



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: 18 July 2025

Appeal Ref: APP/X1118/W/25/3363203

Land at 256389, 135782, Muddiford, Barnstable, EX31 4ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Brian & Annie Malcolm against the decision of North Devon Council.
 - The application Ref is 78769.
 - The development proposed is application for one local needs dwelling and associated works.
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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.
3. The appeal seeks outline planning permission for one new dwelling with all matters reserved for future approval. An indicative site layout plan was submitted with the application and a revised version of this together with an indicative floor plan and elevations were included with the appeal. I have had regard to all of these plans in assessing whether the quantum of development sought could be accommodated on the appeal site and brought forward at the reserved matters stage.
4. The second reason for refusal states that the proposal is contrary to policies ST07 and DM24 of the North Devon and Torridge Local Plan 2011 – 2031 (LP) as the Applicant had failed to enter into a legally binding agreement to ensure that the new dwelling remains available to meet locally identified housing need. A section 106 (s.106) Agreement has since been submitted. Whilst this was received outside the stated timetable, it reflects a draft included with the Appellants Final Comments and in view of this and in the interests of fairness, I have decided to accept it. The s.106 was executed by the Council and the Appellant on 29 May 2025.
5. The s.106 requires the new dwelling to be occupied by a person or persons who meet the occupation criteria for a local needs dwelling, for sale or for rent, within a qualifying Rural Settlement, the Parish and then the District. Having reviewed the s.106 I am satisfied that its obligations are reasonable and effective, and would meet the requirements of those specific parts of policies ST07 and DM24 of the LP that require an agreement to ensure dwellings proposed for locally identified needs remain available for that purpose. The obligations within the s.106 are necessary to make the appeal proposal acceptable in this respect; they are directly related to the

proposed development; and fairly and reasonably related in scale and kind to the development. As such, all three tests set out in paragraph 58 of the revised National Planning Policy Framework (December 2024) (NPPF), and all the three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are similarly met. I have, therefore, proceeded on the basis that this s.106 addresses the concerns raised in this reason for refusal.

6. The Council confirmed in their Statement of Case (CSOC) that following the publication of the revised NPPF they can no longer demonstrate a five year supply of housing land. Paragraphs 3.7 to 3.11 of the CSOC indicate that the current supply is now 4.86 years. Consequently, paragraph 11 d) ii of the NPPF is 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.”* I address this issue later in my decision.

Main Issues

7. The main issues are: (a) whether the proposed development would be acceptable having regard to local and national planning policies on the location of new housing; (b) the effect of the development on the character and appearance of the area; and (c) the impact of the development on highway safety.

Reasons

Suitability of location

8. The appeal site is located to the south of a lane that is accessed from the B3230, to the north east of the site. It comprises part of an open field, which the Application Form refers to as grassland. The appeal site falls away steeply to the south. To the north of the lane is Blakewell Hill Farm, which is surrounded by fields and some woodland. To the east of the appeal site is a small area of woodland that tapers to the junction of the lane with a private lane that runs in a south westerly direction. To the south of this junction is Blakewell Fisheries and Blakewell House.
9. To the east, west and south of the appeal site is the remainder of the open field, which drops down to an area of woodland that runs along the boundary to the private lane referred to above. Adjoining this field to the south west is a smaller field used for grazing. To the south west of this is a cluster of properties that include Blakewell Mill Farm, The Old Mill, Barley Cott and a recent new build property.
10. The appeal site has no firm or formal boundaries, other than that to the lane to the north. This is formed by a low mound with hedging, on top of which is a timber post and rail fence. The appeal proposal seeks outline permission, with all matters reserved, for a local needs dwelling. The indicative plans show that the site would be enclosed by hedgerows with access from the lane to the north to a parking and turning area. The plans also show a single storey three bedroom bungalow.
11. The parties agree that the appeal site is located within the open countryside. Policy ST07 of the LP, which sets out the spatial development strategy for North Devon’s

rural area, therefore, applies. This policy states that development will be supported in accordance with a hierarchy of firstly defined Schedule A (Local Centres) and B (Villages), then within development boundaries and allocated sites defined on the Policies Map and then within the principal built form of settlements without development boundaries. The area that includes the appeal site does not fall within a Schedule A or B settlement, there is no defined settlement boundary, it is not defined on the Policies Map and neither does it fall within the principal built form of a settlement without development boundaries.

12. Part (3) of policy ST07 states that in Rural Settlements that contain one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs. Based on the evidence before me Blakewell does not contain a prescribed service or community facility as defined in paragraph 4.15 of the LP. From the information I have been provided with and my observations on site, the only local business is Blakewell Fisheries (fishing lakes and café) but this is not a community facility and neither is it a prescribed service, such as a convenience shop, in that it does not sell a range of food and/or general convenience goods that you would expect to meet the local day to day needs of residents.
13. Whilst I accept that the proposed scale of development would be modest and meets a local need, the appeal site is also not “*appropriately located*” in that it does not form part of a small close group or cluster of properties. It is visually and physically separated from any existing built development, occupying a very prominent and isolated position within part of a larger open field. As such, the appeal site is within the open countryside where part (4) of policy ST07 applies and does not support this from of development.
14. The above finding is supported by paragraph 4.16 of the LP which states that in the open countryside the strategy seeks to control dispersed development and ensure development is sustainably located. The appeal proposal would result in development encroaching into the open countryside and a dispersed form of development that would not conserve or enhance the character of the countryside. I also note that paragraph 4.16 states that where housing may be enabled as an exception adjoining Rural Settlements it is on the basis that it would meet a local need that could not otherwise be addressed. Even if Blakewell was a qualifying Rural Settlement, which I have found it is not, there is no evidence to indicate that the local need in this case could not be addressed or met on a site that formed part of an existing cluster of properties or was within the curtilage of an existing property or part of a contiguous built frontage.
15. Furthermore, parts (3) and (4) of policy ST07 must be read in conjunction with policy DM24 (Rural Settlements). Whilst I have already found that Blakewell is not a qualifying Rural Settlement, even if I was wrong in that interpretation, policy DM24 confirms that proposals for local needs housing will be supported where the criteria listed (a) to (f) (inclusive) are met. In relation to these criteria, the appeal site does not form part of a small closely grouped or contiguous built form of housing, it is not within or directly adjoining the built form of the settlement and the siting of the new dwelling would significantly harm the settlement’s rural character and setting. Moreover, within the context of paragraph 13.132, the appeal proposal would not represent infilling or conversion/replacement of appropriate buildings or redevelopment or rounding off. Consequently, even if Blakewell was a defined

Rural Settlement, which the evidence suggests it is not, the appeal proposal would not comply with a number of the requirements to policy DM24.

16. Turning to the policies themselves, 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. Whilst the detailed locational and spatial strategy aspects of policy ST07 and to a lesser extent policy DM24, may be out of date in relation to the current housing supply position, which I referred to earlier, their more generic locational guidance in relation to understanding the extent and form of settlements and open countryside, and identifying opportunities for accommodating appropriately located modest local needs housing, remain in general conformity with corresponding policies in the NPPF. These include those seeking to ensure that development is sympathetic to local character, including its landscape setting, is suitably located and sustainable, whilst restricting new housing within the open countryside where this would fail to conserve and/or enhance its natural beauty and character.
17. The Appellant submits that the Council have previously accepted that Blakewell is a qualifying Rural Settlement through the approval of a new dwelling to the north east of a property known as Barley Cott, pursuant to an outline planning permission granted in November 2021 (ref. 66135) (2021 Permission). This development has since been implemented. The background to that permission that I have been provided with confirms that the proposal was supported by Planning Committee contrary to the advice of its Planning Officers on the basis that they considered Blakewell to comprise a cluster of dwellings that formed a Rural Settlement with a 'community facility', that it was physically separated from an urban settlement and as it met the qualifying criteria in paragraph 13.131 of policy DM24.
18. It is unclear as to what is meant by a 'community facility', but assuming this refers to Blakewell Fisheries I am not convinced, for the reasons given above, that the latter falls within that definition. In my view, the interpretation and application of the policy in this 2021 Permission was not correct. In that respect, I note that the legal advice given to Planning Committee stated that Blakewell Fisheries did not fall within any of the prescribed services or community facilities defined in paragraph 4.15 of the LP, and that consequently any decision based on that finding could be susceptible to legal challenge.
19. Moreover, a number of the circumstances that arise in the current appeal are very different to those that arose with the 2021 Permission, which I address below. In addition, whilst again unclear, it's possible that in approving the 2021 Permission different weight and/or importance was attached by Planning Committee to the relevant policy issues and considerations. Even so, in relation to the reference to a cluster of dwellings and without further details, I assume that this could have related to Barley Cott, The Old Mill and Blakewell Mill Farm, with the Blakewell Fisheries also forming a separate cluster. As I have found above, the appeal proposal does not form part of a cluster or a close group of dwellings and is effectively isolated in an open field.
20. I have also assumed that in approving the 2021 Permission it was accepted that the new dwelling would comply with the criteria to policy DM24. In particular, that it would not result in any harm to the settlements rural character and setting. As I found above, the appeal proposal fails to comply with a number of the criteria to

this policy and would lead to dispersed unsustainable development within the open countryside. As I also confirmed earlier, there are also a number of differences between the circumstances that arose in the 2021 Permission and the appeal scheme. These include my understanding that the 2021 Permission related to a new dwelling within the curtilage (grounds) of the domestic garden to Barley Cott and that the new dwelling was for local key workers that enabled them to retain their relationship with the existing property, Barley Court and within the same family ownership.

21. In addition, as the approved plans for the 2021 Permission show and as I observed on my site visit, the curtilage to Barley Cott was already well defined by fencing, mature trees and hedgerows. These were maintained and enhanced as part of the approval to the extent that only glimpsed views of the new dwelling are possible from public vantage points. As such, the new dwelling does not result in any harm to the settlements open rural character or to its landscape setting, whereas the opposite would be the case with the appeal scheme.
22. Whilst I accept that the 2021 Permission is a material consideration, it does not, for the reasons given above, affect the findings I have reached on this issue.
23. Accordingly, I find that the appeal proposal would be contrary to policy ST07(4) of the LP and the corresponding policies of the NPPF.

Character and appearance

24. As you approach the appeal site on the lane from the east the character of the area is distinctly rural with a tranquil feel to it. The low mound and hedging with post and rail fence on top, that runs along the northern boundary of the appeal site, allows views to the valley floor and woodland below and to the opposite hillside. There are also long range views from the B3230 (to the south of the appeal site) where the site is seen in the context of the larger open field it forms part of as well as the adjoining field and the fields that extend north up the hillside. Combined with its openness, the appeal site makes an important contribution to the rural and landscape setting of the settlement and clearly reads as being part of the open countryside.
25. Within this context, the proposal would result in built development encroaching further into the open countryside. It would harm the contribution that the appeal site makes to the open rural character of this part of the lane and the transition from the cluster of buildings around Blakewell Fisheries into the countryside. It would also result in a development that would be poorly related to any existing built form, as it would be visually and physically separated from it. The proposed dwelling would be sited towards the highest part of the open field and would be highly prominent harming the rural character and landscaped setting of Blakewell.
26. The resulting harm would be accentuated by the fact that the construction of the proposed dwelling and its associated parking and turning area, appears likely to require a highly engineered solution. The new dwelling would be isolated on a steep part of the site requiring extensive excavations or cut and fill, with a long retaining wall shown on the indicative layout just to the south of the new dwelling and parking area. The new access would also require the removal of a significant length of mounding and hedging, which, as I confirmed earlier, makes a positive contribution to the rural character of the lane.

27. Overall, the proposal would have a harmful urbanising effect that fails to respect or enhance the characteristics of the countryside and its natural open rural setting. It would, therefore, represent an incongruous development, resulting in significant harm to the settlements rural character and setting. It would neither conserve or enhance the intrinsic natural character and beauty of the countryside.
28. Whilst the appeal site does not benefit from any designated landscape policy protection, the Council have confirmed that it is located within Landscape Character Zone 3H, 'Secluded Valleys', where one of the key requirements is to prevent the linear spread of development and maintain its peaceful character. For the above reasons, the appeal proposal would have a harmful impact on those key objectives.
29. Policies ST04 and DM04 of the LP seek to improve the quality of development, ensure that it responds to a site's character and context, that it is appropriate to its setting and landscape features, reinforces the key characteristics and special qualities of the area within which the development is proposed and contributes positively to local distinctiveness. Both policies are consistent with paragraphs 135 and 187 of the NPPF. For the reasons set out above, the appeal proposal would conflict with a number of these policy requirements. As such, it would result in built development encroaching into the open rural landscape and would not respond to the positive landscape and countryside character of the area.
30. Whilst I accept that appeal site could be enclosed by new hedgerows and trees this would not mitigate for the significant harm that I have found. In addition, any such boundary treatment would appear somewhat contrived due to the isolated siting of the site within a larger field and would represent a harmful contrast with the well-established boundaries and field patterns that currently exist.
31. The Appellant has again drawn comparisons with the 2021 Permission. However, as I found earlier, there are material differences between the two in terms of their impact on the open countryside and landscape setting. As I observed on site, views of the 2021 Permission are limited as it has integrated well within its mature landscape setting that previously formed part, I understand, of the domestic garden and curtilage to Barley Cott. In addition, the approved dwelling is sited on a lower part of that site and much further south of the lane from where it is completely screened. The appeal proposal would, on the other hand, be sited towards the highest part of the open field in a prominent location, highly visible from the lane and other public vantage points, including from the B3230. As such, the existence of the 2021 Permission does not affect my findings on this issue.
32. Accordingly, I find that the appeal proposal would result in significant harm to the character and appearance of the area contrary to policies ST04 and DM04 of the LP and the corresponding policies of the NPPF.

Highway safety

33. The Council contend that the increased use of the junction of the lane onto the B3230, due to limited visibility, would be likely to result in additional danger to all users and interfere with the free flow of traffic. I note that a similar concern was raised in relation to the 2021 Permission. Even so, there is no evidence before me to indicate that since the latter dwelling was built the increased use of the junction has resulted in any additional danger or interfered with the free flow of traffic.

34. It would appear that this concern was raised in relation to the current appeal largely as it had been raised in the context of the 2021 Permission. In addition, the Council's Delegated Report indicates that County Highways had not commented on the appealed application by the time it was determined and there is nothing in the CSOC to indicate that the views of County Highways have since been sought in relation to this appeal.
35. In view of the above and as the likely level of traffic generated by the new dwelling would, compared to that generated by, for example, Blakewell Fisheries, be low, I find that there is insufficient evidence before me to support the Council's concerns in this respect. In reaching this finding I have had regard to paragraph 116 of the NPPF which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
36. Accordingly, I find that the appeal proposal would not, in this respect, be contrary to policies ST10 (Transport Strategy) and DM05 (Highways) of the LP.

Planning balance and conclusions

37. The benefits of the appeal proposal include one new dwelling that would boost housing supply in line with paragraph 61 of the NPPF, meeting a locally generated need and securing employment from construction. Even so, the level of housing provision is small, the shortfall in housing supply with 4.86 years supply is also small, and the employment would be short term. Whilst the Council only accorded limited weight to these benefits, I would accord them moderate weight. However, as I have found, the appeal proposal would conflict with the more generic locational guidance, for accommodating appropriately located local needs housing, of policies ST04 and DM24 and also conflict with policies ST04 and DM04 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.
38. 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 moderate 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.
39. 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