
Appeal Decision

Site visit made on 1 July 2025

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

Appeal Ref: APP/U1105/W/24/3353886

Land to the rear of Great Halls, Aylesbeare, Exeter, Devon EX5 2FD

- 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 & Mrs Brinton against the decision of East Devon District Council.
 - The application Ref is 23/2422/FUL.
 - The development proposed is erection of highly sustainable self-build dwelling with associated landscaping and biodiversity enhancements.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of highly sustainable self-build dwelling with associated landscaping and biodiversity enhancements at Land to the rear of Great Halls, Aylesbeare, Exeter, Devon EX5 2FD in accordance with the terms of the application, Ref 23/2422/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024 the Government published its revised National Planning Policy Framework (the Framework). Although this was after the date that the Council made its decision, the appeal timetable allowed for the main parties to provide any relevant comments.
3. The Council's second refusal reason related to flooding. During the appeal the flood zone was updated, which now place the site and its access in flood zone 1. On this basis the Council confirmed that the second refusal reason could be withdrawn. This is therefore no longer a matter of dispute between the parties and does not need to form a main issue of the appeal.
4. There are references before me to a draft Local Plan, which appears to be at an early stage and therefore attracts limited weight.

Main Issues

5. The main issues are:
 - a) whether the site is suitably located for the development proposed, with regard to local and national policies, and
 - b) Whether there would be likely to be a significant effect on the internationally important features of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths SPA.

Reasons

Location

6. Strategy 7 of the East Devon Local Plan 2013 to 2031 (LP) provides an in-principle objection to the erection of a new dwelling on the site, as it is outside the built-up area boundaries and outside of site specific allocations. Although the site is at the edge of a small village, it would meet the LP definition of a countryside location.
7. Facilities in Aylesbeare are limited to a single pub, church, playground and village hall. Bus services are limited. As such it would be likely that future occupants of the proposed dwelling would meet their day to day needs by using a private car. The proposal would therefore also conflict with Policies TC2 and 5B of the LP, which seek to ensure that development proposals minimise the need to travel by car and encourage the use of sustainable modes of transport.
8. Paragraphs 84 and 139 of the Framework are referred to in the submissions. Paragraph 84 does not apply, as the proposed dwelling would not be isolated. In the context of refusing development that is not well designed, paragraph 139 b) establishes that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
9. The proposal takes its inspiration from the traditional Devon long house, and this approach is clearly and thoughtfully explained in the submissions. The simple, low slung linear form of such buildings would be expressed clearly by the proposal, with long slopes of thatch that would extend down to a low level and would oversail the walls to allow for the roof to be the building's primary feature. Walls at the more prominent northwest end of the building, that would be seen from the entrance, would be largely solid with modest openings arranged in an ad hoc way, which would draw again on the vernacular appearance of a long house where the position of openings was largely driven by functional requirements. The main entrance door would have an appropriately modest appearance. It would be held against the building by a wall that would extend beyond the openings at either end and reinforce the linear and solid form of the building.
10. Beyond this traditional framework, the proposal includes several modern features such as the large areas of glazing at the western end and vertical louvres. A large dormer would be inserted into the thatch at the building's northwest end, which would be easily viewed from the road. The Council is critical of this; it is referred to as jarring and contrary to an otherwise simple design approach. Although it would be large, it would have a simple form that would follow the rest of the building. Its boldness would create some visual interest when viewed from the lane, and there would be a pleasant interplay of materials as the crisp metal form would rise up in a precise manner from the soft and natural plain of the thatched roof. This would create an interesting architectural moment, that would contribute to the outstanding design of the building.
11. The matter of practicality that the Council raises is an important one, and a full height window with a public aspect could conflict with the need to create privacy for a bedroom. In this case, the window would not have an expansive open aspect onto a busy street, but would be offset from the site entrance and thus only visible at an angle from a rural lane. Beyond the entrance there would be very limited

opportunity to look through the site boundary from the lane. I am therefore satisfied that the arrangement would be practical.

12. The proposal has been through a detailed review process with a design review panel (DRP), for independent appraisal and assessment. This is an important tool for delivering high quality schemes and is endorsed by the Framework at Paragraph 138. Feedback from the panel has been detailed and incorporated into the development of the design. In the summary comments of its fourth session with the DRP the panel was of the view that, subject to some further amendments, the proposal met the policy criteria set out in the relevant paragraph of the Framework. Comments of the DRP relating to the porch, fenestration, and additional information that would be beneficial, have been fully addressed in the submission. On this basis the proposal receives full support of the DRP.
13. As to the latter parts of paragraph 139 regarding high levels of sustainability and promoting design standards more generally in an area, the submissions demonstrate that considerable thought has gone into the material palette. Materials would be breathable and bio based, which would set the building apart from most new build housing. Additionally, it would see solar panels set into a thatched roof. This would be highly unusual, with design practicalities that would need to be overcome that are identified in the submissions. This, and the opportunity to lay the thatch in a way that addresses issues with the widely used Dorset Model, would create learning and research opportunities which the appellants are committed to sharing.
14. Furthermore, the appellants are committed to meeting Passivhaus standards, which would also significantly elevate the standard of the design and promote a high level of sustainability. The appellant is content for this to be secured by a condition if the appeal is allowed.
15. I accept that the location means that sustainable transport options for future occupants would be limited. Whilst this is an aspect of sustainable development in the broader sense, in Paragraph 139 b) the word is used in the context of a narrower focus on design matters.
16. The Council is critical of how the inside and outside spaces would relate. The dwelling would sit in a generously sized plot, within a carefully considered landscape proposal. Formal outside spaces would be to the south and east of the dwelling. I accept that the use of the east facing deck would only be desirable for the morning and up to midday for most of the year, when it would not be shaded by the dwelling.
17. However, this would be complemented by a large south facing terrace that would be directly accessible from the main living space via a large glazed opening. The table and chairs are positioned outside the bedroom doors on the plans, however there is no reason why outside dining furniture could not stand in the space directly outside the kitchen. This south facing space would be open at the west end, and the south elevation would be cranked slightly to the west; thus the space would also be attractive for use in the evenings. I can therefore be satisfied that the proposal would deliver a range of well connected external spaces that would provide an attractive living environment for the future occupants of the dwelling.
18. The last part of paragraph 139 includes a requirement for the proposal to fit in with the overall form and layout of its surroundings. The Council is content that the

proposal would not harm the character or appearance of the area. The site is discreetly located along a lane and to the rear of other development. The building would adopt a modest form, and where glimpsed from outside the site its thatched roof would not appear out of place.

19. For these reasons I find that the proposal would be both outstanding and innovative. It would promote high levels of sustainability and help raise the standard of design more generally in the area. The submissions demonstrate with clarity that these matters have been integral to the development of the proposal, rather than applied retrospectively during the design process, which is so often the case; and this is illustrative of the high quality of the design. The proposal would thus wholly accord with the individual elements and overall objective of Paragraph 139 b). Accordingly, I should give significant weight to this matter.
20. Legislation dictates that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise¹. In this case the development plan comprises the LP. I need to weigh my findings above against the conflict I have found with the LP policies that seek to direct new development to larger settlements and minimise the need to travel by car. These align with other Paragraphs of the Framework such as 109 and 115 which seek to prioritise sustainable transport modes.
21. Whilst these are fundamental, the proposal would otherwise not harm the character or appearance of the area. It would be well related to the existing built form in Aylesbeare and would thus contribute to the vitality of an existing community and its existing services. Although services in the village are limited, some do exist and basic options for travel by public transport are available. These factors also modestly weigh in favour of the proposal. There would also be some modest economic benefits that would arise during the construction phase, and the proposal would deliver biodiversity benefits that would be well above the statutory requirement. Furthermore, there would be the benefit of the delivery of a new dwelling in the context of the Government's ambitions to significantly boost the supply of new housing. Taken together these benefits carry considerable weight.
22. When considered together I am satisfied that the benefits of the proposal, including the significant weight that I should give to its full adherence to the detailed criteria set out in Paragraph 139 b) of the Framework, are material considerations that are of sufficient weight to outweigh the proposal's conflict with Strategy 7 and Policies TC2 and 5B of the LP.

Protected sites

23. The appeals site is close to the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths SPA. The Exe Estuary supports overwintering bird populations and an internationally important assemblage of birds. The Pebblebed Heaths is an important area of lowland heath that supports populations of breeding Nightjar and Dartford Warbler, which are both ground nesting birds.
24. The Exe Estuary is small and there is limited space for people and birds. Human presence and activity associated with the Exe Estuary can lead to physiological impacts, such as increased stress, the redistribution of birds, the reduced intake rate of food as a response to disturbance, and increased energy expenditure as

¹ Planning and Compulsory Purchase Act 2004 Section 38 (6)

birds react to disturbance. The South-east Devon European Site Mitigation Strategy (the Strategy) advises that such disturbance can be considered similar to habitat loss, and where significant effects cannot be ruled out or avoided, measures to mitigate for any potential impact are required. For the Pebblebed Heaths the impacts of recreational pressure include disturbance to ground nesting birds that can negatively impact on breeding productivity, and risk of wildfire.

25. The proposal would result in the permanent increase of persons residing at the site. This increase could have a significant effect on the protected habitats and interests of the protected sites because persons residing at the appeal site could access the protected areas for leisure purposes. On this basis, either alone or in combination with other plans and projects, the proposal would be likely to have a significant effect on the integrity of the Protected Sites and their relative features.
26. The Strategy sets out detailed mitigation measures and areas within which mitigation would be required where residential development is clearly linked to recreational use. The East Devon District Council – Habitat Mitigation Contributions (Valid from 1st April 2021) clarifies that the appeal site falls in the overlap zone between the two identified sites where a charge of £367.72 per new dwelling applies, to go towards the mitigation measures set out in the Strategy. The appellants have made a payment by way of an undertaking pursuant to S. 111 of the Local Government Act 1972 of to cover this.
27. Natural England (NE) as the Statutory Nature Conservation Body was consulted during the appeal. NE is content that the financial contribution ensures that the development would not adversely affect the integrity of the sites and their relevant features, and that the method of payment that has been made is adequate. I am satisfied that this is an appropriate way to make the payment as only a single payment is required rather than a commitment to covenant on an ongoing basis. The undertaking specifies that the money is a mitigation contribution and to be used solely for such purposes.
28. On this basis the proposal would be unlikely to have a significant effect on the protected sites and would accord with Strategy 47 of the LP, which seeks to provide mitigation measures to offset adverse impacts on European Designated Sites.

Other Matters

29. The proposal is close to a grade II listed building known as Halls. The Council is content that no aspect of the setting of the building that contributes to its significance would be harmed by the proposal. I can see no reason to come to an alternative view. Other listed buildings are mentioned in the submissions, but these are more remote from the site, and similarly there is nothing before me or anything that I observed at my visit to the area that could lead me to conclude that their significance would be harmed by the proposal. In arriving at this position, I have had special regard to the desirability of preserving a listed building or its setting in the context of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
30. There are many observations before me relating to highway impacts, including the condition of the lane that provides access to the site, and whether it is appropriately surfaced or wide enough to provide a safe highway environment for its users. The proposal would secure modest highway improvements at the end of

the lane and would see the section of the lane metalled up to the proposed access, which would be a significant benefit to its users, and are matters that can be secured by a condition. The lane would remain narrow for most of its length but would serve only a very small number of dwellings. Its layout would demand slow vehicle speeds, particularly as everyday users would be aware of its dual function as a popular walking route. On this basis I am satisfied that the proposal is acceptable on highways grounds.

31. It is suggested that allowing the proposal would set a precedent for other sites around the edge of the village to be developed. Whilst this cannot be ruled out, there are specific circumstances that have led me to find the proposal acceptable, which primarily relate to the high test set by paragraph 139 b) of the Framework, and any future proposals would need to be considered on their own merits.

Conditions

32. I have had regard to the conditions suggested by the Council and the appellants. I have considered these against the tests in the Framework and the Planning Practice Guidance. I have imposed condition 2 to specify the approved plans, to give certainty.
33. I have imposed condition 3 to protect the existing trees at the site, and ensure the protection is in place before the development commences and for the duration of the project.
34. I have imposed condition 4 to manage the construction impacts of the development on those who live nearby.
35. I have imposed conditions 5, 6 and 9 to ensure that the quality of the design and the innovative sustainability credentials are properly realised, and that there would be no downgrading of the quality of the scheme at the development stage.
36. I have imposed conditions 7 and 10 to manage the ecological impact of the proposal and minimise its impact on nocturnal wildlife.
37. I have imposed condition 8 to ensure that the development has safe and appropriate access to the highway network, and the functionality of the highway network would not be harmed by the development.

Conclusion

A Tucker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos Location Plan (Unique plan reference: #00863365-285151), 05-SVY Rev H, 05 Rev H, 11 Rev H, 06 Rev H, 10 Rev H, 20 Rev H, 20-196-200 Rev B, 30 Rev H, 31 Rev H.
- 3) Prior to the commencement of any part of the development hereby approved, the Tree Protection measures shall be carried out as detailed within the Arboricultural Report and Arboricultural Method Statement submitted by Advanced Arboriculture dated 27th June 2023. All works shall adhere to the principles embodied in BS 5837:2012 (Trees in relation to design, demolition and construction. Recommendations) and shall remain in place until all works are completed, and no changes shall be made without first gaining consent in writing from the Local Planning Authority. The protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority. No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place. Thereafter, the following restrictions shall apply:
 - a) No burning shall take place in a position where flames could extend to within 5 metres of any part of any tree to be retained.
 - b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
 - c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
 - d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of the building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

- 4) Prior to the commencement of any part of the development hereby approved, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall be fully adhered to for the duration of the construction works, to include details of:
 - a) the timetable of the works,
 - b) daily hours of construction,
 - c) road closures,
 - d) hours during which delivery and construction traffic will travel to and from the site, with such vehicle movements being restricted to between 8:00am and 18:00pm Mondays to Fridays inclusive, 9:00am to 13:00pm Saturdays, and at no time on Sundays or Bank / Public Holidays unless agreed by the Local Planning Authority in advance,
 - e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits,
 - f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases,
 - g) areas on-site where delivery vehicles and construction traffic will be loaded or unloaded with building materials, finished or unfinished products, parts, crates, packing materials and waste, with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority,
 - h) hours during which no construction traffic will be present on site,
 - i) the means of enclosure of the site during construction works,
 - j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site,
 - k) details of wheel washing facilities and obligations,
 - l) the proposed route of all construction traffic exceeding 7.5 tonnes,
 - m) details of the amount and location of construction worker parking, and
 - n) photographic evidence of the condition of the adjacent public highway prior to commencement of any work.
- 5) No construction shall take place above slab level until a detailed landscape masterplan, based on Great Halls Longhouse – Landscape Proposal_Rev A Harris Bugg Studio October 2023, has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be laid out in accordance with the approved plan by the end of the first planting season following completion of the dwelling.
- 6) No construction shall take place above slab level until details of external materials and finishes of the dwelling, including detailed drawings of the thatch to show abutments with the solar panels and dormer, shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall thereafter be implemented and retained unless otherwise agreed in writing by the Local Planning Authority.

- 7) Prior to occupation a detailed external lighting plan shall be submitted to and agreed in writing by the local planning authority. Any lighting design should be fully in accordance with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/2023. The agreed details shall thereafter be implemented and retained unless otherwise agreed in writing by the Local Planning Authority and under no circumstances should any additional external lighting be installed without prior consent of the local planning authority.
- 8) Prior to the occupation of the dwelling the off-site highway works detailed in the Highway Consultation Reply dated 8 January 2024 (to include metalling the missing 33m and sealing of the carriageway from the proposed access, and providing the short footway connection shown on plan BTC23072_P_02_Rev_p1) shall be carried out to the satisfaction of the Highway Authority.
- 9) Prior to the occupation of the dwelling the sustainability measures set out in the Design and Access Statement November 2023, including Passivhaus certification, the commitment to monitor and document the long term energy performance of the building, and making such information publicly available to provide a learning outcome, shall be carried out unless otherwise agreed in writing by the Local Planning Authority.
- 10) The development hereby approved shall be carried out strictly in accordance with the Ecological Impact Assessment report (compiled by HT Ecology, dated October 2023), in particular all ecological mitigation and enhancement measures. A written record shall be submitted to the local planning authority to include photographs of the installed ecological mitigation and enhancement measures prior to occupation, and such measures shall be retained for the lifetime of the development.