



Appeal Decision

Hearing held on 29 October 2024

Site visit made on 29 October 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/U1105/W/24/3346991

Clapperentale Farm, Lane Past Escot Park, Escot Park, Ottery St Mary, Devon EX11 1LU

- 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 Nigel Morgan against the decision of East Devon District Council.
 - The application Ref is 24/0605/FUL.
 - The development proposed is the siting of rural workers dwelling (static caravan) in support of rural business (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the siting of rural workers dwelling (static caravan) in support of rural business (retrospective) at Clapperentale Farm, Lane Past Escot Park, Escot Park, Ottery St Mary, Devon EX11 1LU in accordance with the terms of the application, Ref 24/0605/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing no's: 2223.046.Morgan.01SV (Location and Block Plan); 2162844 (Block Plan); 2236989 (Elevations); 2231916 (End Elevation); 2231915 (Floor Plan); Front Elevation (no reference number); 2236991 (Side Elevations); 2183899 (Site Flood Map); 2183898 (Site Plan with Trees Marked); and 2183900 (Site Plan).
 - 2) The occupation of the caravan hereby permitted shall be carried on only by Mr Nigel Morgan and any resident dependants only. When the caravan ceases to be occupied by Mr Nigel Morgan, the use hereby permitted shall cease and the caravan be removed.

Preliminary Matters

2. I observed on my site visit that the development has been completed in accordance with the approved plans. I have therefore determined the appeal on the basis that retrospective permission is sought for the development which has already been implemented.
3. During the Hearing, the Council confirmed that Policy H4 of the East Devon Local Plan, adopted January 2016 (the LP) had been omitted from the decision notice in error. As part of their appeal statement, the appellant has outlined the importance of that policy to this case. As such, I am satisfied that the omission has not resulted in any form of procedural unfairness, and I have therefore assessed the development against the requirements of that policy.

4. The Statement of Common Ground outlines that there is no agreement between the parties with regards to the length of time that the appellant has resided in the static caravan. During the Hearing, the appellant informed me that they had lived in the caravan for approximately fourteen years, but that the caravan had been situated on different parts of the estate during that time. As such, the appellant has not sought to argue that planning permission is not required, and I have therefore determined the appeal on that basis.

Main Issue

5. The parties agreed at the Hearing that the site is within the open countryside, outside of any designated settlement boundary, and that residential development in that location would be contrary to the Council's adopted spatial strategy. As a result, that aspect of the Council's reason for refusal is not a matter in dispute between the parties. Based on the evidence before me, I have no reason to disagree. Accordingly, I consider that the main issues are: (i) whether there is an essential need for a rural worker to live permanently at the appeal site in the countryside; and (ii) notwithstanding the Council's spatial strategy, whether the site is in a sustainable location with regards to access to services and facilities.

Reasons

Essential Need

6. Paragraph 84(a) of the National Planning Policy Framework (the Framework) sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain criteria apply, including whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. At the Hearing I was informed that the appellant is self-employed and that he undertakes various jobs on a full-time basis on behalf of several businesses that operate from the estate, as well as doing work related to the estate itself. The appellant's appeal statement provides a list of these jobs. They can be summarised as being work related to grounds maintenance and security, as well as responsibilities associated with being an instructor for Devon Country Pursuits. According to the appellant these tasks often involve working at different times of day, including during the evenings.
8. During the Hearing I heard from representatives of some of the businesses that operate from the estate. From what I was told, it is abundantly clear that the work that the appellant undertakes is considered to be of considerable importance and that he is a valued colleague. However, there is no substantive evidence before me that leads me to conclude that any of these job roles result in an essential need for the appellant to live on site at all times.
9. At the Hearing it was put to me that, if the appellant did not live on the site, there would likely be security implications for those businesses. Indeed, it was suggested that, while alternative security arrangements have been utilised, including CCTV, these measures are not as effective as having someone on site who is able to respond to any such issues instantaneously. However, while that might be the case, the pre-amble to LP Policy H4 clearly states that

concerns relating to security will not, on their own, be sufficient to justify a new dwelling.

10. It was also suggested at the Hearing that, if the appellant were to live off-site, then the amount of travel that they would have to undertake would be significantly greater as a result of having to commute to the estate, potentially several times a day. The sustainability of any development proposals is of course an important consideration. However, such matters do not constitute an essential need.
11. LP Policy H4 also contains various other stipulations. Firstly, parts 2 and 3 of the policy require assurance that the businesses in question are financially viable. While I was informed at the Hearing that this is the case, I have no substantive evidence before me to confirm this. Likewise, I have no evidence regarding man hours worked which would enable me to conclude that the appellant has the equivalent of a full-time role (part 4 of the policy), or evidence that outlines the appellant's financial situation and any alternative accommodation options (part 5).
12. As a result, I have no alternative but to conclude that there is not a proven essential need for the appellant to live permanently at the site. As such, the development conflicts with LP Policy H4 which seeks to prevent the provision of isolated dwellings in the countryside unless there is an essential need for a rural worker. There is also conflict with paragraph 84 of the Framework which has similar aims.

Access to Services and Facilities

13. Escot Park is a large country estate in the countryside, some distance from the nearest settlements. Access to the estate is achieved by travelling along unlit rural roads which are unlikely to be attractive for walking and cycling, particularly within the hours of darkness. There is also no suggestion from the appellant that there are bus stops near to the estate. As such, it is highly likely that living on the estate results in a reliance on the private car.
14. The appellant has suggested that living off-site would result in a greater number of trips by private car than is currently the case. This would be due to a need to travel to Escot Park for work, potentially several times a day. There is little substantive evidence before me that could lead me to conclude whether or not that would be the case. However, it is a fact that the appeal site is quite isolated with no realistic access to modes of public transport. In order to access services and facilities such as supermarkets, shops and public houses, the appellant would need to travel by private car to the village of Feniton, or slightly further afield to the towns of Honiton or Ottery St. Mary.
15. On balance I find it more persuasive to conclude that the site is in an unsustainable location in this regard, albeit that the harm would be mitigated to a significant extent by the fact that travel to work is not required. Indeed, given that this appeal only involves a single dwelling, I find that the harm would be very limited. Nevertheless, there is still conflict with LP Strategy 5B and Policy TC2, as well as Policy NP9 of the Ottery St. Mary and West Hill Neighbourhood Plan, 2017 to 2031. Taken together, the relevant aspects of these policies seek to direct residential development to sustainable locations that are accessible by public modes of transport.

Planning Balance

16. The appellant has suggested that permitted development rights could be utilised to make the siting of the static caravan acceptable in planning terms, and that this represents a viable alternative to obtaining planning permission. In support of their case, my attention has been drawn to an appeal decision where the Inspector did reach this conclusion¹ (the Highbridge appeal).
17. However, it seems to me that the two appeals are not directly comparable. In particular, the site in the Highbridge appeal was not particularly large and the Inspector was able to conclude that, while the static caravan would be located outside of the curtilage of the main dwelling, the land could be considered to be a single planning unit. In contrast, Escot Park is a large estate that contains a range of uses across the land. As such, it seems highly unlikely to me that the estate could be considered to be a single planning unit and I therefore have significant doubts that this fallback position would be successful if pursued.
18. During the Hearing, the appellant stated that they would be made homeless if the appeal were to fail. I have already set out that there is no substantive evidence with regards to the appellant's personal finances and alternative accommodation options. However, given that they are currently living in a static caravan, and it seems likely that they have done so for quite some time, I am of the view that there is a reasonable prospect that the appellant would effectively be rendered homeless if I were to dismiss this appeal, particularly as I do not believe that there is a realistic fallback option. I note that the Council's officer report did consider the appellant's personal circumstances in relation to The Human Rights Act 1998. While I acknowledge that an enforcement notice was served on the static caravan in June 2023, I do not find that the amount of time that has elapsed has necessarily afforded the appellant the chance to arrange alternative accommodation, particularly if they do not have the necessary finances to achieve this. In my view, the potential prospect of homelessness is a material consideration to which I must afford very significant weight.
19. The development does not accord with the Council's spatial strategy. Furthermore, as part of my reasoning, I have found that there would also be conflict with policies that seek to promote the use of sustainable forms of transport. During the Hearing, the Council confirmed that they do not consider that the siting of the static caravan has resulted in harm in any other regard. I have no reason to disagree. In my view, the very significant weight that I afford to the appellant's personal circumstances clearly outweighs the identified harm.

Other Matters

20. The site is within the zone of influence of the Exe Estuary Special Protection Area and the East Devon Pebblebed Heath Special Area of Conservation and Special Protection Area (the designated sites). The Exe Estuary supports an internationally important assemblage of birds, including overwintering populations of Avocet and Slavonian Grebe, while the Pebblebed Heath makes up the largest block of lowland heath in Devon.

¹ Appeal ref: APP/V3310/X/17/3180697

21. The designated sites are an important recreational and economic resource. They are well frequented by the public and it is very possible that occupants of the static caravan would visit the sites. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the protected sites.
22. The evidence before me is clear that the proposal, particularly when combined with other development in the area, would have a likely significant effect on the protected sites due to an increased disturbance through recreational activity. The parties have agreed a financial sum in accordance with the Council's South-East Devon European Sites Mitigation Strategy which can be put towards infrastructure or non-infrastructure projects. I have received the signed Section 111 form, and at the Hearing, I was advised by the Council that the payment could be put towards projects such as maintaining footpaths and signage. I was also informed that the strategy had been prepared with the agreement of Natural England. As such, it is not necessary for me to consult them separately as part of this appeal.
23. Based on the evidence before me, I am satisfied that the contribution would sufficiently mitigate the level of harm likely to be caused by the development and would be pursuant to the Council's adopted strategy. I therefore find that the proposal would not result in an adverse effect on the integrity of the designated sites.

Conditions

24. Given that the development is retrospective there is no need to impose the standard time condition. However, I have imposed a condition to identify the relevant plans in the interest of certainty. A further condition limits the use of the static caravan specifically to the appellant. This is necessary as I have allowed the appeal on the basis of their personal circumstances despite conflict with the development plan.

Conclusion

25. I find that the material considerations described above, in this instance, clearly outweigh the conflict with the development plan and the very limited harm that I have identified, and indicate that permission should be granted. For this reason, the appeal is allowed.

C Butcher

INSPECTOR

Appearances

For the appellant:

Mr Morgan: Appellant

Mr Ferreday: Appellant's agent

Mrs Knight: Appellant's agent

Mr Mingo: Local farmer

Mr Kennaway: Escot Estate

Mr Farrow: DMF Music

Mr Best: Devon Country Pursuits

For the Local Planning Authority

Mr Barrett: East Devon District Council

Mr Stephenson: East Devon District Council