
Appeal Decision

Site visit made on 22 April 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/F9498/W/24/3357657

Hurlstone Bungalow, Bossington Road, Selworthy, Somerset TA24 8HQ

- 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 Ivo Carew against the decision of Exmoor National Park Authority.
 - The application Ref is 6/29/23/006.
 - The development proposed is replacement of existing bungalow and shed with eco timber bungalow and new shed.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. Different addresses for the site have been used on the application form, the Authority's decision notice and the appeal form. I have taken the address from the application form. I am satisfied that no party would be prejudiced as a result.
3. The appeal proposal is located within the Exmoor National Park, and so I have had regard to my duties under the National Parks and Access to the Countryside Act 1949, and the Environment Act 1995, as amended, to further the purposes for which the National Park has been designated. These include conserving and enhancing natural beauty, wildlife and cultural heritage.
4. The Authority granted planning permission for the proposal on 11 March 2024. However, this decision was subject to a judicial review. The Authority submitted to judgement and reconsidered the application. It subsequently refused planning permission, against which this appeal is made.
5. Since the decision of the Authority, a revised National Planning Policy Framework (the Framework) has been published. The main parties have had the opportunity to comment on this. I have determined the appeal on the basis of the current planning policy position.

Main Issues

6. The main issues are the effect of the proposal on (1) the character and appearance of the area, and (2) protected species, namely bats.

Reasons

Character and Appearance

7. The site lies within remote countryside on the edges of the coast, some distance from the nearest village of Bossington. The character of the area includes a notable

absence of built development, with a prevailing sense of natural beauty. The site is accessed from Hurlstone Lane, which is now part of the King Charles III England Coast Path (the Coast Path), adjacent to the site.

8. The appeal property is in a poor state of repair, but the Authority accepts that it has not been abandoned. As an existing dwelling, Policy HC-D17 of the Exmoor Local Plan (ELP), adopted July 2017, permits the erection of a replacement dwelling in certain circumstances. Relevant to the appeal, these include at HC-D17(2)(c) that the replacement dwelling should reflect, or be similar to, the massing and scale of the original dwelling. Despite its use of the word 'should' I see little reason why its aims would not apply in this case. HC-D17(1)(b) requires no adverse impact on the character and visual amenity of the area.
9. The policy does not require the proposal to match or be identical to the original bungalow. 'Massing' is defined in the National Design Guide as the way that bulk is shaped into form, whilst 'scale' is the width, height and length of a building in relation to its surroundings. The existing property has a simple, rectangular shape under a pitched roof, and is not particularly obtrusive in its surroundings. The proposed dwelling would also be single storey and have a pitched roof, and be broadly rectangular. Its floorspace would not exceed the limit imposed by HC-D17(2)(b), albeit in respect of affordability, and the proposal would use traditional materials.
10. Nevertheless, although necessitated by other legislative and planning requirements, there is no dispute that the replacement dwelling would be both taller and much longer than the current building. It would also have a reduced width, a more complicated roof with stepped ridge heights, and a steeper roof pitch. The massing and scale of the proposal would therefore be different, larger overall and more prominent in its rural surroundings compared to the existing dwelling. It would thus fail to reflect or be similar to the current dwelling, thereby conflicting with HC-D17(2)(c), and would have a more intrusive in the landscape.
11. A replacement dwelling approved by the Authority at Lynton has been referred to by the appellant. I understand that this had an increase in length similar to the proposal. I have limited details of this scheme, but there is no suggestion that it involved a comparable increase in height, or a different roof form. Similarly, I do not know the full circumstances or surroundings of the self-build eco house at Exton. In any case, I have reached my conclusions on the proposal before me.
12. The proposal includes the demolition of existing buildings, but these are rustic and agricultural in appearance, and located some distance from the replacement dwelling, and so do not appear particularly out of place. Planning permission¹ was granted for an outbuilding next to the dwelling, and a concrete slab for this was laid. However, the slab has become overgrown and there is little to suggest that the outbuilding would be further built out. Moreover, the proposal includes additional domestic built form, in respect of the separate biomass building. This would be located away from the dwelling on a part of the site absent of buildings, thereby adding to the impact of the proposal.
13. The existing dwelling has front windows which could be widened, allowing for greater light spill. External lighting could also be installed without requiring further consent. That said, I am aware of no specific proposals for this. In contrast, the

¹ LPA reference 6/29/02/110

replacement dwelling would have a large number of windows across its longer front elevation. I am concerned that this would result in additional light spill from internal lights, particularly at night, compared to the existing dwelling. This would increase the prominence and intrusiveness of the proposal, detracting from the area's dark skies.

14. A planning condition could prevent or control any external lighting associated with the proposal. However, on the evidence before me, a planning condition requiring light-reducing glass may well result in a poor standard of accommodation for future occupiers. This could lead to pressure for the condition to be relaxed in the future. The condition used in the appeal at Sarratt, Hertfordshire² related only to external lighting. Despite the Castle Cary³ example cited, a requirement that internal blinds are raised and lowered at set times would in my view be an excessively onerous imposition on future occupiers, which would be difficult if not impossible to enforce.
15. As identified in the Landscape and Visual Appraisal, wider views of the site and proposal would be available from parts of Bossington Beach, as well as from the adjacent Coast Path. The proposal includes relocating and reorientating the entrance steps. It also includes additional hedgerow and landscaping along the frontage of the site. Nevertheless, such natural screening cannot be relied upon, particularly in winter months when foliage is reduced. Nor can its survival in the long term be guaranteed. These measures do not therefore overcome my concerns.
16. For the reasons given above, the proposal would harm the character and appearance of the area. As such, it would conflict with ELP policy HC-D17 as a whole. Similarly, it would conflict with ELP policies GP1, CE-S1, CE-S2, CE-D1, CE-S6 and RT-D12. These require proposals to preserve and enhance the character and appearance of the landscape, and to maintain its tranquillity and dark skies, including for users of Rights of Way. I give great weight to conservation of the landscape and scenic beauty of the National Park, as required by Framework paragraph 189.

Bats

17. The bungalow supports a roost for common pipistrelle and lesser horseshoe bats, with the outbuildings providing night roosting opportunities, with other species of bat passing the site. The proposal includes a replacement roost within the biomass building. Artificial light spill can disturb bats that are foraging and commuting, with some species found here being particularly sensitive to light. Other than the existing dwelling, there are few if any artificial light sources in the vicinity. I have already found that the proposed windows of the replacement dwelling are likely to result in greater light spill.
18. Natural England raised no objection to the proposal, finding no significant adverse impacts on statutorily protected nature conservation sites, and stated that a likely significant effect can be ruled out. Even so, the ecological information before me indicates the importance to bats of maintaining dark conditions, for example of their roosts and along the corridors of hedgerows and tree lines. No substantive lighting assessment is before me to demonstrate that this would be suitably achieved by

² APP/P1940/W/22/3311477

³ LPA reference 21/00335/FUL

the proposal. For the reasons already given, the suggested conditions cannot be relied upon to control the effects of light spill from internal lights.

19. Accordingly, the proposal may well have an adverse effect on protected species, namely bats. As such, it would conflict with ELP policies GP1 and CE-S3. Amongst other things, these policies seek to ensure development does not harm legally protected species, or lead to the loss of or damage to their habitats. I give this significant weight, having regard to Framework paragraph 192.

Other Matters

20. The proposal would be built to high environmental standards, including the biomass boiler and solar panels. It would provide improved accommodation for future occupiers, intended to be a local family. Its construction would also have social and economic advantages, such as to the local community and building industry. The proposal would also make more efficient use of the land and result in small enhancements for species other than bats. However, as the proposal involves the replacement of a single existing dwelling, its public benefits would be relatively minor, and so I give them only limited positive weight.
21. The site lies close to the Exmoor Heaths Special Area of Conservation (SAC), protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the main issues, as competent authority I would have carried out an Appropriate Assessment in respect of the potential effects on the SAC. However, as permission is being refused for other reasons, this matter need not be considered any further in this case.

Planning Balance and Conclusion

22. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case, and the weight I give to them, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR