



Appeal Decision

Site visit made on 29 April 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Appeal Ref: APP/Y1138/W/24/3355988

Pumping Station, Uton, Crediton EX17 3PR

- 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 Kevin Mears against the decision of Mid Devon District Council.
 - The application Ref is 23/01004/FULL.
 - The development proposed is the retention of works already carried out, this being the construction of a private workshop and storage building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above has been taken from the Appeal Form as this more clearly identifies the site than that given on the Application Form and Decision Notice.
3. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
4. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Whilst paragraph numbers have altered, any policies that are material to this decision have not fundamentally changed. I am satisfied that this has not prejudiced any party, and I have had regard to the latest version in reaching my decision.
5. The appeal evidence submitted by the appellant advises that as well as using the building as a private workshop, it is also used to restore cars for other people and that the appellant derives an income from this. This is new information that runs contrary to the description of development on the application form and pre-application submission. It is also counter to the contents of the Planning Design & Access Statement submitted with the planning application that states that the building is for 'his own private use as a storage yard and he has constructed a kit form portal framed building that he is using to repair his own private cars and stores various personal items' and 'The applicant has a great interest in motor vehicles and repairs them for his own pleasure and not for sale'.
6. The partial use of the building as a commercial enterprise results in a different application and planning policy context with this change not having been subject to formal public consultation. Given this, accepting this evidence at this stage would be unfair and would deprive those who should have been consulted the opportunity

of such consultation. Therefore, having regard to the principles of Holborn¹, acceptance of the change of the development to a part commercial use would be procedurally unfair and as a result I have not therefore taken this information into account in determining this appeal.

Main Issues

7. The main issues are:

- whether the appeal site is an appropriate location for the workshop and storage building with particular regard to the local development strategy and national planning policy;
- the effect of the development on flood risk and,
- the effect of the development on the character and appearance of the area.

Reasons

Whether appropriate location

8. There is no dispute between the main parties that the site lies outside of the settlements defined by Policies S1, and S10-S13 of the Mid Devon Local Plan 2013 – 2033 (July 2020) (LP) and as such is in the Countryside for planning policy purposes. I have no reason to disagree.
9. In this regard, LP Policy S14 states that development outside of the defined settlements, amongst other things, will promote sustainable diversification of the rural economy. It goes on to state that detailed development management policies will permit agricultural and other appropriate rural uses, subject to six criteria.
10. Given that the development is not for affordable or low cost housing, gypsy and traveller accommodation, residential conversion, replacement dwellings or housing for a rural worker or accommodation ancillary to a dwelling, the development does not gain support from criteria a) to LP Policy S14. Furthermore, as the development is not for agricultural or equestrian development, community facilities or renewable energy and telecommunications, the development does not gain support from criteria d), e) or f).
11. While the development is located next to a pumping station, it falls outside of the red-line appeal site and is detached from the workshop and storage building. In light of this, the development cannot be considered to be an extension to an existing building and does not gain support from criteria c) to LP Policy S14.
12. With regard to the remaining criteria b) to LP Policy S14, and while this allows appropriately scaled employment development, the appeal seeks consent for a private workshop and storage building for the appellant's use. As this development does not provide any employment, being for the repair of the appellants private cars and storage, the development does not comply with this criterion. This is the case even taking into account the internal layout of the building being similar to a commercial garage. Furthermore, given that a commercial use is not being applied for, the development provides little economic benefit and as such does not gain clear support from criterion b) to LP Policy S1 that seeks to build a strong competitive economy.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

13. Although the appeal site is located fairly close to a farm and associated buildings to its south, it is nonetheless isolated from built form and settlements. I have had regard to the location of the site less than a 2km walk from CREDITON, a defined settlement in the LP, and to Manual for Streets highlighting that trips of less than 2km offer the greatest potential to replace short car trips. However, I do not find the route to the site to be attractive for walking or cycling given that the majority of the route comprises narrow lanes without pavements or lighting. Furthermore, it is noteworthy that the appellant lives in Sandford, a village to the north of CREDITON reducing further the likelihood and attractiveness of walking and cycling with limited public transport options available to access the site. In light of this, I do not find the location of the site offers a genuine choice of transport modes or reduces the need to travel by car as required by LP Policy S1.
14. I have had regard to paragraphs 88 and 89 of the Framework supporting the rural economy but given that the development is for the applicant's own hobby and storage, there would be little benefit to the rural economy.
15. My attention has also been drawn to Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). However, there is no dispute between the parties that the appeal site does not benefit from Class R and as such I give this little weight. While I have had regard to the appellant stating that Class R demonstrates that a range of commercial uses can be acceptable in rural locations, the appeal is for a private workshop and store.
16. It therefore follows from the above that the development is contrary to LP Policies S1 and S14 and the Framework, the aims of which I have outlined above.

Flood risk

17. The appeal site falls within Flood Zone 3A as confirmed by the Environment Agency (EA) and as a result the appellant submitted a revised Flood Risk Assessment (FRA) with the planning application.
18. Following the submission of the FRA, the EA removed its objection to the development and advised that it did not conflict with the Framework. However, this is subject to the Council considering that the Sequential Test has been satisfied.
19. With regard to this, a comprehensive assessment against the Sequential Test has not been provided by the appellant. Furthermore, the Council identify the availability of a site to rent at Serstone Farm in CREDITON that is in Flood Zone 1.
20. I have had regard to the appellant advising that paragraph 174 and footnote 60 of the Framework (now paragraph 176 and footnote 62) state that minor development with a footprint of less than 250m² are not subject to the Sequential Test with the appeal building comprising only 160m². Furthermore, I have had regard to the appellant stating that the building is less than 7m from the pumping station such that the development is equivalent to a non-residential extension.
21. However, the red-line site plan for the development clearly excludes the pumping station. Given this, given that the pumping station is in a different use and is detached from the building the subject of the appeal, I cannot conclude that the development is a non-domestic extension or comprises minor development. As such, and despite the footprint of development being below 250m², I find that the development is subject to the Sequential Test.

22. In this regard, in the absence of a comprehensive Sequential Test from the appellant and with evidence of other available sites within Flood Zone 1 identified by the Council, I cannot conclude that the development passes the Sequential Test. As such, the development has a harmful effect with regard to flood risk contrary to LP Policy S9. Amongst other things, this seeks the provision of measures to reduce flood risk to life and property, guiding development to locations of lowest flood risk by applying the sequential test where appropriate and avoiding an increase in flood risk elsewhere.
23. For the same reasons, the development is contrary to the provisions of Chapter 14 of the Framework that seeks to direct development away from areas at highest risk of flooding.

Character and appearance

24. The development comprises a modest sized building with roller shutter door and pedestrian access. The building is clad with box profile cladding in Goosewing Grey with a slightly contrasting roof, trim and doors in Merlin Grey. It is located close to pre-existing development in the form of a pumping station such that development in itself would not necessarily be harmful or out of character.
25. While I noted the presence of a range of materials to similar buildings close to the appeal site, they are generally constructed from brick and render, timber cladding or cladding with a darker finish as found at the nearby farm.
26. By reason of the light colour of the cladding to the roof and walls, the development does not respect the prevailing character of the area or finish to the adjacent pumping station. As a result, and despite the presence of frontage planting, the building is highly conspicuous on approach at odds with the wider area. This is the case despite the nearby farm buildings being on higher land.
27. However, if I were to allow the appeal, a condition could be imposed to ensure that the cladding is painted a dark colour to better reflect the nearby agricultural buildings and to soften its visual effect and prominence. Furthermore, any matters related to outside storage, fencing, parking and noise could also be controlled by conditions.
28. I therefore conclude that, subject to conditions, the development would not be harmful to the character and appearance of the area. As such, the development would not be contrary to LP Policy S14 that amongst other things, states that development outside of settlements will preserve and where possible enhance the character and appearance of the countryside.

Other Considerations

29. I have had regard to the search results from Rightmove showing no availability of suitable commercial buildings. However, as advised by the Council's Economic Development Team, units of the scale of the appeal building are not commonly advertised through commercial agents but through boards, local networks and social media. Moreover, the Council have identified the availability of an alternative unit at Crediton. As such, from the information before me, I cannot conclude that there are no alternative units available for the use, even taking into account paragraphs 2.15, 2.20 and 2.24 of the LP advising of the constraints to the expansion of Crediton.

30. I note that the purchase of the site will aid the future upkeep of the pumping station and will not result in any highway safety, heritage, living conditions or noise concerns. Nonetheless, I see no reason why such upkeep could not take place in the absence of the development and the lack of highway, heritage, living conditions and noise concerns carry limited weight as they are requirements of local planning policies and national guidance.
31. I have had regard to the development making a better use of a site that the appellant states are brownfield and previously developed. Even if this is the case, these benefits are limited and do not outweigh the harm identified above with regard to its location and flood risk.
32. My attention has been drawn to two other appeal decisions² but as these comprise alterations to an existing agricultural building and change of use to an employment use and to the construction of 5 dwellings in a different location assessed against different development plan policies, they are not directly comparable to the current appeal, and I give them limited weight. Furthermore, I am required to consider the current appeal on its merits.

Conclusion

33. Overall, for the reasons given above, the development conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR

² APP/Q1153/W/23/3334066 and APP/Q1153/W/23/3332821