



Appeal Decision

Site visit made on 5 November 2024

by **K Reeves BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 April 2025

Appeal Ref: APP/Q1153/W/24/3339306

Higher Wilminstone Farm, The Milking Parlour, Wilminstone PL19 0JT

- 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 Ms I Chambers against the decision of West Devon Borough Council.
 - The application Ref is 1665/23/FUL.
 - The development proposed is erection of a replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issues

3. The main issues are:
 - whether the appeal site is a suitable location for new residential development having regard to the requirements of the development plan, access to local services and facilities, and the balance of the local housing stock;
 - whether the proposal would include appropriate measures to meet carbon reduction objectives; and
 - the effect of the proposal on the Plymouth Sound and Estuaries European Marine Site (comprising the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA)).

Reasons

Location

4. Higher Wilminstone Farm is located to the north east of the town of Tavistock and comprises a group of buildings that include two dwellings, the Milking Parlour and Windfall. Windfall forms part of a large agricultural building and was originally created as ancillary accommodation to the Milking Parlour. Planning permission was granted in 2020 for the change of use of that ancillary accommodation to a

separate residential dwelling¹. The appeal site is an area of grass to the west of Windfall that has a current use as garden for the Milking Parlour.

5. Policy SPT1 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 (JLP) sets out that the Council will support growth and change where it follows the principles of sustainable development (economic, social and environmental). Policy SPT2 facilitates the development and growth of sustainable linked neighbourhoods and rural communities where sustainable development criteria is met. Policy DEV29 of the JLP seeks, in part, to promote sustainable transport choices and this includes locating new homes in locations that can enable safe, secure walking, cycling and public transport access to local services and amenities.
6. The development plan seeks to prioritise growth through a hierarchy of sustainable settlements. Policy TTV1 of the JLP sets out the hierarchy for the development plan area. In hierarchical order they are main towns, smaller towns and key villages, sustainable villages, and smaller villages, hamlets and the countryside. Policy TTV2 of the JLP seeks to achieve specific objectives of rural sustainability to be supported through development, including the location of housing where it will enhance or maintain the vitality of rural communities. Furthermore, the supporting text to Policy TTV1 details that the plan does not define settlement boundaries, however development outside built-up areas will be considered in the context of Policy TTV26 of the JLP.
7. Policy TTV26 of the JLP seeks to protect the characteristics and role of the countryside and avoid isolated development unless in certain exceptional circumstances. The policy is divided into two different sets of policy requirement, the first applies to development proposals considered to be in isolated countryside locations, the second aspect applies to all development proposals within a countryside location.
8. The appeal site is situated a significant distance from the edge of Tavistock and is not within reasonably close proximity and walking distance of the centre of the town and its services and facilities. Moreover, the clear intervening agricultural land between the edge of the town and the site means that it is visually separate from Tavistock as well. The site is therefore in the countryside and development will only be permitted if it can be demonstrated to support the principles of sustainable development and sustainable communities.
9. On the A386, one of the main roads into and out of Tavistock, there are bus stops that can be accessed via a pavement along that road. I also understand that there is access to a cycle route into Tavistock. Also accessible from the pavement is a business park. Whilst the bus stops and cycle route could provide access to the services and facilities in Tavistock, the walk from the site to the A386 is along lanes that are unlit, without pavements and steeply inclined in places. As such, the walking route to the A386 would not present an attractive alternative to using a private motor vehicle, particular during periods of darkness and/or inclement weather. The future occupiers of the appeal scheme would therefore be likely to be heavily reliant upon private motor vehicles in order to access services and facilities reasonably required on a daily basis. The proposal includes electric vehicle charging, but the use of such vehicles cannot be guaranteed nor required.

¹ West Devon Borough Council application reference 3989/19/FUL

10. Whilst it is acknowledged that the proposal is for a replacement dwelling, the existing dwelling would be retained as ancillary living accommodation to the Milking Parlour and there would be the opportunity for the two bedrooms in that unit to be occupied ancillary to the main house. Additionally, the replacement dwelling would have four bedrooms. Notwithstanding my later finding on the topic of underoccupancy, there is still the potential for those four bedrooms to be occupied. If the new ancillary accommodation and the replacement dwelling are even partially occupied, it is likely that there would be more occupants across the two buildings than currently occupying the existing dwelling. With an increase in people living at the site there would be a greater overall need for access to services and facilities that I have established as not being easily accessible from the site. As such, the proposal would not support the principles of sustainable development and sustainable communities and would therefore conflict with Policies SPT1, SPT2 and DEV29 of the JLP.
11. I have been made aware of a previous appeal decision at Higher Wilminstone Farm² (the 2023 appeal) that is indicated as proposing a dwelling in a similar position on site to the current appeal. The Inspector considering that appeal concluded that as the proposed dwelling would be adjacent to existing buildings it would not strictly be in an isolated location, and that appeal proposal did not require assessment against the first section of Policy TTV26 of the JLP. I have not been provided with information that leads me to reach a different conclusion.
12. However, the second strand of Policy TTV26 concerns all development in the countryside as defined by the development plan and is applicable to the appeal scheme. The proposal does not involve reusing an existing traditional building nor would it respond to a proven agricultural, forestry or other occupational need that requires a countryside location. As such, the proposed development would conflict with Policy TTV26.
13. As the proposal is to replace the existing dwelling with a replacement dwelling, Policy TTV29 of the JLP is also relevant to the determination of the appeal. This policy relates, in part, to proposals for the replacement of existing dwellings and is subject to a number of criteria including that the size of the new replacement dwelling will not be significantly larger than the original house volume.
14. The existing dwelling has a lawful use for permanent residential use and there is no evidence before me to suggest that use has been abandoned. Further, the appellant has provided a planning obligation to ensure that the use of Windfall as a dwelling would cease in the event that the appeal is allowed.
15. The existing two bedroom dwelling is single storey with living accommodation in the roof space. The proposed replacement dwelling would have four bedrooms across two storeys with an attached garage and living space over the garage. The replacement dwelling would clearly be significantly larger than the existing dwelling in respect of the volume, floor space and number of bedrooms.
16. Paragraph 11.78 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 Supplementary Planning Document 2020 (SPD) states that with regard to the size of a replacement dwelling, there will be two key elements taken into account when considering if the proposal represents a ‘significant’ change: (i) whether the proposal will result in a harmful landscape or visual impact; and (ii) whether the

² Appeal reference APP/Q1153/W/22/3292581

proposal changes the size of dwelling, by number of bedrooms, to such a degree that it fails to meet the household needs of the area.

17. The Council has not raised an issue with the proposal in terms of the landscape or visual impact. It has been confirmed by the Council that the location of the appeal scheme is similar to the 2023 appeal. The Inspector for that appeal also did not raise a concern with the landscape or visual impact of that similar proposal. As such, I have no reason to reach a different conclusion. Given there is no dispute between the main parties on this matter, I have not considered the matter further.
18. Turning to the housing needs of the area, Policy DEV8 of the JLP states that the priority needs include providing homes that redress an imbalance within the existing housing stock to ensure that there is a mix of housing sizes, types and tenures that are appropriate to the area. Paragraph 11.80 of the SPD states that household sizes are projected to continue getting smaller across the plan area to 2034, and to meet the needs of newly forming households, a greater number of smaller homes are required to ensure a sufficient choice of accommodation.
19. Whilst the SPD explains that South Hams and West Devon have a higher proportion of 4+ bed and detached dwellings than the national and regional average, the 2021 Census data provided by the Council indicates that there are less four bedroom dwellings than two and three bedroom dwellings, and the proportion of four bedroom dwellings in this particular area of the Borough is below the West Devon average. Additionally, there is a higher proportion of two bedroom dwellings in comparison with the West Devon average.
20. However, the SPD also states that a higher proportion of households are significantly under-occupying their homes, which means having 2 or more spare bedrooms, and this is supported by the 2021 Census data that indicates that 42.5% of household's accommodation in the area has two or more bedrooms than required. The SPD sets out that having a housing stock that is poorly matched with household sizes and household needs will significantly disadvantage anyone who is not economically able to under-occupy their home, and this restricts housing choice and leads to inequality and a lack of community resilience.
21. Whilst there appears to be a lower proportion of four bedroom houses and a higher proportion of two bedroom houses than the West Devon average, it is clear that there is a substantial level of underoccupied dwellings in the area and it is my finding that there is still a need for smaller dwellings in the local area. Taking this finding together with the context of the SPD's prediction that a greater number of smaller homes will be needed in the future to ensure a sufficient choice of accommodation, the loss of the existing small dwelling and its replacement with a larger dwelling that would have twice as many bedrooms would perpetuate the imbalance within the existing housing stock, contrary to Policy DEV8 of the JLP. My finding on this particular matter differs from the conclusion reached by the Inspector for the 2023 appeal as that proposal did not involve the loss of the small dwelling.
22. Having regard to the failure of the proposal to address the existing imbalance of the housing mix in the area, the significant increase in scale of the residential development on site resulting from the proposed development would not satisfy the requirements of Policy TTV29.

23. The appellant has drawn my attention to a planning permission granted by the Council for the demolition of kennels at Orestocks, Crowndale Road, Tavistock, which had permission to be converted to a dwelling, and its replacement with a new dwelling³. As the appeal before me involves the retention and repurposing of the existing dwelling, it is not comparable with the Orestocks planning permission. Furthermore, the officer report for that application confirmed that the increase in size resulting from the replacement dwelling would not conflict with Policy TTV29. The permission granted at Orestocks does not alter my judgement on the appeal.
24. For these reasons, the appeal site is not a suitable location for new residential development having regard to the requirements of the development plan, access to local services and facilities, and the balance of the local housing stock. Additionally, the location of the residential development would not enhance or maintain the vitality of rural communities. Consequently, the proposal would conflict with Policies SPT1, SPT2, TTV1, TTV2, TTV26, TTV29, DEV8 and DEV29 of the JLP for the reasons set out above.
25. The Council's first reason for refusal refers to a conflict with Policy DEV32 of the JLP, which identifies several measures and provisions that should be included within new developments to deliver a low carbon future for the plan area. The policy sets out criteria for the construction of buildings and does not relate to the location of development. As such, Policy DEV32 is not determinative in my consideration of the first reason for refusal.

Carbon reduction

26. Policy DEV32 of the JLP identifies a need to deliver a low carbon future for the plan area and identifies several measures and provisions that should be included within new developments. This approach is supported by the SPD, which states that 'DEV32.1 aims to minimise the use of natural resources in the development over its lifetime', 'reducing construction waste and using recycled materials or existing building will help minimise the use of resources' and 'where demolition is proposed with replacement dwellings, the site should include comparative carbon impact of doing nothing, upgrading existing development and the proposed scheme'.
27. The appellant's planning application documents explain that the proposed development will be designed to meet and exceed building regulation requirements for the thermal performance of the external envelope, with the construction form designed to allow insulation around all the junctions of the built form that would retain heat during the winter months and prevent overheating during the summer months.
28. The documents also state that the orientation of the building coupled with the positions and sizes of the openings would allow passive solar gain during the winter and shading during the summer. The documents go on to state that air source heat pumps will be installed together with an electric vehicle charging point, and rainwater harvesting will be incorporated into the building.
29. As such, the appellant has demonstrated that the principle of meeting the low carbon requirements, where applicable, of Policy DEV32 can be achieved. Whilst no specific details of the built fabric of the building or the renewable energy system

³ West Devon Borough Council application reference 3577/22/FUL

have been provided, a suitably worded planning condition could be imposed to establish these details and ensure their implementation as part of the construction of the proposed building.

30. The Council have referred me to an appeal decision for the demolition of barns and the erection of replacement dwellings located near North Tawton in Devon⁴. I note that the Inspector dismissed the appeal partly on the basis that the proposal failed to demonstrate that it would provide suitable carbon reduction benefits as there were few detailed calculations with regards to the embodied carbon in the structure to be demolished, or calculations of the embodied carbon of the new building, or a comparison to the conversion of the existing building under the 'fallback' consent.
31. The North Tawton appeal materially differs from the appeal before me as it involved the demolition of existing buildings and the erection of new buildings utilising a 'fallback position'. In this case, the existing dwelling would not be demolished and would be repurposed instead, and the proposal is not reliant on a 'fallback position'. The North Tawton appeal is therefore not comparative with the appeal before me and does not alter my judgement on this particular matter.
32. Furthermore, as the proposal does not involve the demolition of the existing dwelling, the SPD requirement for details to be provided that show the comparative carbon impact of doing nothing, upgrading existing development and the proposed scheme is not triggered. Given this and that the proposal is not reliant on a 'fallback position', I am not convinced that in this particular case it is necessary to show that there would be a betterment in terms of the climate impacts of the proposed development relative to the carbon impacts of the existing dwelling.
33. For these reasons, I conclude that the imposition of an appropriately worded condition would result in the proposal including appropriate measures to meet carbon reduction objectives. Consequently, the proposal would comply with Policy DEV32 of the JLP, for the reasons set out above. Additionally, the proposal would comply with the Plymouth and South West Devon Climate Emergency Planning Statement (November 2022), insofar as it expands on the aim of Policy DEV32 to achieve climate change mitigation, adaptation and resilience.

Plymouth Sound and Estuaries European Marine Site

34. The appeal site is within the Zone of Influence for the Plymouth Sound and Estuaries European Marine Site. This includes the habitats sites known as the Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA. The SAC's qualifying features are the sandbanks which are slightly covered by sea water all the time; estuaries; large shallow inlets and bays; reefs; and Atlantic salt meadows. The site also hosts mudflats and sandflats not covered by seawater at low tide. The site further supports shore dock and allis shad. The SPA supports overwintering birds and on passage little egret and the overwintering avocet.
35. Section DEV26.1 of the SPD explains that the Habitats Regulation Assessment of the JLP concluded that the recreational impacts on designated sites arising from planned residential development, either alone or in combination with other plans or projects, needs to be addressed, and appropriate mitigation measures will need to

⁴ Appeal reference APP/Q1153/W/23/3330619

be in place to ensure that the proposed development will not result in an adverse impact on the integrity of the designated European sites.

36. The evidence indicates that a threat to the conservation status of the qualifying features of the SAC and SPA arises from increased recreational pressure associated with new residential development within the Zone of Influence. Given that the proposal would result in a larger dwelling than present, there is a credible impact pathway between the proposed development and the qualifying features of the SAC and SPA resulting from increased recreational pressure. Therefore, and given that a precautionary approach must be adopted in respect of habitat sites, without mitigation, and in combination with other plans or projects, a likely significant effect on the SAC and SPA would arise from the development.
37. The SPD confirms that recreational mitigation will be delivered through the Recreation, Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site, and that residential development within a 12.3km Zone of Influence will need to contribute towards offsetting the increased estuary management costs caused by the rise in population. A unilateral undertaking (UU) has been provided during the appeal to provide the necessary financial contribution to overcome the Council's reason for refusal regarding adverse effects on the integrity of the Plymouth Sound and Estuaries European Marine Site.
38. Whilst I have noted the submission of the UU and have considered its contents, given that I am dismissing the appeal on another ground for the reasons given above, it has not been necessary for me to consider this matter further with regards to an appropriate assessment in this instance.

Planning Balance

39. The Council has confirmed that it cannot currently demonstrate a five-year housing land supply (5YHLS). In these circumstances, Paragraph 11(d) of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
40. In terms of the contribution to the existing housing stock and the Framework's emphasis on boosting housing supply, the proposal would have a broadly neutral effect on the local housing supply, replacing one dwelling with another, albeit somewhat larger, dwelling. The existing property appears relatively small, and the proposal would result in provision of a larger home, but there is no evidence before me to demonstrate that there is a particular need for the size of accommodation proposed. I also acknowledge that moving the dwelling away from the Milking Parlour would benefit both properties by creating a greater separation between the two residential units. However, this benefit would be limited to two properties and their respective occupiers. The above factors are attributed only limited weight.
41. The proposal would also lead to an improvement in terms of energy efficiency when compared to the existing building, which aligns with the Framework's aim to support energy efficiency. To this benefit I apportion modest weight given the limited scale and nature of the proposed development.
42. The appellant has described their proposal as a 'self-build' dwelling, which is supported by the development plan and the Framework. However, I have not been provided with a mechanism by which that claimed benefit could be secured.

Further, it is stated that the proposal would create the opportunity for intergenerational living but there are no substantive details on how this would be achieved. Moreover, there is no mechanism to secure the claimed benefit of intergenerational being created as part of the proposal. I have therefore afforded these factors limited weight in favour of the proposal in my overall planning balance.

43. Weighing against the benefits is the conclusion that the appeal site is an unsuitable location for new residential development having regard to the requirements of the development plan, access to local services and facilities, and the balance of the local housing stock, and it would therefore conflict with Policies SPT1, SPT2, TTV1, TTV2, TTV26, TTV29, DEV8 and DEV29 of the JLP. The proposal may comply with certain policies contained in the JLP, but given the harm that I have identified, the proposal would conflict with the development plan when taken as a whole.
44. According to the Framework, in order to promote sustainable development in rural areas, housing proposals should be responsive to local circumstances and reflect local needs, and housing should be located where it will enhance or maintain the vitality of rural communities. Furthermore, the Framework promotes the use of sustainable modes of travel. Given that the policies that I have identified are consistent with the Framework, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development.
45. As described above, the benefits associated with the provision of a larger dwelling and the associated social, economic and environmental benefits would be relatively limited, even taking account of the Council's lack of a 5YHLS. The proposal would not meet the requirements of the Framework for housing in rural areas to be located where it would enhance or maintain the vitality of rural communities, nor would it promote the use of sustainable transport modes. Moreover, it would not be responsive to local circumstances, nor would it reflect local needs.
46. Overall, I find that the adverse impact of the proposed development arising from the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

Conclusion

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

K Reeves

INSPECTOR