



Appeal Decision

Site visit made on 1 October 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2024

Appeal Ref: APP/U1105/W/23/3335680

Poppins Barn, Goldsmith Lane, All Saints, Axminster, Devon EX13 7LU

- 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 Alban Connell against the decision of East Devon District Council.
 - The application Ref is 23/1279/FUL.
 - The development proposed is conversion of an agricultural barn to form a 1-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. Having considered the detail of the evidence put forward by the parties I have decided to combine the Council's first and second reasons for refusal into one main issue, for ease of reasoning and to avoid unnecessary repetition. With this in mind, the main issues are:
 - whether the appeal site is a suitable location for new residential development having regard to the development plan, the setting of the building and access to local services and facilities; and
 - whether the proposed development would have a likely significant effect on the integrity of the River Axe Special Area of Conservation (SAC), with regard to phosphates.

Reasons

Location

3. The appeal site is outside a designated Built-up Area Boundary and in accordance with Strategy 7 of the East Devon Local Plan 2013 – 2031 (Adopted – January 2016) (LP), it is in the countryside for the purposes of the development plan.
4. The proposal would involve re-using the appeal building, an agricultural storage building, and Policy D8 of the LP is therefore also determinative in the appeal. Policy D8 permits the re-use of rural buildings outside of settlements subject to a number of criteria, with specific requirements relating to residential proposals. To accord with the policy requirements, the building should no longer be required for agriculture, the conversion will enhance its setting and development must be located close to a range of accessible

services and facilities to meet the everyday needs of residents and must be in a location that will not substantively add to the need to travel by car.

5. When I visited the site, there was limited storage taking place in the building. The appellant is proposing that an area of covered storage for machinery, tools and logs is incorporated into the design of the proposed dwelling. Additionally, it is confirmed that there is storage space in a polytunnel on site. As there is a small agricultural operation taking place on site that would require minimal amounts of machinery and tools, the loss of the building for agricultural storage would not undermine the viability of that operation, nor can I foresee that it will result in an undue need for replacement storage facilities. It has been sufficiently demonstrated that the building is therefore no longer required for agricultural use.
6. In terms of the site and its setting, it is currently an orchard that includes the appeal building and a smaller building that is currently used as an artist's studio following an allowed appeal¹. The area in front of the appeal building would be used as a garden for the proposed residential dwelling. Despite the small holding adjoining an existing residential property, the use of part of it for residential purposes and the associated domestication would significantly alter the character and appearance of the site and its surroundings. Whilst a planning condition could be attached to prevent works taking place in the garden and it is noted that the appellant's intention is to only erect a low picket fence around the garden, a condition could not control domestic paraphernalia that does not constitute operational development. As such, the loss of an area of agricultural land in the countryside and the domestication of a site that contributes positively to the rural and verdant character and appearance of the landscape would not result in an enhancement of the site's setting.
7. Further policy criteria for re-using buildings for residential purposes is that development must be located close to a range of accessible services and facilities to meet the everyday needs of residents. Smallridge has a school, a village hall, a place of worship and a pub. However, these services and facilities are a significant walking distance from the site and the journey would involve walking along unlit country lanes with no pavement. Additionally, the aforementioned services and facilities would not meet the daily requirements of the occupiers of a residential property. As such, the occupiers would need to travel further afield to carry out day-to-day activities, such as food shopping. There are bus stops on Chard Road but, again, they are a substantial walking distance from the site. Furthermore, I have not been provided with details of the bus service and therefore cannot be certain of the frequency of buses to urban conurbations, such as Axminster.
8. It is likely that the residents would need to travel to a broader range of services and facilities at Axminster, further away from the site. As such, it is unlikely the location of the proposal would promote the use of sustainable modes of travel as advocated in the National Planning Policy Framework (the Framework). Instead, it is highly probable that occupants and visitors associated with the proposed development would be reliant upon private cars to get to and from the appeal site.

¹ Appeal reference APP/U1105/W/21/3282836

9. The proposal would conflict with Policy D8 as a whole. As the proposal would not be in accordance with Policy D8 or another specific Local or Neighbourhood Plan policy that explicitly permits development in the countryside, it would in turn conflict with Strategy 7 of the LP.
10. Having regard to the identified conflict with the development plan policies, the proposed development would fail to comply with the specified distribution of development within the district, which in turn would result in harm in achieving the planned spatial strategy across the district.
11. I understand that the appellant is an artist who works in a studio on the site and that the Council supports arts, culture and diversity through the Cultural Strategy 2022. However, there is no clear policy provision in the development plan for the provision of housing in the countryside for professionals employed in artistic and/or cultural occupations.
12. For these reasons, I conclude that the appeal site is not a suitable location for new residential development having regard to the development plan, the setting of the building and access to local services and facilities. Consequently, the proposal would conflict with Strategy 7 and Policy D8 of the LP for the reasons identified above. Furthermore, as the proposal would not minimise the need to travel by private car, it would not accord with Strategy 5B and Policy TC2 of the LP, which require new development, amongst other considerations, to encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment and to be well related to compatible land uses so as to minimise the need to travel by car. Additionally, the development would conflict with the Framework, which promotes sustainable development in rural areas and seeks opportunities to identify and pursue the promotion of walking, cycling and public transport use.

Phosphates

13. The appeal site is within the catchment area for the River Axe, which forms part of the River Axe SAC. The SAC is recognised by the Conservation of Habitats and Species Regulations 2017 as an area of international importance for its flora and fauna. The River Axe SAC is currently considered to be failing its water quality targets due to phosphate levels. The Regulations require decision-makers (in this case myself) to undertake an appropriate assessment where significant effects on a SAC are likely either alone or in combination with other proposals.
14. Accordingly, new development within any part of the catchment which will increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies. Natural England therefore recommend that any proposed new development that might otherwise result in increasing the amount of phosphate within the SAC either by direct or indirect discharges must be able to demonstrate phosphate neutrality.
15. The proposed development includes a septic tank where effluent would be discharged into a reed bed. The appellant believes that this system would deliver an acceptable result which would not add to phosphates into the River Axe catchment.

16. It is estimated by the appellant that the expected waste flow arising from the proposed residential use would be 120 litres per day based on an occupancy level of one person. However, there would be no mechanism to prevent a higher occupancy rate and the size of the dwelling could accommodate two persons. Given this, the waste flow rate could be higher than used by the appellant as part of their calculations. Furthermore, whilst reed beds can reduce the phosphate level draining into the soil, there is little detail to confirm the level of phosphate reduction arising from the use of a septic tank and reed bed system. These issues create doubt in relation to the accuracy of the appellant's nutrient budget calculation.
17. Annex F to the Natural England Water Quality and Nutrient Neutrality Advice (16 March 2022) sets out that small discharges to ground i.e. less than two cubic metres per day, that are within the surface or groundwater catchment of a designated site will present a low risk that the phosphorus will have a significant effect on the designated site, but only where certain conditions are met.
18. Whilst the majority of the conditions would be complied with, particularly as the appellant has submitted percolation test results with the appeal, it has not been established whether the discharge to ground would be at least 200 metres from any other discharge to ground. As such, it cannot be ensured that there is no significant in combination effect with existing nearby properties and it has therefore not been demonstrated that there would be a low risk that phosphate will reach the designated site and that the scale of phosphate input from the proposed development would not be significant.
19. The Appropriate Assessment to be undertaken as part of the Habitats Regulations requires me to conclude that the level of scientific certainty of the evidence provided is high and should be "beyond reasonable scientific doubt". Given my reservations expressed above, I cannot conclude this to be the case.
20. For these reasons, I am unable to conclude that the proposal, either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the River Axe SAC. Consequently, the proposal would conflict with Strategies 3, 5 and 47 and Policy EN5 of the LP, which collectively seek, in part, to conserve and enhance the environment, protect wildlife sites and areas of biodiversity importance and interest (including internationally, nationally and locally designated sites and also areas otherwise of value) from development proposals which would result in the loss of or damage to their nature conservation value, and maintain the integrity of internationally designated sites. Additionally, the proposal would fail to comply with the Framework, which states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site either alone or in combination.

Other Matter

21. I note that the appellant has raised concerns about All Saints Parish Council's consideration of the planning application. However, this is a matter for those parties and outside the scope of the appeal.

Planning Balance

22. Whilst the Council cannot demonstrate a five-year housing land supply, Paragraph 226 of the revised Framework has resulted in the Council only needing to demonstrate a four-year supply (4YHLS) due to the emerging Local Plan being at Regulation 18 stage. The Council assert that the housing land supply is at 4.68 years. The Housing Delivery Test results for 2022, published by the Government on 19 December 2023, show that the Council has a 2022 housing delivery measurement of 126%. As such, the 20% buffer mentioned in Paragraph 77 of the Framework does not need to be applied to the housing supply figures. Given that the Council can demonstrate a 4YHLS, the development plan policies are not out of date and the presumption in favour of sustainable development set out under Paragraph 11 of the Framework no longer applies to this case.
23. The proposal would make the contribution of a single dwelling towards the housing stock in the district. Furthermore, the proposal is being described as a self-build project, which is a form of housing supported by the Framework. However, given that there is a 4YHLS and having regard to the proposal's small scale, I give these benefits limited weight.
24. There would also be associated social and economic benefits for the local area through providing support to the local economy (including during the construction phase) and local community facilities. The proposal would also make a positive contribution to biodiversity with ecological enhancements forming part of the proposal. However, these contributions would be limited given the small-scale nature of the development under consideration.
25. The appellant asserts that their current journeys to and from the site to work the small holding and to carry out their occupation as an artist in the studio on site would cease should a dwelling be provided on site. However, I am not convinced that the proposal would result in a net reduction in the number of trips to and from the site. There would be an increase in trips arising from occupiers of the dwelling travelling to and from services and facilities, household deliveries to the site and visits from friends and families. As such, based on the evidence before me, it has not been demonstrated that the proposal would have an environmental benefit in this respect.
26. Weighing against the proposal is my finding that the proposal would conflict with the development plan and given that the planning policies that the proposal would conflict with are consistent with the Framework, I afford significant weight to the adverse impacts of the scheme. Consequently, I find that the adverse impacts of the scheme arising from the unsuitable location of the site for residential development would outweigh the scheme's benefits.

Conclusion

27. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves INSPECTOR