



Appeal Decision

Site visit made on 17 June 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/W1145/W/24/3357353

**Libbaton Golf Course, road to Fairways Drive past Libbaton Golf Club,
High Bickington, Devon EX37 9BS**

- 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 Messrs Gerald and Stephen Herniman against the decision of Torridge District Council.
 - The application Ref is 1/0216/2024/FULM.
 - The development proposed is erection of 14 sustainable holiday lodges and associated access and development.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 local and national policy; and
 - the effect of the proposed development on biodiversity.

Reasons

Character and appearance

3. The appeal site is in the countryside and comprises an expansive and particularly attractive field that was formerly used as a driving range. It also includes a more carefully landscaped and manicured grassed area that was being used by practicing golfers at the time of my visit. Here, an access road would dissect a break in the screening hedge line to serve the proposed 14 units of accommodation.
4. The Council did not refuse the scheme on its effects on the wider landscape character of the area, noting that it would be screened from wider distant views. Be that as it may, within the confines of the main proposed built-up area of the appeal site, unusually large properties set in very generous grounds would be spread over a considerable area. These properties would accommodate between 3-5 bedrooms, built over 2 storeys. While timber cladding and slates roofs would be recessive features, their overall grand scale design would be unlike anything I

observed in the nearby area, including the close-knit groups of rendered properties to the far sides of the clubhouse.

5. In that context, the large blocks of fenestration detailing, tall front and rear projections, and lack of variety of form across the unit types would create stark, jarring additions to the area. Even with intervening landscaping, it would be likely that future occupants would make full use of the extensive gardens, introducing all manner of domestic paraphernalia. This, together with a considerable amount of new hard surfacing would not create a visually attractive layout as a result of good architecture, conflicting with paragraph 135 of the National Planning Policy Framework (the Framework).
6. It is acknowledged that the scheme would provide a substantial amount of new tree planting, though this would replace what is already an attractive manicured and verdant part of the wider golf club.
7. I therefore conclude on this main issue that the proposed development would have a harmful effect on the character and appearance of the area. As such, there would be conflict with policies DM04 and DM18 of the North Devon and Torridge Local Plan (LP) which, together in this respect, support well designed proposals of an appropriate scale, massing, layout appearance, and relationship to buildings and landscape features.

Tourism

8. LP Policy ST01 sets out the principle of sustainable development in the district, which, amongst other things, seeks to approve proposals that accord with policies in the LP. The Council's spatial strategy in LP Policy ST07 is to focus most development to the largest centres, with modest growth permitted in the smaller settlements. In the countryside, development is limited to that which is enabled to meet local economic needs, rural building reuse and necessarily restricted to a countryside location. LP Policy ST13 is supportive of sustainable, high quality tourism development for a year-round industry that does not damage the natural or historic assets within the district.
9. LP Policy DM18 contains a detailed approach to tourism development. Part (2) of it applies to this appeal scheme and is supportive of new, expanded, or rationalised existing tourism accommodation where it (a) is related directly to and compatible in scale with an existing tourism, visitor or leisure attraction; or (b) reuses or converts existing buildings; or (c) improves facilities for or diversifies the range or improves the quality of existing tourism accommodation. This is subject to compliance with a number of additional criteria including (d) which requires the proposal's scale and character to be appropriate to the size of the existing tourism attraction. Parts 2 (b) and (c) are not shown to be relevant to this appeal.
10. Although the units could conceivably be severed from the golf club and occupied by holiday makers with no interest in supporting the club, they would nevertheless provide holiday accommodation for those wishing to use the facility. As such, I am satisfied that the proposal is directly related to an existing tourism attraction. Furthermore, there is no requirement in the policy to enter into a planning obligation and the evidence presented in this particular case does not persuade me that this would be necessary.

11. However, while the development is described as lodges, the supporting evidence focusses on holiday parks where lodges are said to be an upmarket alternative to camping or caravans for holiday makers. Although the proposed properties would undoubtedly be suitable for a range of guests, the design, scale, and amount of accommodation would more closely reflect large family housing, with its generous private gardens, rather than an alternative to tents or caravans in a park scenario. This would be out of character with the small-scale and rather informal rural golf club it would adjoin.
12. The appellant has provided some evidence of the popularity of golf generally and highlights the post pandemic swing towards holidaying in the UK. Particular emphasis is made in respect of holiday lodge developments, with comparisons drawn between the availability of what are said to be similar types of accommodation in the broader area, though detail is not provided. Moreover, it is submitted that average group sizes of 3.59 people are assumed based on a somewhat dated survey, which has not been provided. However, most of the properties would be in the 4-5 bed range and all have very generous internal floorspaces. Furthermore, viability based on property size has not been shown to be a determinative factor in their selection. For these reasons, the proposed mix of property has therefore not been the subject of any detailed or reliable site-specific analysis to justify it.
13. The development would provide notable economic gains, supporting the viability and sense of community at the club in the short and possible longer term. However, the reception building referred to is outside the appeal site and any possible gains from it cannot be relied upon. It is also important to highlight that the appeal site forms part of the former driving range. While a net is used as an alternative, the scheme would remove the option for such a facility that is evidently seeing a thriving increase in use across the UK.
14. Additionally, it would not be unexpected for a scheme of this size to compliment a tourism facility that offered holiday makers a much broader range of services and facilities than those provided or planned for here. I agree that future occupiers would be likely to spend their money in the local area, though they would probably have to travel notable distances for these economic gains to be realised. Sustainable rural tourism would not result, which conflicts with LP Policy ST13 and paragraph 88 of the Framework. For the reasons given, the proposal is out of character and not compatible in scale with the golf club.
15. I therefore conclude on this main issue that the proposed development would not be in a suitable location having regard to local and national policy. Accordingly, there would be conflict with LP policies ST01, ST07, ST13, and DM18.

Biodiversity

16. An ecological appraisal was carried out in October 2020 for a previous similar scheme. This was reviewed and updated in May 2022. At the time of these reports, the majority of the appeal site was said to include regularly mown, low sward height and relatively species poor grassland. However, at the time of my visit, much of the appeal site included what appeared to be tall meadow grass and a rich variety of wildflowers. Although the presence of protected species was previously recorded as being low, over 3 years has passed since these

observations were made. Suitable habitats may well have been established in this time.

17. Current advice¹¹ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
18. Other proposed biodiversity net gains are acknowledged. Nonetheless, the absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposed development would be contrary to LP policies ST14 and DM08 which seek to conserve European protected species and the habitats on which they depend. It would also fail to accord with Framework paragraph 193 where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Other Matters

19. During the appeal, the Council has reviewed updated information provided by the appellant in respect of surface water flood risk. It is understood that the local flooding authority has withdrawn their previous objection, and the Council considers that this reason for refusal has been overcome. Having paid regard to interested party comments on this matter, it is likely this could be dealt with using an appropriately worded condition, were I otherwise minded to allow the appeal. However, this would be a neutral factor that would not lead to a different outcome.
20. The Council refused the scheme partly on the conflict with LP Policy ST05. This relates to the sustainable construction of buildings. While limited information has been included in this regard, there is no substantive evidence these construction methods would not be adhered to, or why additional requirements could not be secured using an appropriately worded condition. For these reasons, there is little to show any conflict with this policy.
21. It is understood that a similar proposal was refused by the Council at the site. The appellant says that it is unreasonable for the Council to raise concerns with the design and effect of this scheme on the character and appearance of the area as these were not previously refusal reasons. While I acknowledge this may be particularly frustrating for the appellant, the Council assessed this proposal on its merits, as have I.
22. It is claimed that paragraph 11 of the Framework now applies within North Devon, though details are lacking in this regard. In any case, paragraph 11 (d) of the Framework indicates that where the required supply cannot be demonstrated, permission should be granted unless (i) *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed*; or (ii) *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*

¹¹ Paragraph 99 of Circular 06/2005 and 9.2.4 BS 42020:2013

use of land, securing well-designed places and providing affordable homes, individually or in combination.

23. In accordance with footnote 7 of the Framework, as I cannot rule out potentially significant harm to biodiversity, it is the case that the policies in the Framework provide a strong reason for dismissing the appeal. It is not therefore necessary for me to conclude against part (ii) of 11 (d). In any event, the proposal is for holiday accommodation which would have no bearing on the supply of permanent housing. Furthermore, there is no dispute that the LP tourism policies most relevant to this appeal remain consistent with the Framework.
24. Concerns have been raised over the validity of the appeal where it is claimed *numerous residents who were sold golf club memberships giving free use of the golf club and its facilities for an “in perpetuity term” of 80 years from 1989 and these are included in the registered deeds of the properties at the land registry. The facilities included the driving range, practice green. bunker practice areas as are standard on golf courses.* While this may be case, I have been presented with no firm evidence such agreements would definitely amount to an invalid appeal. In any case, as I am dismissing the appeal, those with an interest would not be prejudiced. Moreover, there would be an opportunity with future applications to ensure all correct notices are served.

Conclusion

25. The proposal would conflict with the development plan as a whole and even when considered cumulatively, there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

J Hills

INSPECTOR