



Appeal Decision

Site visit made on 24 September 2025

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2025

Appeal Ref: APP/U1105/W/25/3367103

Oak Lodge, Road From Southbrook Lane To Tub Corner, Whimble, Exeter, Devon EX5 2PD

- 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 and Mrs R and J Courtney of Courtneys of Whimble against the decision of East Devon District Council.
 - The application Ref is 24/1052/FUL.
 - The development proposed is siting of timber static unit as annexe for use by commercial business visitors to Courtneys of Whimble only.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are i) whether the site is a suitable location for the proposed development with regard to the development plan, and ii) whether there are other considerations that are sufficient to outweigh any conflict with the development plan.

Reasons

Whether a suitable location

3. The proposed timber chalet would represent a standalone residential unit located on agricultural land. While the structure is described in the evidence as temporary and its economic benefits are highlighted, a planning permission would result in the permanent residential use of the land. Moreover, although described as an annexe, the building would not have a close relationship, either physically or functionally, with an existing residential unit. It would instead be a dwelling capable of independent day-to-day living, with two bedrooms (one ensuite), a bathroom, kitchen, and a living and dining area. Even with a condition controlling the users of the unit, the proposal falls to be considered against the development plan's strategy for residential development.
4. The appeal site lies within the existing orchard at Courtneys of Whimble, in the countryside north of Cranbrook. There is no dispute between the parties that it does not fall within a Built-up Area Boundary of any settlement, nor does it form part of a site-specific allocation. Consequently, the site lies in the countryside for the purposes of Strategy 7 of the East Devon Local Plan 2013-2031 (2016) (the Local Plan).

5. Strategy 7 says that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development, and where it would not harm the distinctive landscape, amenity, and environmental qualities of the area within which it is located. While the second part of Strategy 7 relates to considerations of harm to landscape and environmental quality, the wording of the policy indicates that these considerations are only necessary if the first test of the policy is met.
6. Several policies have been identified in support of the proposal. These primarily relate to the support provided for the rural economy in both the Local Plan and the Broadclyst Parish Council Neighbourhood Development Plan (the BNP) (2023). Policy E4 and E5 of the Local Plan refer to Rural Diversification and Small Scale Economic Development. While these are positively worded policies, the evidence does not indicate that the proposal would be a diversification away from the existing business operations at the orchard, with the unit providing accommodation for user groups that are already engaged with the business. Neither would the residential proposal comprise economic development. Accordingly, although the proposal is not in direct conflict with these policies, they do not explicitly permit the proposed development, as required by Strategy 7.
7. The BNP is similarly supportive of the rural economy. It includes several economic objectives, again supporting the diversification of existing farm businesses, and supporting food and drink production businesses which link to the parish farming heritage. These fall within an overarching aim to expand and diversify economic development and activity within the parish. However, the policies that seek to deliver these objectives (EC1 and EC2) are site-specific to other locations, and do not permit the development proposed. While my attention has also been drawn to Policy EW1, this relates to Development of Work Hubs, described as flexible workspaces which would provide working space for locals, and does not deal with residential development. There are therefore no policies of the BNP that explicitly permit the proposed development.
8. No other policies have been cited which might otherwise explicitly permit the development. I therefore conclude that the site would not be a suitable location for the proposed development, in conflict with Strategy 7 of the Local Plan.

Other considerations

9. An interested party has made reference to the Local Plan being out of date in respect of the Council's five year housing land supply position. I have little evidence on the Council's housing land supply position, nevertheless, Strategy 7 of the Local Plan is broadly consistent with the National Planning Policy Framework where it supports developments which meet local housing needs, and seeks to avoid the development of isolated homes in the countryside. As such, I have afforded significant weight to the conflict of the proposal with this policy.
10. The orchard is a long-standing and important local business, employing local people, as well as holding a nationally important stock of heritage tree varieties and providing a significant ecological resource. I was also able to see on site the varied facilities available which accommodate numerous events, courses, visits, and community activities throughout the year. Reference is also made to increasing demand and expectations for accommodation from a diverse group of users, and it is noted that visitors would pay for the facilities, generating income for the business.

11. Although paragraph 6.23 of the Local Plan outlines scenarios which may justify a departure from Strategy 7, these relate to a proven agricultural, forestry, or horticultural need, a community need that is not otherwise met, or another clear policy justification. While it would be desirable and convenient to the business for visitors to be able to stay on site, there is no compelling evidence to demonstrate a proven agricultural need for such overnight stays, with no practical issues that would justify on-site attention 24-hours a day. Moreover, although visitors may enquire whether accommodation is available, it has not been suggested that there is a community need for the accommodation, nor, as I have outlined above, is there a clear policy justification for the proposal.
12. That the Council has found no harm in respect of issues including the highways, environmental, amenity, landscape, or visual effects of the development is a neutral matter that does not carry weight in favour of the proposal. There would be small-scale local biodiversity benefits associated with native planting around the site, and the use of a second-hand unit would represent a modest sustainability benefit. While vehicle movements may differ as a result of visitors staying on site, a high number of short-term commercial visitors would still travel to and from the rural site in order to use the accommodation. Any benefit in this regard therefore carries only moderate weight.
13. Positive environmental management, both of the site and more widely, and traditional skills education are ongoing activities at the site. A rise in these activities alongside business growth and increased local employment are important benefits that are indicated in the appeal submissions. However, the evidence is not clear on the anticipated scale these benefits, nor when or how they would occur as a result of the accommodation becoming available. In the absence of robust and convincing evidence, I can only afford them limited weight. Taken together with the modest benefits described above, they are not sufficient to outweigh the conflict I have identified with the development plan.

Other Matters

14. The appeal site is within the zone of influence for the Exe Estuary and East Devon Pebblebed Heaths Special Protection Areas, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. Although both main parties have provided information in this regard including a completed S111 form securing a habitat mitigation contribution, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

15. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should therefore be dismissed.

K Jones

INSPECTOR