have been no

fundamental changes to the Framework since the determination of the original application.

Main Issues

5. The main issues are:

- Whether the size of the proposed dwelling is appropriate for the rural enterprise and whether it is likely in future to remain affordable as a rural worker's dwelling; and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Size and Affordability

6. The appellants' lawfully operate a commercial pigeon breeding/rearing business at Tumley Lofts Stud and the proposed dwelling would be situated adjacent to an existing, sizeable pigeon loft at the site. Although the appeal site is located alongside the existing building utilised by the appellant's business, due to the site's remote position away from any settlement and wider built form, it is in an isolated, countryside location.
7. Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (the JLP) establishes the settlement strategy for the area. This focuses development towards main towns that provide a broad range of services, whilst it identifies that development in the countryside will only be permitted where it would support the principles of sustainable development set out in JLP Policies SPT1, SPT2, including as provided for in JLP Policy TTV26. Meanwhile, JLP Policy TTV2 expands upon the various overarching sustainability objectives for Plymouth and South West Devon, that are outlined under SPT1 and SPT2, by highlighting particular aspects of rural sustainability that should be supported, including the growth and expansion of rural businesses and enterprise.
8. JLP Policy TTV26 relates specifically to development in the countryside. The policy is consistent with the fundamental aims of Paragraph 84 of the Framework in that it seeks to avoid the development of isolated dwellings in the countryside, albeit will permit them in exceptional circumstances. Of pertinence to this appeal is the exception outlined at TTV26(1i), whereby the development would '*Meet an essential need for a rural worker to live permanently at or near their place of work in the countryside and maintain that role for the development in perpetuity*'.
9. Main parties do not dispute that the appeal proposal is to support a rural enterprise, nor do they dispute that there is an established essential need for the appellants' to live permanently at the site to appropriately care for the birds. It is also not disputed that the enterprise is financially sound and has a clear prospect of remaining so in the future. From the evidence before me I have no reason to reach alternative views.
10. Policy TTV26, its supporting text, and the associated Plymouth and South West Devon Joint Local Plan 2014 – 2034 Supplementary Planning Document

(the SPD), do not set out any limits or expectations in relation to the size of dwellings to support a rural enterprise. Additionally, the Council has not provided any other adopted or published guidance that it has produced in respect of the size of rural dwellings. At the hearing the Council referred to approximately 140 - 170sqm (GIA) as being an appropriate 'starting point' for what it would consider would be an acceptable size for a rural worker's dwelling. This figure was based upon the findings of previous appeal decisions for rural workers dwellings¹.

11. I do not have the full background details of those appeal decisions referred to by the Council. Nonetheless, the decisions are circa 10 years old and from another local planning authority area. As such, the planning policy position is different to that before me. From my reading of the Inspectors' decisions the relevant development plan policy in those cases set out a requirement for the size of the dwelling to be based upon the specific needs of the rural enterprise it was to serve. Indeed, the Inspector in the 'Oak Farm' case (Ref: 2225549), highlights that the local plan makes clear that the size of an agricultural worker's dwelling should be related to the agricultural holding and its income. It also seems that the local planning authority in those cases was able to draw upon recent evidence of the typical size of 3 or 4 bedroom agricultural workers' dwellings within the authority area.
12. In contrast, as indicated, the Council's development plan policy and associated guidance do not set out any size requirement, nor specify the need for it to be suitably linked to the agricultural holding and its income. Additionally, the Council has not provided any robust evidence as to the typical size or costs of rural workers' dwellings in this locality. The previous appeal decisions raised are therefore not directly comparable to the current appeal scheme, thus I give their findings very little weight.
13. In this instance, based on the evidence before me, and even taking account of the Council's suggested higher floorspace figure (i.e. c.247.5sqm) and nationally described space standards, I do not consider the proposed dwelling to be excessively large. Its scale has also been influenced by the operations of the business, with approximately 50sqm associated with the business needs. For example, through the inclusion of a separate entrance and cleaning space for workers that handle pigeons, as well as an office.
14. Both main parties agree in principle on the necessity of an occupancy condition to ensure that the appeal dwelling is restricted to its intended use. The appellants set out that such a condition would prevent the development from being used as an open market dwelling and therefore maintain the role of the development in perpetuity, as required by Policy TTV26(1i). The Council however has also drawn links between the size of the proposed dwelling and its likely value, suggesting that this will affect the prospects of it remaining affordable to rural workers in the future.
15. Again, Policy TTV26(1i), its supporting text, and the related guidance of the SPD, do not explicitly set out that there is a need to demonstrate that the dwelling would remain affordable for rural workers in the future. Nonetheless, it is reasonable to consider that the on-going affordability of the dwelling is a

¹ Appeal Ref: APP/N1215/A/13/2200385: Haywood Park Farm, Glanvilles Wootton, Sherborne, Dorset, DT9 5QJ & APP/N1215/A/14/2225549: Oak Farm, Woolland, Blandford Forum, Dorset, DT11 0EY

factor that could result in future pressure to release it from a rural worker's occupancy condition, thereby having implications on whether the development would be maintained as a rural workers' dwelling in perpetuity. Accordingly, I deem that the on-going affordability of the dwelling to a rural worker is a valid consideration in this case.

16. I recognise that there is an onus on the appellants to demonstrate the proposal is acceptable. However, given that the development plan policy and related guidance, do not explicitly require the size or affordability to be demonstrated, it is paramount that the Council can also suitably justify its reasons for refusal. In this respect, the Council has not presented me with any robust evidence of the likely value of the appeal property once complete or how this may compare with average house prices within the nearby area. Nor have I been presented with any details of average rural worker's wages and whether they are likely to be insufficient to afford the potential rental or mortgage values of the proposed dwelling.
17. Additionally, the size of the proposed dwelling is only one of many factors that may affect its value and future affordability. For example, its location, the size of the landholding, nature/profitability of the existing enterprise on the site, condition of the property, as well as wider market/external conditions could all effect its future value. These factors may also have markedly greater effects on the value of the property (and hence its affordability) than merely its size. Moreover, the inclusion of a rural occupancy tie would also inevitably affect the value of the property, increasing the likelihood that it would be affordable to rural workers.
18. Based on the evidence presented, I am satisfied that the proposed dwelling would remain affordable for rural workers in future, particularly, as it does not seem to be excessively large or of an elaborate form of design that would be likely to substantially influence its value. There is also no robust evidence to show a 4-bedroom dwelling would be unaffordable or that there would be a lack of future demand for such dwelling types from rural workers in the local area. As such, subject to the inclusion of an appropriate occupancy condition, I am satisfied that the development would adhere to the requirements of JLP Policy TTV26(1i).
19. At the hearing the Council's agricultural consultant also questioned the ability of the appellants to fund the proposed development. This was based upon their recent business accounts and with reference to previous Planning Policy Statement 7 – Annex A (Sustainable Development in Rural Areas) (PPS7), which required consideration of the construction costs of agricultural dwellings relative to the income that the enterprise could sustain. However, PPS7 has been superseded and the latest national policy does not include such financial considerations. Nor has the Council's development plan policies or any relevant adopted guidance incorporated such requirements. I therefore give the advice of the former PPS7 very limited weight in this instance. As such, and notwithstanding that the appellant gave credible evidence at the hearing that they could afford to complete the development, there is no policy basis to require such matters to be demonstrated.
20. Bringing the above together, having regard to the Council's policy position and the specific circumstances of the appellants' enterprise, I find that the

size of the proposed dwelling is appropriate for the rural enterprise. Additionally, based on the evidence before me and subject to the imposition of an appropriate occupancy condition, I deem that the proposal would remain affordable as a rural worker's dwelling in the future, or remain for such purposes in perpetuity. The appeal scheme therefore adheres to the requirements of Policy TTV26 of the JLP. Accordingly, it would also comply with the wider spatial strategy and overarching sustainability aims of Policies SPT1, SPT2, TTV1 and TTV2 of the JLP. The proposal also adheres to the aims of Paragraph 84 of the Framework.

Character and Appearance

21. The appeal site is located off Blackhill Lane, a narrow, country road. Much of Blackhill Lane, including the site's frontage, is lined by mature trees and vegetation thereby providing a verdant character and significantly screening the site from the road. The rear of the site is more open and exposed, backing onto a wide landscape of gently undulating, mid-sized agricultural fields that are frequently enclosed by hedgerows and trees, as well as pockets of woodland.
22. My site visit was undertaken during the day. Nonetheless, I expect that the limited level of nearby development and absence of streetlighting result in rather dark night skies and add a sense of tranquillity to this pleasant rural landscape, albeit the area is not designated for such purposes.
23. Despite its rural and largely undeveloped nature, Blackhill Lane contains a small number of scattered farmsteads and isolated dwellings, typically set marginally back from the highway. Given the above identified attributes, the site and its surroundings are generally reflective of the characteristics of the Farmed lowland moorland and Culm grassland local character area in which the site is located (as defined in the Landscape Character Assessment for South Hams and West Devon, 2017).
24. Tumley Lofts Stud already operates on a commercial basis and contains a sizeable, pigeon loft on the site, which the proposed development would be read in conjunction with. The proposed grouping of the buildings would align with that typically found on farmsteads. Furthermore, at the hearing the Council accepted the principle of a new dwelling at the site to serve the existing business needs but outlined concerns with the design of the appeal scheme.
25. From my observations, which included viewing dwellings along Blackhill Lane, and within Beaworthy and Halwill Junction, most dwellings in the surrounding area appeared to be two-storey properties. There was however significant variance in house-types, their overall scale, detailing, and appearance. As such, I found the built form in the surrounding area to contain few distinguishing or distinctive qualities.
26. In reaching the above view, I recognise that Halwill Junction is situated within a neighbouring local planning authority area. Still, it remains appropriate to consider Halwill Junction's built form given its relatively close contextual relationship to the appeal site.

27. The proposed dwelling is sizeable but not excessively large and does not appear to be bulky in comparison to other detached dwellings in the surrounding area. The rear gable, which does add to the proposal's overall massing, would also largely be imperceptible from public vantage points due to its positioning. The proposed dwelling is orientated to present its main elevation to the road which appeared typical of dwellings in the area, while its eaves height and roof pitch are also similar to the neighbouring dwelling at Broadmoor Farm, further along Blackhill Lane.
28. Balconies are not a feature I have found to be particularly common on dwellings nearby. However, the position of the proposed balcony to the rear of the dwelling, which would be recessed below a significant eaves overhang, would ensure that it is discrete in nature, while it would not be an appreciably urbanising or harmful design feature.
29. The level and proportions of fenestration to serve the proposed dwelling also do not appear untoward. In particular, the amount of glazing onto the balcony area, together with its recessed nature, does not lead me to believe that the proposed development would result in a significant level of light spill. Meanwhile, a condition to restrict the use of external lighting could be attached to any permission, to further prevent light spill/pollution from the site. As such, I do not consider that the proposal would be detrimental to the area's dark night skies or sense of rural tranquillity.
30. The proposed external elevations of the dwelling would consist of a mix of finishes, including the use of slate on the roof and as cladding to the upper floor, alongside the use of timber cladding and render. The precise arrangement of the materials would result in elevation treatments unlike any nearby properties that I viewed and would result in a contemporary finish. However, this in itself is not harmful, and I do not consider the appearance of the proposed dwelling to be of a generic or urban/suburban design. Meanwhile, the proposed materials would have generally muted tones, while the individual materials can be found commonly in use within development in the wider local area. Subject to a condition requiring the approval of sample materials, I am therefore satisfied that the proposed development is of an appropriate appearance and design.
31. Notwithstanding the above, public views of the proposed development would also predominantly be from a limited section of Blackhill Lane and are likely to be highly transient in nature. The presence of mature vegetation that lines much of the road is also likely to further restrict views of the development proposal. The proposed development is therefore likely to be relatively inconspicuous in nature.
32. I therefore conclude on this main issue that the proposal would not cause harm to the character and appearance of the area, including its landscape setting or tranquillity. Accordingly, the proposal would adhere to Policies DEV20 and DEV23 of the JLP. Together these policies, amongst other matters, seek to ensure development proposals meet good standards of design and contribute positively to their surroundings, including respecting the scenic quality of the landscape and maintaining the relative tranquillity and dark landscapes. The proposal would also adhere to the aims of the Framework in

respect of promoting well designed development that is sympathetic to its surroundings.

Other Matters

33. Various concerns have been raised by third parties. Although the appeal scheme may be physically separated from a settlement, services, or other housing it remains compliant with local and national policy in respect of the development of isolated homes in the countryside.
34. Reference has been made to the fact that a previous appeal decision rejected a residential aspect of development at the site. However, that appeal decision related to an enforcement notice against (amongst other matters) the unauthorised use of a mobile home on the site. The Inspector's decision in that enforcement appeal did not have to consider the planning merits of the mobile home, or whether permission for a residential use at the site ought to be granted. The context and considerations of that appeal decision are therefore entirely different to the scheme before me.
35. As previously outlined, I am satisfied that there is an essential need for the appellants to live at the site in connection with the existing pigeon breeding/rearing business and that the size and nature of the proposed development is suitable. Additionally, from discussions at the hearing it was evident that the existing mobile home on the site was inadequate to serve the long-term business needs of Tumley Lofts Studs.
36. Given the presence of the lawful pigeon breeding enterprise, the site already attracts vehicle movements. While from the evidence before me and my own observations I do not consider that the proposed development of a single dwellinghouse would result in significant additional vehicle movements to and from the site or result in adverse impacts to highway safety.
37. There is also no robust evidence that existing community infrastructure/services within the area do not have capacity to support the proposed single dwelling.

Conditions

38. The Council provided suggested conditions should the appeal be allowed, which were discussed between the main parties at the hearing. I have assessed the suggested conditions in light of those discussions and against the relevant tests set out in the Framework and the advice of the Planning Practice Guidance (PPG). Where necessary, I have made amendments to the wording of the conditions to ensure that they meet the relevant tests, while main parties have also subsequently commented in writing on the revised wordings.
39. In addition to the standard time limit condition for implementation of the development, a condition specifying the approved plans is needed in the interest of clarity and certainty.
40. A pre-commencement condition in relation to surface water drainage is reasonable and necessary to ensure that the development does not increase flood risk on or off-site. I consider that it is necessary for this to be resolved

before construction begins given the importance and potential effects of this matter.

41. In the interests of protecting the environmental quality of the area, it is necessary to impose a condition requiring details of a foul water drainage system to be approved and installed prior to occupation of the proposed development. The condition has been updated to also include a management/maintenance plan for the foul water drainage system.
42. A condition requiring the delivery of biodiversity net gain is needed in the interests of biodiversity.
43. In the interests of the character and appearance of the area, it is necessary to attach conditions requiring the approval of external materials for use in the proposed development, as well as any external lighting to be installed at the site. The suggested materials condition extends beyond only considering samples of slate to be used in the development (as per the Council's original suggested condition), because each of the external materials to be used will have a noteworthy effect on the appearance and design quality of the proposed dwelling.
44. A condition requiring the approval of the precise details of the proposed photovoltaics, and their subsequent implementation, is needed in the interest of sustainability as well as the character and appearance of the development. While a condition covering carbon reduction measures is also necessary on sustainability grounds.
45. A condition restricting the occupancy of the dwelling is reasonable and necessary to prevent the dwelling being used for general housing purposes, contrary to local and national planning policies limiting new isolated dwellings in the countryside, and to accord to the terms of the proposal.
46. Although the Council has suggested a condition to remove householder permitted development rights (PDR), there is no robust evidence before me to suggest that the availability of such rights would undermine the role of the property as a rural worker's dwelling in the future or cause harm to the character or appearance of the area. As such, there is insufficient justification for the removal of PDR in this case.

Conclusion

47. For the reasons outlined above, the appeal is allowed.

Lewis Condé

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J. Cook – Appellant

Mr J. Gower – Agent

Ms D. Gower – Agent

Mr N. Tainton – Architect

FOR THE LOCAL PLANNING AUTHORITY:

Ms B. Hanlon – Planning Officer

Mr P. Whitehead – Principal Planner

Mr S. Machin – Agricultural Consultant

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 drawing nos: Site Location Plan, Drawing No. PA_001; Proposed Site Plan, Drawing No. PA_003; Proposed House Floor Plans, Drawing No. PA_004; and Proposed House Elevations, Drawing No. PA_005.
- 3) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 4) Details of a foul water drainage system to serve the development hereby permitted, including a relevant management and maintenance plan for the lifetime of the development, shall be submitted to and approved in writing by the local planning authority. The foul water drainage system shall be installed on the site in accordance with the approved details prior to occupation of the development hereby permitted. The foul water drainage system shall thereafter be managed and maintained in accordance with the approved management and maintenance plan.
- 5) No development above ground level shall take place until details of the delivery of biodiversity net gain, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the biodiversity enhancements shall be maintained and retained for the lifetime of the development.

- 6) 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 development 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.
- 7) Details of the solar panels to be used in the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The solar panels shall be installed on site in accordance with the approved details prior to occupation of the development hereby permitted, and thereafter retained and maintained for the lifetime of the development.
- 8) Prior to the installation of any external lighting, full details including height, design, location, and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 9) No development above ground level shall take place until details of carbon reduction measures to be utilised in the development 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 prior to occupation of the development hereby permitted.
- 10) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in the breeding and rearing of pigeons for commercial purposes or in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.