



Appeal Decision

Site visit made on 12 November 2025

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/U1105/W/25/3371049

7 Chapel Street, Budleigh Salterton, Devon EX9 6LX

- 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 Simon Blissett against the decision of East Devon District Council.
 - The application Ref is 25/0820/FUL.
 - The development proposed is change of use of a fish and chip shop (ground floor) (use Class E) to one dwelling (Use Class C3), including the demolition of the rear outbuildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that its draft local plan, the East Devon Local Plan 2020-2042, is due to be submitted for examination early next year. Accordingly, while I have had regard to the emerging policies referred to by the parties, the draft plan has not reached a sufficiently advanced stage in its preparation for its policies to attract more than limited weight for the purposes of the determination of this appeal. For these reasons, my determination of this appeal is made against the current development plan policies.
3. The Council has also referred to its Marketing Strategy Statement guidance which contains a series of guidelines to assist applicants in meeting the requirements of its Planning Validation Checklist. The guidance is advisory in nature and has not been adopted as a Supplementary Planning Document. Accordingly, while I have had regard to this guidance in my assessment of the marketing information provided with the appeal, my decision is based upon the current development plan policies.

Main Issue

4. The main issue is the effect of the proposal on the shopping character, vitality, and viability of Budleigh Salterton Town Centre Shopping Area.

Reasons

5. The appeal site is within the designated Town Centre Shopping Area for Budleigh Salterton, and is currently occupied by a Fish & Chip Shop restaurant and takeaway. Strategy 32 and Policy E9 of the East Devon Local Plan (2013 - 2031) (the Local Plan) support the vitality of town centres, and seek to resist the loss of employment and retail uses unless options for their retention under current or

similar uses have been fully explored. This policy approach is consistent with the Framework's aim to ensure the vitality of town centres.

6. Amongst other matters, both Strategy 32 and Policy E9 contain tests in respect of changes of use in town centres which include the exploration of options for the retention of the premises, and its marketing for at least 12 months (and up to two years depending on market conditions). The appellant has provided evidence of the property being marketed by three agents in 2022 and in 2023 in the form of three letters which confirm the commencement, and in one case, the cessation of marketing. The appellant also states that the property was marketed in 2020. None of the letters detail a duration of marketing. Nor are details such as sales particulars or copies of advertisements provided which might evidence periods of active marketing. While efforts have clearly been made to market the property over a prolonged period of time, the submitted information does not clearly evidence the continuous marketing of the property throughout the relevant period.
7. In addition, Policy E9 requires the marketing to have been at a 'realistic price'. Although the marketing letters show that the asking price was reduced by £65,000 between 2022 and 2023, there is no substantive evidence detailing how the asking price was arrived at; what methodology was used for surveying the building, or what allowance was made for fixtures and fittings, any other assets, or the goodwill of the business. It has therefore not been clearly demonstrated that the marketing has been carried out at a realistic price.
8. In the absence of more detailed marketing information, including the elements I have highlighted above, it has not been robustly demonstrated that a sufficient marketing exercise has been carried out in accordance with the development plan.
9. Moreover, an unsuccessful marketing attempt is not the only relevant policy test. Within the same criterion, Policy E9 requires a clear demonstration that there is no longer a need for the existing use, and Strategy 32 requires that there is a clear demonstration of surplus supply of land or provision in the locality.
10. Given the deficiencies I have identified in the marketing evidence, I cannot be certain that the absence of offers received demonstrates that there is no longer a need for the commercial use. The evidence illustrates two available commercial properties within the town centre (one for sale, one for rent) at the time of making the appeal. However, during my site visit, there were not noticeably high numbers of vacant premises, or those being actively marketed for sale or rent. Two premises being available at a single point in time does not clearly demonstrate that there is a surplus supply of commercial premises within the town.
11. It may be the case that other premises in the local area provide for everyday shopping and business needs, and other food establishments are evident in the town, including another Fish & Chip shop. However, the lack of substantive evidence that there is no need for the existing use, or that there is a surplus supply of such uses, leads me to find that despite alternative options, the existing premises benefits the shopping character and vitality of the town centre.
12. Although the appeal site is not located within a Defined Primary Shopping Frontage, Policy E9 only permits non-retail uses which would add variety and increase activity, and which preserve the shopping character, visual amenity, and vitality of the town centre. This is in accordance with paragraph 90 of the Framework which sets out that decisions should support the role that town centres

play at the heart of local communities, and that policies should promote their long-term vitality and viability. Both the accompanying text to Policy E9 and the Framework identify that appropriately sited residential development plays an important role in the vitality of centres, recognising that town centres should be living centres and not just active during business opening hours.

13. There are several properties in the local area that are in a residential use, but there are also several commercial and community premises, and the appeal site is within a cluster of local services and facilities. That the appeal building is on the edge of the defined Town Centre Shopping Area does not diminish the contribution that it makes to the shopping character, activity, and vitality of the town centre. Neither do the nearby residential uses reduce the benefits of the commercial use of the appeal premises.
14. Accordingly, the loss of the Fish & Chip Shop and its contribution to the active commercial frontage would inevitably lead to a deterioration in shopping character. With residential development in varied forms already present including a flat on the first floor, the loss of a commercial premises and increase in similar residential uses would also lead to a reduction in variety and activity in the centre. Accordingly, the proposal would not be appropriately sited residential development that would otherwise be supported by the Framework.
15. Although the appellant states that the premises will close due to their retirement, this is not substantive evidence of there being no prospect of the commercial use of the premises continuing in the future. The tests in respect of Strategy 32 and Policy E9 concern the use of the premises rather than the personal situation of the owner.
16. Taking all of the above into account, in the absence of compelling evidence put before me to the contrary, I conclude that the proposal would result in harm to the shopping character, vitality, and viability of Budleigh Salterton Town Centre Shopping Area. It would therefore conflict with Strategy 32 and Policy E9 of the Local Plan, the purposes of which I have previously outlined. Reference has also been made to Policy E10 of the Local Plan, which relates to defined Primary Shopping Frontages. However, as the appeal site does not fall within a defined frontage, the provisions of this policy are not determinative to this appeal.

Other Matters

17. Reference has been made to the principle of the proposed change of use being established by Class MA to Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which indicates that development consisting of a change of use from a Use Class E use to a use falling within Use Class C3 (dwellinghouses) does not require planning permission. However, Class MA of the GPDO does not permit such a change of use if the building is within a National Landscape. As that is the case with this appeal, the possible change of use of commercial buildings in other locations does not carry weight in favour of this appeal.
18. The appeal site is within the zone of influence for the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas and Special Area of Conservation (the habitats sites), 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.

19. The appellant has identified that the Council could have requested further evidence or information during the course of the application. Whether the Council should have requested such information does not justify its absence nor give additional weight to the evidence that has been provided. Whether or not the Council has behaved unreasonably in its communication with the appellant, I have based my decision on the available evidence before me in this case.

Planning Balance

20. The parties are in agreement that the Council has a significant shortfall in its housing supply, and is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11 of the Framework is therefore engaged. In these circumstances, this sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
21. The provision of one flat would make a limited contribution towards addressing the Council's housing supply deficit and the Government's objective to significantly boost the supply of homes. I afford this benefit modest weight in favour of the proposal. Budleigh Salterton is defined in the Local Plan as an Area Centre, identified as a suitable location for housing. The location of the dwelling would promote walking, cycling and public transport use, and would result in job creation and associated support of facilities and services in the local area during the construction period, and economic and social benefits as a result of its future occupation. However, these benefits associated with its location would be offset against the loss of economic and social activity associated with the existing use.
22. As the appeal site is located within the Budleigh Salterton Conservation Area (the CA), in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The Council has found that the proposal would not impact on the character of the CA, identifying that the removal of external features which 'slightly detract' from its character would result in an enhancement. I see no reason to disagree, and find that the proposed development would have a predominantly neutral effect on the CA, with a minor enhancement associated with the removal of the outbuildings. I afford this benefit modest weight.
23. The appellant states that the proposal makes effective use of land. It would not result in any harmful effects on the privacy or outlook of existing or proposed occupiers, or on the character and appearance of the area, including the National Landscape. It would also allow for the appropriate provision of internal and external amenity space with bin and cycle storage, and result in no unacceptable highways, drainage, flooding, or biodiversity impacts. Nevertheless, these are ordinary requirements for new development, and they do not represent positive benefits that weigh in favour of the proposal.

24. The evidence indicates that the dwelling would be self-build. I have not been provided with information on the local need for self-build dwellings. However, the Framework identifies the need to provide housing for different groups, and recognises the value of small sites including self-build housing. Nonetheless, based on the evidence before me, should planning permission be granted, no mechanism, such as a signed legal agreement, would exist to guarantee the proposed dwelling would be constructed and occupied as a self-build. Accordingly, I can only attribute very limited weight to the self-build nature of the appeal proposal.
25. The adverse impacts of the proposal are derived from the loss of an active commercial use that contributes to the vitality of the town centre which the Framework seeks to protect, and to which I afford significant weight. I therefore find that, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

26. For the reasons given above, I find that 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. I therefore conclude that the appeal should be dismissed.

K Jones

INSPECTOR