



Appeal Decision

Site visit made on 4 June 2025

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

Appeal Ref: APP/W1145/W/25/3362080

Aldermaston House, Road from Tower Hill House to Dubbs Cross, Virginstow, Devon, EX21 5DY

- 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 Amy Lock against the decision of Torridge District Council.
 - The application Ref is 1/0135/2024/FUL.
 - The development proposed is to construct a new dwelling in replacement of the previously approved permission (1/0413/2023//FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development and address from the application form.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site is located on the western side of Dubbs Cross and comprises an open parcel of grassland adjoining a cluster of dwellings. The site does not form part of an established settlement or village and is therefore in the open countryside. Its eastern boundary fronts onto the main road and is enclosed by a combination of hedging and a single storey flat roofed workshop building. The latter benefits from planning permission, granted on 31 August 2023, to be converted into a two bed dwelling (ref 1/0413/2023/FUL) (2023 Approval). The north eastern boundary of the appeal site abuts a two storey dwelling, which is part of a short terrace, with the north western boundary formed by a screen of trees beyond which is an open field. The western boundary is formed by hedging and planting beyond which is a yard with large agricultural buildings including a Nissan Hut and then open fields.
5. The appeal proposal involves the construction of a detached two storey four bedroom dwelling to the north of the workshop building. The Proposed Block Plan (PBP) shows areas for patios and pathways around the new dwelling, a domestic driveway utilising the existing access (to the south of the workshop) that would, I

- understand, be shared with the retained agricultural buildings, one of which, the Nissan Hut is shown to be removed. A new post and rail fence would be installed between the agricultural buildings and the appeal site. The workshop is also shown as being retained. A drainage mound is shown within the field to the south west.
6. Policies ST04, DM04 and DM08A of the North Devon and Torridge Local Plan 2011 – 2031 (LP) require, amongst other matters, for new development to be: of a high quality design that responds to the characteristics of the site and wider context: that is appropriate and sympathetic to its setting in terms of its scale, density, height, layout, appearance and relationship to buildings and landscape; recognises and respects landscape character and avoids adverse impacts on the local landscape. The Council have also referred to policy DM26 a) of the LP which states that replacement dwellings in the countryside will be supported where the new dwelling respects the character of its surroundings, is no more visually intrusive than the existing dwelling and better harmonises with the locality.
 7. As I observed on my site visit, the appeal site is visible from various public vantage points, specifically from the main road. It is also visually prominent from the junction of roads that form Dubbs Cross. Within all of these views, the appeal site largely appears as an open and undeveloped area of land that may have been previously used for agricultural purposes. Whilst it includes the existing workshop, the scale, mass and height of that building is modest and it has a low profile due to its single storey flat roofed design. Overall, it has a simple form and appearance that does not appear out of place within its context.
 8. The proposed new dwelling would result in a significant change to the views from public vantage points. The scale, bulk, height, extent and siting of the proposed dwelling would be significant in comparison to the existing workshop. The proposal would be sited broadly within the centre of the open and undeveloped part of the site and would include a domestic driveway, with I assume space for turning and parking (albeit not shown on the PBP), patio areas and footpaths as well as other domestic features such as a lawn. There would also be the potential for added paraphernalia such as sitting out areas and sheds. Combined, they would erode the character of this part of the countryside and lead to a harmful urbanising effect.
 9. The new dwelling would sit well in front of and separate to the terrace to the north east and would not appear as a continuation of it or as a sympathetic addition to this cluster of buildings. The Appellant confirms that the new dwelling would have a similar ridge height to the terrace and all of these factors would accentuate further the visual prominence of the proposed dwelling from the road and its impact on the local landscape and open countryside. The removal of the existing hedge/planting on the western boundary and its replacement by a post and rail fence would also result in the area being more open and thus more visually prominent, particularly as the Nissan Hut is also shown to be removed.
 10. The Appellant refers to the benefit of Cornish Hedging and other landscaping, but no proposals are shown on the PBP or even any indicative locations where new planting and hedging could be incorporated. I also agree with the Council that the design is awkward, that the proposal would appear out of character with its agricultural and landscaped setting and would not reflect the local vernacular. Overall, the proposed development would be visually prominent and incongruous and would not integrate or assimilate into the landscape character of the area. I

accept that there would be the potential to bring forward new landscaping and Cornish Hedging but these would not mitigate for the harm that would arise.

11. Whilst the use of the land is disputed, the Appellant states that its use as informal recreational space, for their mid terrace property to the north east, has taken place over several years. The Council refer to a site visit undertaken at the time of the application for the workshop when there was a hen house in the centre of the site and a washing line in the northern corner but no other evidence of domestic use. The Council also point out that there has been no change of use application or lawful development certificate to support the use of the appeal site for domestic purposes or as garden. I concur with the Council's findings and have proceeded on the basis that there is no substantive evidence to support its lawful use for domestic purposes or as a residential garden.
12. For the above reasons, the appeal proposal would be contrary to policies ST04, DM04 and DM08A of the LP. All of these policies are consistent with paragraphs 8, 135 and 187 of the National Planning Policy Framework (NPPF) which require new development to protect and where possible enhance the characteristic, distinctive and natural beauty of the countryside, as well as designated and undesignated landscapes, and avoid development, as in this case, that would have a harmful impact on the intrinsic character of the area.
13. Turning to policy DM26 a) of the LP, as the Council emphasise this relates to the replacement of existing dwellings in the countryside. The policy requires the new dwelling to respect the character of its surroundings and be no more visually intrusive than the existing building. As I have found, the proposed dwelling would not respect its surroundings and would be much more visually intrusive than the 2023 Approval. In addition, the new dwelling is not proposed on the site of the workshop and the latter is shown as being retained. It is not, therefore, a like for like replacement as is the intention of the policy. As the Council have also stated, the 2023 Approval was acceptable as it related to the reuse of a redundant building and was therefore sustainable. The appeal proposal is for a new build dwelling in the open countryside which would not be sustainable.
14. The 2023 Approval has been referred to as a fall-back option. I accept that as a viable fallback option it is a material consideration in the overall planning balance. However, for this fallback option to be afforded significant weight there must not only be a realistic possibility of it being implemented but there would also be a need for it to be equally or more harmful than the proposal before me. As I have found above, the appeal proposal would have a far more visually intrusive impact on its landscape setting and open countryside character than the 2023 Approval. Even so, the latter relates to the reuse of an existing building, on a different part of the appeal site, where, as I understand, the intention is that only the use of the workshop might change to an incidental use if the appeal scheme was allowed.
15. It is not, in that sense, a comparable fall-back to the appeal proposal and even if it were the appeal proposal would result in significantly greater harm to the character and appearance of the area than the 2023 Approval. For these reasons, I would only accord limited weight to the fallback option and it would not provide justification for the appeal proposal as an acceptable alternative.
16. The Council have indicated that if the workshop is retained, as is shown, then it should be restricted to an incidental use so as to avoid the 2023 Approval being

implemented if permission was forthcoming for the appeal scheme. I understand the Appellant supports that approach. However, I have found the appeal proposal to be unacceptable and have not therefore considered this matter further. Even so, I note that neither party has provided any evidence as to how this could be secured by a condition or a planning obligation, bearing in mind that the 2023 Approval is a separate planning permission and relates to a smaller application site.

17. The Appellant has referred to paragraphs 73 and 78 of the NPPF but these simply deal with identifying land for housing and maintaining supply and delivery. The benefits of bringing forward windfall sites and maintaining a supply of housing to meet the expected rate of housing delivery over a plan period are issues that are not in dispute. What is in dispute is the acceptability of the proposal in this location, whether any fall back option was equally or more harmful or whether there was a policy justification for a new market dwelling in the countryside. In relation to paragraph 83 of the NPPF there is no evidence before me to indicate how the proposal will support local services or that it would secure opportunities for an existing village to grow and thrive.
18. Accordingly, I find that the appeal proposal would result in harm to the character and appearance of the area contrary to policies ST04, DM04, DM08A and DM26 a) of the LP and the corresponding policies of the NPPF.

Planning balance and conclusions

19. The NPPF states that existing development plan policies should not be considered out of date simply because they were adopted prior to the NPPF's publication. Each policy should be assessed and due weight given to it based on its general conformity with the NPPF. In this respect, policies ST04, DM04, DM08A and DM26 a) of the LP are consistent with and remain in general conformity with the NPPF's aims and objectives. These include those seeking to promote sustainable development, restrict new housing and inappropriate development within the open countryside, respond to and where possible enhance local character and local distinctiveness and ensure development is sympathetic to its landscape setting and to the natural beauty of the countryside.
20. In terms of other considerations, the benefits of the appeal proposal include one new dwelling that would boost housing supply in line with paragraph 61 of the NPPF and short term employment from construction. Even so, the level of housing provision is small and is the same as that which could be secured through the 2023 Approval. The proposal is also for market housing and is not seeking to address any identified affordable need. I, therefore, attach limited weight to these benefits. However, as I have found, the appeal proposal would conflict with policies ST04, DM04, DM08A and DM26 a) of the LP. These policies should be accorded significant weight as they remain consistent with and in conformity with the NPPF. Consequently, I find that the appeal proposal would conflict with the development plan as a whole.
21. Following the publication of the NPPF the Council have confirmed that they can no longer demonstrate a five year supply of housing land. Paragraph 11 d) ii of the NPPF is, therefore, engaged and requires planning permission to be granted unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to*

sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

22. The appeal proposal would not be suitably located within the open countryside, it would have an adverse impact on the landscaped setting of the area and would have a harmful impact on character and appearance. These adverse impacts lead to conflict with a number of development plan policies which remain up to date as they are consistent with those in the NPPF and should be accorded significant weight. In my view, the harm I have identified would significantly and demonstrably outweigh the limited benefits of the appeal scheme when assessed against the policies in the NPPF, taken as a whole. Consequently, the presumption in favour of sustainable development envisaged in the NPPF does not apply in this instance. The NPPF is not a material consideration in this instance that indicates a decision other than in accordance with the development plan.
23. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR