



Appeal Decision

Site visit made on 17 June 2025

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Appeal Ref: APP/U1105/W/25/3363278

Bridge End, Lane Past Owlhayes, Harpford, Devon EX10 0NG

- 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 Howe against the decision of East Devon District Council.
 - The application Ref is 24/0371/FUL.
 - The development proposed is Removal of residential caravan and conversion of building to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for removal of residential caravan and conversion of building to dwelling at Bridge End, Lane Past Owlhayes, Harpford, Devon EX10 0NG in accordance with the terms of the application, Ref 24/0371/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposed development is described as the conversion of a building to a dwelling. In this instance alterations are proposed to the building including new window and door openings and internal works including the introduction of a first floor. I therefore take the proposal to constitute the physical alterations to the building to facilitate its change of use to use as a two storey dwelling and use the word “conversion” on this basis.

Main Issues

3. The main issues in this case are:
 - whether the occupiers of the proposed development would be at risk of flooding; and
 - the effect of the development on the East Devon Pebblebed Heaths Special Area of Conservation (SAC).

Reasons

Flood risk

4. The site lies adjacent to the River Otter and within flood zone 3, which the Environment Agency identifies as functional floodplain falling within flood zone 3b. The Agency has provided photographs of the previous floods on and around the site to demonstrate the extent of flooding which has taken place in the past. The site is occupied by a metal clad former barn used as a workshop. A caravan is sited between the building and the river where a Certificate of Lawful Use or

Development (CLUD) was granted by the Council in 2021 for the 'siting of a caravan for independent residential purposes (C3)'¹.

5. Policy EN21 of the East Devon Local Plan 2016 (EDLP) requires that a sequential approach is taken to considering whether new developments will be permitted in areas subject to river flooding. The policy excludes minor developments and changes of use from this requirement. 'Minor development' is defined in the policy and includes development that does not increase the size of the building.
6. Policy EN21 is broadly consistent with the National Planning Policy Framework (the Framework) which indicates that applications for some minor developments and changes of use are exempt from the sequential approach. The definition of 'minor development' is set out in Planning Practice Guidance (PPG) and includes alterations that do not increase the size of buildings.
7. Whilst the proposed conversion would result in significant alterations to the building, the structural report indicates that the existing structure is capable of conversion. Although the appeal scheme is not a proposal under class Q², the PPG on Class Q nevertheless provides relevant guidance on the extent of the alterations which may be carried out as part of a conversion. That includes the installation or replacement of windows, doors, roofs, and exterior walls to the extent reasonably necessary for the building to function as a dwelling house. It also states that internal works are not generally development. Taking into account the *Hibbitt* judgement³, this provides a useful benchmark to assess whether the proposed alterations exceed what might constitute the conversion of the building as opposed to its reconstruction. Although the Structural Report recommends further investigation of the ground floor slab and foundations, I am satisfied from the evidence before me that the building is structurally sound and the proposed alterations would result in its conversion without the substantial replacement or rebuilding of structural elements.
8. The alterations to the building would not increase its size and would facilitate its change of use to a residential use. They therefore fall within the definition of 'minor development' as defined in EDLP policy EN21 and the PPG and are exempt from the sequential approach in the policy and from the sequential and exceptions tests set out in the Framework and PPG.
9. A site-specific flood risk assessment (FRA) has been provided as required by the Framework. This shows that the entire site falls within an area at risk of flooding to depths of between 0.8 and 1.5m with an anticipated fluvial flood level of 23.5m AOD for a 1 in 1000 year flood event. The FRA uses this as a suitably robust assumption for the height of an equivalent 1 in 100 year event allowing for the effects of climate change. This assumption has not been challenged by the Council.
10. Applying the Framework's flood risk vulnerability classification, the proposed conversion of the existing building to a residential use would result in a more vulnerable use of the building than its existing less vulnerable workshop use. Whilst Table 2 in the PPG makes clear that more vulnerable uses should not be permitted in flood zone 3b, the FRA indicates that the proposal would improve the

¹ LPA reference 21/0264/CPE

² Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

³ *Hibbitt v. SSCLG(1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin)

existing flood risk situation on the site by replacing the caravan which, even if not recently occupied, the Council has accepted can be occupied as a permanent dwelling. The effect of the proposal therefore would be to replace a highly vulnerable caravan for permanent residential use with the proposed dwelling which is classified as having a lower level of vulnerability. This means that there would be no net increase in the number of dwellings in the flood zone but there would be a reduction in the vulnerability to flood risk of the residential use on the site. This attracts substantial weight in favour of the proposal.

11. I have given careful consideration to the comments made by the Environment Agency. Whilst the proposed dwelling would be larger and have more spacious accommodation than the caravan, I have not been provided with any compelling evidence to demonstrate that the level of occupancy, and thereby flood risk, would be materially greater than a residential caravan on the site. While the caravan may be sited in higher locations on the appeal site, that is not the current situation and is not part of the appeal proposal which I have considered on its individual merits. Therefore, on the evidence before me, the suggestion that the proposed dwelling would have a greater level of occupancy than a caravan, or that the caravan could be relocated, carries limited weight against the proposal.
12. Moreover, by locating the main living accommodation in the proposed dwelling at first floor level at 24.46m AOD, the most vulnerable part of the residential use would be 0.96m above the future flood level identified in the FRA. The first floor accommodation would provide refuge for occupants of the dwelling during a flood event if the dwelling was cut off by flooding. This would be a significant improvement on the existing situation where the caravan has no refuge available. Together with substituting a lower vulnerability use for a higher vulnerability use this would be consistent with the PPG regarding the avoidance of flood risk. It would be a significant benefit of the proposal which also attracts significant weight in its favour.
13. The FRA also shows that the reconfiguration of the building would include ensuring electrical fittings and incoming supplies are raised above the predicted flood level and that waterproof materials and solid flooring would be used on the ground floor. A gravel filled trench would be used to manage run-off from the building and, from the evidence before me, the removal of the existing containers, mound, shed, lean-to and caravan on the site would increase the site's flood storage capacity. This would be a more sustainable situation in terms of flood risk than currently exists on the site and would be a further benefit of the scheme which attracts moderate weight in its favour.
14. Safe access and escape routes would be managed through a flood evacuation plan which the FRA indicates would also require occupants to subscribe to a flood forecasting and warning service. This would be a further improvement on the existing situation and could be secured through a planning condition before the dwelling is occupied if the appeal were to be allowed. It also attracts moderate weight in favour of the scheme. As a lawful residential use already exists on the site, the proposal would not increase the pressure on emergency services compared to the existing situation

15. Whilst I am aware of other appeal decisions⁴ relating to flood risk and I have taken those decisions into account, the circumstances of those cases are not identical to the appeal proposal which I have determined on its individual merits.
16. For the reasons given, I conclude that the occupiers of the proposed development would not be at risk of flooding and that the existing risks would be significantly reduced. The proposal therefore complies with EDLP policy EN21 which seeks to control development in areas subject to river and coastal flooding. Whilst not referred to in the reason for refusal, for the above reasons the proposal would also comply with policy EP3 of the Newton Poppleford Neighbourhood Plan regarding flood risk.

Effect on SAC

17. The 'Ecological Impact Assessment (Bats and Birds)' indicates that the proposal lies within 10km of the East Devon Pebblebed Heaths Special Area of Conservation (SAC). Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 requires me to make an appropriate assessment of the implications of the proposal on the conservation objectives of the SAC if there are likely to be significant effects on the integrity of the protected site.
18. The qualifying features of the SAC are the Northern Atlantic wet heaths, the European dry heaths, and the population of southern damselfly. I have screened the proposal to determine whether it would have a likely significant effect on the qualifying features of the SAC which would undermine its nature conservation interest. As the proposal would not result in an increase in dwellings on the site and I have seen no evidence that there would be an increase in the number of people living there, I am satisfied that it would not generate additional pressure on the SAC. As a result, it would not have a significant likely effect, either alone or in combination, on the SAC. The Council did not identify any significant likely effects of the proposal on the SAC or the East Devon Heaths Special Protection Area and I have found no reason to disagree.

Other Matters

19. Although the site lies across the river from the village and there is no footway over Newton Poppleford Bridge to the village, the proposal replaces the existing lawful residential use on the site and would not be an additional dwelling. Whilst the absence of a footway over the bridge would deter future occupants from walking into the village, there are bus stops a very short distance to the east of the site. I have not been provided with any clear evidence to demonstrate that future occupiers of the dwelling would have less access to services and facilities in the village than occupiers of the lawful residential use of the site. The proposal would make use of the existing access onto the A3052 which serves the existing uses. I have no reason to conclude that the proposal would result in an increase in the vehicular use of the access. The Council did not find that the proposal would cause harm to highway safety and I have no evidence to reach a different conclusion.
20. The site lies within the East Devon National Landscape. The East Devon Area of Outstanding Natural Beauty Partnership Plan 2019-24 indicates that the primary purpose of the National Landscape's designation is to conserve and enhance

⁴ APP/D0121/W/24/3343144; APP/F4410/W/21/3289887; APP/X1545/W/23/3332515.

natural beauty. The character of the National Landscape is described in the East Devon and Blackdown Hills Landscape Character Assessment 2019 and the appeal site lies in landscape character area LCT 1C: Pebble Bed Heaths. Defined by its distinctive sand-and-gravels geology, much of the area remains open, with extensive areas of heath and grassland, as well as pockets of forestry plantation and farmland. Whilst the site abuts the river, the proposal would not harm heathland or woodland or the wider character of the landscape. The site is already occupied by the building to be converted and the proposal would provide some enhancement in the character and appearance of the landscape through the removal of the existing caravan and other items referred to above. There would be the opportunity for a suitable landscaping scheme secured through a planning condition to further enhance the appearance of the site. As a consequence, the proposal would not cause harm to the National Landscape and would result in some modest enhancement of it.

21. Newton Poppleford Bridge is a Grade II listed building which crosses the river adjacent to the north western corner of the site. Dating from around 1840 it derives its significance from its design and the materials used in its construction. The separately Grade II listed Leat Bridge lies to the east of the site and was built at the same time as Newton Poppleford Bridge. The Grade II listed Riverside Cottage dates from around the late 17th century and is situated to the north of the site across the main road beyond a fence and trees. The distance between the site and these listed buildings coupled with the intervening trees and vegetation means that it has a neutral effect on their setting. The proposed conversion of the existing building would continue to preserve the setting of these listed buildings and would not cause harm to their significance.

Conditions

22. In addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for reasons of certainty. A condition requiring the submission of details of materials is also necessary in the interests of the character and appearance of the site and its surroundings. Conditions requiring the submission of a landscaping scheme and the protection of trees during the construction process are both necessary and reasonable to protect and enhance the appearance of the National Landscape. The submission of a surface water drainage scheme is also necessary to protect water quality and minimise flood risk. In view of the previous use of the site, it is also reasonable to require an investigation of any contamination risks and the remediation of any contamination found.
23. The location of the site in a flood zone means that conditions requiring the implementation of the flood resilience measures identified in the FRA, including the submission of a Flood Warning and Evacuation Plan, is necessary and reasonable. I have split the Council's suggested wording into two separate conditions to make the wording more precise. In order to ensure that there is no increase in permanent dwellings on the site as proposed in the FRA a condition requiring the removal of the existing caravan and prohibiting the introduction of another caravan is necessary and directly related to the development to be permitted. A condition securing removal of other paraphernalia on the site is necessary and reasonable to enhance the effect of the site on the National Landscape and to improve flood storage capacity on the site in accordance with the submitted proposals. I also consider it necessary in the interests of managing

flood risk and flood storage capacity on the site to remove permitted development rights for all development within its curtilage. A condition making provision for bats, birds and invertebrates is also reasonable and necessary to secure the implementation of the recommendations in the Ecological Impact Assessment.

Conclusion

24. The proposal does not conflict with the development plan and the material considerations, including the Framework and PPG, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be allowed.

R Kent

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
2. The development hereby permitted shall be carried out in accordance with the approved plans that are listed as follows:
PHR PL-06A: Proposed Ground Floor Plan
PHR PL-07A: Proposed First Floor Plan
PHR PL-08A: Proposed Elevations
PHR PL-09A: Proposed Elevations
PHR PL-10B: Proposed Block Plan
3. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas of hardstanding. The scheme shall also give details of any proposed walls, gates, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
4. a) Prior to commencement of any works on site (including demolition), the Tree Protection measures shall be carried out as detailed within the Arboricultural Report and Arboricultural Method Statement submitted by Advanced Arboriculture dated 20th February 2024. All works shall adhere to the principles embodied in British Standard BS 5837: Trees in relation to design, demolition and construction -

Recommendations (or in an equivalent British Standard if replaced):and shall remain in place until all works are completed.

b) 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.

c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

d) 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 (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

e) 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.

f) 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.

g) 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 any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species.

5. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.
6. No development shall commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved, in writing, by the Local Planning Authority:
 1. A site investigation scheme, based on the information gained in the desk study to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

2. The results of the site investigation and risk assessment submitted under step (1) above and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.
3. A verification report on completion of the works set out in step (2) above confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.
7. Prior to their installation, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roof of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
8. Prior to the occupation of the dwelling hereby approved the flood resilience measures detailed within the Flood Risk Assessment prepared by AWP dated 10th October 2023 shall be implemented in full.
9. Prior to the occupation of the dwelling hereby approved a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall thereafter be occupied and operated in accordance with the Flood Warning and Evacuation Plan.
10. Prior to the occupation of the dwelling hereby approved one integrated bat box, one integrated bird box and one inbuilt invertebrate brick shall be installed in accordance with details to be submitted to and approved by the Local Planning Authority. The boxes and brick shall thereafter be retained.
11. Prior to occupation of the development hereby approved, the existing mobile home in the location depicted on plan PHR PL-10B shall be permanently removed from the site and no other caravan or mobile home for permanent residential occupation shall thereafter be located on the site edged red on plan PHR PL-01.
12. Prior to the occupation of the dwelling hereby approved the storage containers, stockpile, shack and shed shown on plan PHR PL-10B shall be permanently removed from the site.
13. Notwithstanding the provisions of Article 3(1) and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development other than that authorised by this permission shall take place within the curtilage of the dwellinghouse hereby permitted.

END OF CONDITIONS