



Appeal Decision

Hearing held on 5 February 2025

Site visit made on 5 February 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/U1105/W/24/3354532

Lily Farm Vineyard, Dalditch Lane, Budleigh Salterton, Devon EX9 7AH

- 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 William Pratt against the decision of East Devon District Council.
 - The application Ref is 24/0640/FUL.
 - The development proposed is managers accommodation and extension to Lily Farm Vineyard Business Premises.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following the Council's notice of decision, the National Planning Policy Framework (the Framework) was revised on 12 December 2024. The main parties were invited to comment on how the updated Framework might affect the appeal. I have had regard to these comments in my decision.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the site is a suitable location for the proposed development having regard to access to services and facilities;
 - whether there is an essential need for a dwelling to accommodate a rural worker having regard to the development plan and national policy; and
 - whether the site is a suitable location for the proposed development having regard to flood risk.

Reasons

Character and appearance

4. The appeal site comprises a prominent vineyard on attractive sloping land, where surrounding fields and limited development add to the sense of rural tranquillity. It includes associated buildings located at a lower level near its entrance. This entrance meets a narrow, winding lane and stream that connect to a nearby

settlement. The vineyard is part of the well-managed working countryside, and its aforementioned characteristics are consistent with the descriptions set out in the Council's East Devon and Blackdown Hills Landscape Character Assessment 2019.

5. In that context, the appeal site is located within a National Landscape (NL) where amongst other things, Policy D1, strategies 7 and 46 of the East Devon Local Plan 2016 (LP), and Policy NE1 of the Budleigh Salterton Neighbourhood Plan (NP) require development to be sympathetic, conserving and enhancing its special qualities and distinctiveness. This approach is consistent with paragraph 189 of the Framework which says, in part, that great weight should be given to conserving and enhancing landscape and scenic beauty.
6. While the design of the building has evolved from a previous iteration, it is necessary to assess this scheme on its merits. Accordingly, the proposed dwelling would be of a single storey, including a green mono pitched roof and would make use of materials similar to those found on nearby buildings. To some extent, it would be set into the hillside and would be sited amongst the existing vines. Collectively, these design features would go some way towards softening the building's overall presence in the NL. Additionally, the proposed extension of an existing building and other additions would have a neutral effect on the NL.
7. However, despite the proximity of other properties nearby, it would stand alone, physically and visually separate from associated buildings at the appeal site and any settlement. In this respect, the introduction of a notably wide block of built form with its array of fenestration detailing into an otherwise undisturbed and attractive field would stand proud. It would read as a jarring domestic feature in the NL. A residential use with its associated comings and goings, and likely domestic paraphernalia would result in the incremental and permanent urbanisation of this sensitive landscape.
8. The visual prominence of the dwelling was discussed at the hearing. It was claimed that due to the existing vegetation, only glimpsed views of it from the adjoining lane would be possible at certain times of the year. However, I observed that there was substantial gapping in this vegetation along the length of the boundary next to the lane. Views of the dwelling would be obvious from here and at the two closest entrances. While there may be times of the year when natural screening along the appeal site boundary would be likely to reduce the presence of the dwelling, the eye would nevertheless be drawn to it as an unnatural feature. Consequently, the dwelling would fail to conserve and enhance the NL, which is a consideration that must be given great weight.
9. For the above reasons, I conclude on this main issue that the proposal would harm the character and appearance of the area. As such, there would be conflict with LP Policy D1, strategies 7 and 46, and NP Policy NE1. There would also be conflict with paragraph 189 of the Framework.

Access

10. The appeal site is about 200m from the edge of Knowle village, which is part of the defined settlement of Budleigh Salterton. Here, it is said that regular connections are available to the town centre, Exmouth, including the NCN2 cycleway and the railway, which collectively provide access to schools and shops to meet every day

needs. Anecdotal evidence presented at the hearing by interested parties did however throw into question the regularity and quality of such connections.

11. Even if I were to agree that broader transport connections from the village were adequate, having driven around the surrounding area, busy roads need to be crossed to get to the school, and the collective network of narrow lanes do not prioritise pedestrian movements. In that context, although covering a relatively short distance, the lane connecting the appeal site to the village is unpaved and unlit with few passing places. Notably, it is bound on one side by a long wall which provides pedestrians with very little respite from passing vehicles.
12. As such, reaching the village from the appeal site would not be an inviting route to traverse on a regular basis by foot or bicycle, particularly during dark or inclement weather conditions. While it is noted that there is no objection from the Council's highways officer or firm evidence of collisions, it would nevertheless be unlikely to be a suitable or an attractive option for all road users. Occupants of the proposed development, particularly the elderly and families with children, would be heavily reliant upon the private car for access to basic services and facilities. As such, sustainable transport modes prioritised in the Framework would not be achieved.
13. For the reasons given, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to access to services and facilities. As such, there would be conflict with LP Policy TC2, and strategies 5B and 7. Collectively in this respect, and in part, these policies seek to locate development where it is accessible by pedestrians, cyclists and public transport so as to minimise the need to travel by car. There would also be conflict with paragraph 117 of the Framework which says that applications for development should give priority first to pedestrian and cycle movements.

Essential need

14. Strategy 7 of the LP sets out the approach to development in the countryside, which is defined as areas outside Built-Up Area Boundaries (BUAB) or site-specific allocations. In the countryside, the policy, amongst other things, only permits development that would accord with a local or neighbourhood plan policy that explicitly permits such development.
15. Although described as being 'semi-rural' in Strategy 21 of the LP, there is no dispute between the parties that the appeal site lies in the countryside for the purposes of Strategy 7 of the LP. One such policy of the LP that would explicitly permit development in the countryside is H4, which was agreed should be given full weight. Amongst other things, the policy supports agricultural worker's dwellings where there is a proven and essential agricultural or rural business need for the intended occupier to be permanently housed on the unit for functional reasons. Additionally, NP Policy H4 says, in part, that developments outside the BUAB must demonstrate an exceptional need.
16. These policies are consistent with paragraph 84 of the Framework that says decisions should avoid the development of isolated homes in the countryside unless certain circumstances are met. One of those is where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. I have already concluded above that the appeal site is physically separated from any settlement and it is therefore isolated in policy terms.

17. The appellant's parents do not live at the appeal site and have been running the vineyard for about 20 years. The appellant has reduced hours worked in current employment to help out with the business. It is their intention to move the family to live on the appeal site to take over and increase the business operation by producing wine on site.
18. It is understood a permitted extension to a building to provide a winery could be implemented. However, despite relatively low build costs discussed at the Hearing, the appellant claims that implementing the extension would not be feasible without living on site. They add that their essential need to live permanently at the appeal site rests on the requirement to care for wine during the fermentation process. Here, it is said that round the clock supervision for 10-12 weeks, up to 2 times in the night will be needed to ensure the expensive product is not ruined.
19. In that context, my attention has been drawn to an appeal decision at Melbury Vale¹ and schemes in South Oxfordshire and Bath where such supervision and general vineyard management is highlighted. However, the Melbury Vale scheme involved existing wine production over a larger site area, the change of use of an existing building, and was granted permission for a temporary period. It is not comparable with this proposal. The specific circumstances relating to that appeal and the other schemes are not known. Therefore, they cannot be relied upon as a benchmark to determine what might be required at this site.
20. Even so, it is acknowledged that this element of the business would be likely to require some form of close monitoring, but this would not be at most times during the year. Moreover, this key part of the business case for a dwelling does not exist. Therefore, in the absence of an established position or compelling evidence to the contrary, it is simply not known exactly how much time beyond a normal working day would be required during fermentation.
21. I acknowledge the appellant's comments in respect of certain permitted development rights relating to the use of caravans. However, even if close monitoring at night was required for a short period of the year, there is little to show why this could not be adequately covered by other means, such as shift working. Additionally, having paid regard to local house prices, while the carrying out of extra checks on wine, or security/other natural events may be inconvenient, there is no firm reason why the appellant could not live nearby or a short drive away to functionally manage such operations.
22. A dwelling at the appeal site would be likely to reduce insurance and transportation costs. It could conceivably enable the appellant to provide longer opening hours for the shop/café and more tours throughout the year without them being inconvenienced, although living nearby would be likely to deliver similar outcomes. However, for the reasons given, regardless of how the word 'proven' may be defined, there is no demonstrably essential business need for a dwelling at the appeal site.
23. Turning to financial matters, while the business has been operational for more than 3 years, in the case of permanent dwellings, Part 2 of LP Policy H4 also requires that it is commercially viable and has clear prospects for remaining so. Current activities on site are likely to be sufficient to justify 1 full time worker throughout the year. However, the appellant agreed at the Hearing that it is not essential for such

¹ APP/N1215/W/16/3156477

a worker to permanently live at the appeal site, based on the existing business. Additionally, while increasingly profitable and meeting a minimum wage, it was conceded that the existing business would provide insufficient income to allow the appellant to give up current employment.

24. Furthermore, the evidence shows that the proposed winery would not be operational/profitable until year 5, with further projected profits at year 10. However, a substantial proportion of profits would be drawn from contract wine making, rather than grapes produced on site. In any case, these are little more than aspirational forecasts, which can consequently only be given limited weight. Moreover, while the build costs of the dwelling and winery could potentially be funded by a private house sale, the appellant was unable to set out clearly how all associated costs would deliver a viable business in the future.
25. Accordingly, it is not clear how the appellant could meet the policy requirement to be in full time employment in the rural business at the point of granting any permission, or when this might occur. Neither has it been demonstrated that current or potential future commercial viability would sufficiently justify a permanent dwelling.
26. For the reasons given, I conclude on this main issue that there is not an essential need for a dwelling to accommodate a rural worker having regard to the development plan and national policy. As such, there would be conflict with LP Policy H4 and NP Policy H4. There would also be conflict with paragraph 84 of the Framework.

Flood Risk

27. The appeal site is within an area known to be at risk of flooding where LP Policy EN21 sets out a sequential approach to deal with such scenarios. This policy is consistent with advice set out in the National Planning Practice Guidance (PPG) and paragraph 170 of the Framework which says that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. It adds, in paragraph 174, that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding.
28. Development should not be permitted if there are reasonably available sites in areas with a lower risk of flooding. Where this is not possible, Framework paragraphs 177-179 say, amongst other things, that the exception test may have to be applied. To pass, it should be demonstrated that there would be wider sustainability benefits to the community that outweigh the flood risk, and the development will be safe for its lifetime. Both elements should be satisfied for the development to be permitted.
29. It is common ground that parts of the appeal site are within flood zones 2 and 3. Even if a small part of the proposed dwelling is located in flood zone 2, most of it is shown to be in flood zone 1. Nevertheless, it is accepted that there would be no lower risk sites suitable for the development if the need for a dwelling were to be agreed.
30. Given my conclusions set out in the main issues above, although living on site would be likely to support the continued operation of a local business, this would not amount to wider sustainability benefits that would outweigh the identified flood

risk. As such, having applied the sequential test, even if I were to conclude that the development would be safe for its lifetime with its proposed sustainable drainage and infiltration systems, the exception test would not be passed.

31. I therefore conclude on this main issue that the site is not a suitable location for the proposed development having regard to flood risk. As such, there would be conflict with LP Policy EN21. There would also be conflict with chapter 14 of the Framework and the PPG.

Other Matters

32. The site is close to the Pebblebed Heaths and Exe Estuary Special Protection Area (SPA). Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been otherwise minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment of the implications of the appeal scheme for the European designated sites. In that context, I would have looked at the appropriateness of the appellant's financial contribution towards mitigating recreational pressure on the SPA through their submitted S111 Undertaking. However, for the above reasons, I have not pursued this matter further.
33. There are a number of listed buildings nearby. Consequently, there is a statutory duty to pay special regard to the desirability of preserving their setting. The appeal proposal would be separated from these buildings by intervening built form and vegetation. It would have no effect on their setting and accordingly would preserve it. Furthermore, the Council has not raised any concerns in this respect. Accordingly, I am satisfied the proposal meets the requirements set out in s.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).
34. My attention has been drawn to the differences between this scheme and a previous appeal² at this site. While this is acknowledged, I have determined this appeal on its merits and the evidence before me.

Other Considerations

35. The support of the Parish Council is noted, though this is not a reason in itself to allow inappropriate development. Additionally, their representation references suggested compliance with NP Policy EC1. Whilst the policy support for small businesses is acknowledged, there is however little to show how it is relevant to a new dwelling.
36. Had I been otherwise minded to allow the appeal, although likely to be built by the appellant, there is no mechanism before me that would ensure it would meet the definitions of self-build. In any case, despite broad support for such developments, appropriately located housing is an important consideration and one that is embedded in the Framework. I give this matter little weight.
37. Reference has been made to the emerging East Devon Local Plan within the evidence. The Council confirmed at the Hearing that policies within it were subject to change as this was still at consultation stage, and that the weight that can be given to it is limited. I have dealt with the appeal on that basis.

² Appeal Ref: APP/U1105/W/17/3169196

38. In that context, in addition to the economic development strategy in the emerging Local Plan, the appellant also refers to the East Devon AONB Partnership Plan. Although not part of the development plan, these strategies are broadly supportive of improving the resilience and flexibility of the rural economy. Moreover, my attention has been drawn to other policies and strategies in the LP including E4, E5 and Strategy 28. Collectively, the support for the diversification of the rural economy, including the contributions made by British wine, and expansion of existing businesses is acknowledged. However, as part of this support there is also the recognition that development must still seek to promote accessibility and the protection of designated land. I give these considerations very limited weight.
39. The dwelling would be sustainably constructed and is said to be easy to build. The scheme would include some carbon reduction measures, which is supported within paragraph 167 of the Framework. The reduced need to travel for wine production is noted, though contract wine making would be likely to count against these benefits to some degree. Additionally, an improved visitor attraction, potential for further local jobs, and the construction of a dwelling would provide some very modest economic benefits. A single dwelling would make a very small but nevertheless positive contribution to the overall supply of housing in the district.
40. There would be some biodiversity enhancements, though the introduction of a dwelling into an otherwise undisturbed part of the countryside would mean that any overall environmental benefits would be neutral.

Planning Balance and Conclusion

41. The Council confirmed at the Hearing that it is unable to demonstrate a 5-year supply of deliverable housing sites, where the current supply of 2.97 years represents a significant shortfall.
42. Paragraph 11 d) of the Framework indicates that, where the requisite housing land supply cannot be demonstrated, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. In accordance with footnote 7 of the Framework, as I have found the scheme would not preserve or enhance the character and appearance of the NL, and would be at risk of flooding, it is the case that the policies in chapters 14 and 15 of the Framework provide a strong reason for dismissing the appeal. As such, the proposal does not benefit from the presumption in favour of sustainable development.
43. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.
44. I have concluded above that the proposal conflicts with the development plan, when taken as a whole. Furthermore, even when considered cumulatively, the weight given to the other considerations would not outweigh the identified harm. Accordingly, other considerations do not therefore indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

J Hills

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr William Pratt	Appellant
Mrs Fay Pratt	Appellant's mother

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nigel Barrett MA MRTPI	Senior Planning Officer
Mr Gareth Stephenson MRTPI	Principal Planning Officer

INTERESTED PARTIES:

Mr Peter Manfield
Mr Derek Fisk
Mr Leo Dickenson