The Planning Inspectorate

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Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

Your Ref: 1/0573/2022/OUT
Our Ref: APP/W1145/W/23/3315147

17 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Edward Bewes
Site Address: Land adjacent to Long Close, East Putford, Holsworthy, Devon, EX22 7UQ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Melanie Pugh
Melanie Pugh

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 25 July 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2023

Appeal Ref: APP/W1145/W/23/3315147
Land adjacent to Longclose, East Putford, Holsworthy, Devon EX22 7UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr and Mrs Bewes against the decision of Torridge District Council.
- The application Ref 1/0573/2022/OUT, dated 27 May 2022, was refused by notice dated 22 July 2022.
- The development proposed is described as "proposed dwelling with associated access, parking and amenity space".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the appeal is made in outline with all matters reserved for later consideration. Therefore, I have assessed the appeal on this basis.

3. I have taken the address from the Council's decision notice as this provides an accurate description of the site location which is absent from the application form.

Main Issue

4. The main issue is whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and its accessibility to services and facilities.

Reasons

5. The appeal site comprises an agricultural field next to, but outside of a clustered row of properties that does not contain any services or community facilities. It is within a rural parish where development is dispersed and is approximately 3 ½ miles from Bradworthy which includes a primary school, post office, shops and community facilities. Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP) sets out the strategy for development in the countryside, which is defined as areas beyond local centres, villages, or rural settlements. In the countryside, amongst other things, support is provided for local needs housing adjoining rural settlements with at least one community facility. Beyond these areas, development is limited to meet local economic and social needs, and development necessarily restricted to a countryside location.

6. Policy ST21 of the LP supports proposals outside defined settlements in circumstances where housing completions fall below 90% of the annual

requirement. However, since issuing their decision, the Council has confirmed that they have a 5.9 year housing land supply which the appellant does not dispute. Therefore, the policy does not apply. Paragraph 79 of the National Planning Policy Framework (the Framework) says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that where there are groups of smaller settlements, development in one village may support services in a village nearby.

7. I acknowledge the proposal would meet the personal needs of the appellant, including providing them and their family with more suitable accommodation for the longer term, supporting relatives and would allow their continued involvement in local community groups. However, although the appellant's personal statement identifies certain local connections, the development proposes an open market property and I have been provided with no mechanism to ensure it would remain available to meet locally generated needs or an identified local need such as affordable housing. Even if such a mechanism existed and I were to consider that the appeal site was adjacent to a Rural Settlement as set out in Policy ST07, that settlement would be required to contain at least one community facility, which it does not. As such, the appeal site is in the countryside for the purposes of Policy ST07. It has not been demonstrated that the development would meet locally generated needs or local economic or social needs, nor does it need to be restricted to a countryside location, as required by Policy ST07 of the LP.

8. Access to settlements that contain ranges of services and facilities would be gained via a lengthy network of unlit and unpaved rural lanes. Despite an undesignated bus stop for school runs/twice daily bus services, home deliveries/shopping and working from home, routes away from the appeal site would nevertheless not be an inviting option for pedestrians or cyclists to have to navigate, particularly in the dark or during inclement weather conditions. For these reasons, future occupants would be likely to be largely dependent on private vehicles for access to services and facilities at the nearest settlements and local centres beyond to meet their day-to-day needs.

9. Therefore, I conclude on the main issue that the site is not a suitable location for the proposed development having regard to the provisions of local and national policy and its accessibility to services and facilities. For the above reasons, the development would be in conflict with policies ST07 and ST10 of the LP, where Policy ST10 seeks to reduce the need to travel by car. There would also be conflict with chapter 9 of the Framework which, amongst other things, gives priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.

Other Matters

10. The development would bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. Furthermore, the development could be progressed at a reserved matters stage to deliver a sustainably constructed property. Also, the retained wooded area could be tidied in the interests of the character and appearance of the area. However, any such benefits would not outweigh the harm I have identified above.

11. I have had regard to third party representations relating to visual impact, traffic and highways. However, as I am dismissing the appeal on the main issue for the reasons given above, I have not pursued these matters further.

Conclusion

12. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills
INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 11 July 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2023

Appeal Ref: APP/W1145/W/23/3314843
Coombeshead Park Farm, road from Tower Hill House to Dubbs Cross, Virginstow EX21 5EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Anthony Bricknell-Webb against the decision of Torridge District Council.
- The application Ref 1/0734/2021/FUL, dated 24 June 2021, was refused by notice dated 29 July 2022.
- The development proposed is replacement dwelling pursuant of approval 1/0446/2017/AGMB.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for the proposed development, having regard to the relevant development plan policies, previous decisions and the character and appearance of the area.

Reasons

3. The appeal site is located in an exposed countryside position, where views into it are available through two entrance points. In such locations, Policy ST07 of the North Devon and Torridge Local Plan 2011-2032 (LP) limits development to meet local economic and social needs, and development necessarily restricted to a countryside location. I acknowledge the proposal would better meet the personal needs of the appellant, providing practical, adaptable, multigenerational alternative accommodation, and opportunities to work from home; thus avoiding the need, in retirement, to move off the farm. The appellant suggests the proposal would potentially replace farm workers accommodation elsewhere, but no mechanism to control such an undertaking is before me. It has not been demonstrated that the proposal would meet local economic or social needs, nor does the development need to be restricted to a countryside location, as required by Policy ST07 of the LP. Additionally, as the development would not replace any dwelling, Policy DM26 of the LP would not apply.

4. Prior approval was previously granted on appeal in 2017[1] under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 on the appeal site for the conversion of an agricultural building to a dwelling (the prior approval). Although that grant of

[1] APP/W1145/W/17/3188267

consent has lapsed, I have no evidence before me to demonstrate that the site specific circumstances have changed and that prior approval would not be granted once more. Therefore, I am satisfied that the prior approval is a material consideration that can be afforded substantial weight. There is an extant planning permission granted in 2021[2] (the planning permission) for two dwellings which would replace the barn subject to the prior approval, and this represents a material consideration that can also be attributed substantial weight. In respect of the prior approval and the planning permission (the fallbacks), based on the evidence before me, there is a real prospect that either development would be carried out.

5. The proposed development would make use of acceptable external materials and would be positioned adjacent to the existing barn that is the subject of the fallbacks, and on lower ground due to the gentle sloping topography. However, despite the appellant's intended contemporary, asymmetrical and linked farmstead arrangement of buildings and screened garage, the sprawling extent of new built form on the site would appear to be of a greater cumulative scale and consequently, more incongruous in the landscape than the fallbacks.

6. Furthermore, although small sections of the roof tops of the planning permission would rise above the barn and would be closer to the road than the appeal dwelling, the tallest part of the appeal scheme would rise above the ridge height of the existing barn, despite being on much lower ground. Also, the proposed development would be particularly visible from the proposed access and entrance point.

7. The appellant suggests landscaping and removal of permitted development rights conditions to improve the screening of the development as well as the proposed landscaping and planting to the Devon Bank. However, even though the appeal scheme would result in one less property than the planning permission, the proposal would result in a substantial increase in scale and massing when compared with the fallbacks that would not be mitigated by such landscaping or by the removal of some permitted development rights. Additionally, the planning permission includes extensive additional planting secured through condition and is positioned more discretely by being closer to the roadside hedge. As such, the development would be more harmful than the fallbacks and unsympathetic to the landscape.

8. Therefore, I conclude on the main issue that the site is not a suitable location for the proposed development, having regard to the relevant development plan policies, previous decisions and the character and appearance of the area. For the above reasons, the development would be in conflict with policies DM04, ST04 and ST07 of the LP, which amongst other things, seek to deliver housing that responds to a proven agricultural, forestry or other occupational need that requires a countryside location; and developments that are appropriate and sympathetic in their scale, massing, height and relationship to landscape features.

9. I have not been provided with any substantive evidence to demonstrate the development would be in conflict with Policy DM08 of the LP which is concerned with biodiversity and geodiversity.

[2] Planning permission reference 1/0422/2021/FUL

10. At my visit I observed what appeared to be a newly formed access to the site which is reflective of the site access associated with the planning permission. Therefore, I cannot be certain that the planning permission has not already been implemented or as a result, that the submitted Unilateral Undertaking (UU) would effectively control the number of dwellings that could potentially be brought forward, as it intends. In any case, even if the UU were effective, I have found the development would be more harmful than the fallback positions and harmful to the character and appearance of the area.

Other Matters

11. I note the appellant's comments in respect of the presence of European Beavers within the agricultural unit, though this matter is no determinative to the outcome of the appeal.

Conclusion

12. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR

The Planning Inspectorate

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Your Ref: 1/1118/2021/FUL
Our Ref: APP/W1145/W/22/3312735

Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

07 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Paul and Loarraine Johnson
Site Address: The Laurels Inn, Petrockstow, OKEHAMPTON, EX20 3HJ

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

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Yours sincerely,

Cameron Alford
Cameron Alford

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The Planning Inspectorate

Appeal Decision

Hearing held on 27 June 2023
Site visit made on 27 June 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 August 2023

Appeal Ref: APP/W1145/W/22/3312735
The Laurels Inn, Petrockstowe EX20 3HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Johnson against the decision of Torridge District Council.
- The application Ref.1/1118/2021/FUL, dated 21 September 2021, was refused by notice dated 10 June 2022.
- The development proposed is the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing applications for costs were made by the appellants against the Council and by the Council against the appellants. These applications are the subject of separate Decisions.

Main Issue

3. This is whether the proposed change of use is acceptable, or not, in the light of the development plan, and Policy ST22(3) of the North Devon and Torridge Local Plan 2011-2031 (LP) in particular, and any other material considerations.

Reasons

4. LP Policy ST22 deals with what it terms community services and facilities. Section (3) of the policy addresses itself to the potential loss of such services and/or facilities. It says that development that involves the loss of community services and facilities will not be supported unless there is compelling evidence to demonstrate: (a) the existing use is no longer commercially viable or could not be made commercially viable; or (b) there is alternative local provision that is accessible to the local community by walking or cycling; and in either case (c) the premises are no longer required to meet the needs of the local community.

5. Paragraphs 8.9 and 8.10 of the explanatory text associated with LP Policy ST22 explain the approach to assessing application for the change of use of existing facilities. I note the points made on behalf of the appellants about the status of explanatory text in relation to what the actual policy sets out, but it seems to

me that paragraphs 8.9 and 8.10, in the way they explain how the Council will approach assessment under the aegis of the policy, function as explanatory text is intended to function. While what they say is not part of the policy itself, it is relevant to the application of the policy. It cannot simply be set aside[1].

6. Paragraph 8.9 says (and I summarise) that in assessing applications for change of use of existing facilities, a thorough analysis of the existing operation will be required along with details of the efforts made to secure the future and the viability of the business. In all instances it must be demonstrated that, of central relevance, (d) the facility is not commercially viable. In order to determine this, it is said that the Council will require submission of trading accounts for the last three full years in which the facility was operating as a full-time business.

7. Paragraph 8.10 sets out that commercially operated facilities must further demonstrate that a comprehensive sustained marketing campaign (to be agreed in advance by the Council) has been undertaken for its existing use, offering the facility for sale using an agreed realistic valuation of the premises, for a period of at least twelve months before an application is submitted.

8. That the appellants have not followed the requirements of paragraphs 8.9 and 8.10 to the letter is not, in my view, fatal to the case advanced on their behalf. However, the material the appellants have put forward has to be considered in the light of what is said in those paragraphs, in order to form a conclusion against the actual policy.

9. In terms of viability, contrary to the submission made on behalf of the appellants, the accounts do not demonstrate conclusively that the facility is not viable. For both years covered by the accounts[2], there was a surplus. I accept that the appellants have invested in the business using their own savings, and their labour, and did not draw salaries. However, that must be seen in the context of the fact that the public house was also the appellants' home. All the accounts that have been submitted show is that the business, in the manner the appellants operated it, did not make as much of a surplus as they would have wished. They do not describe a situation where it could safely be concluded that no other operator, or operators, could run the premises in a more successful way.

10. That is why the issue of marketing is so important. For all that has been said about it, there is an essential contradiction in the conduct of the marketing exercise that has taken place. On the one hand, I am told, on behalf of the appellants, that the business is failing and not viable, and that the public house trade generally is becoming more and more marginal, making it difficult to sell a country pub. However, on the other hand, the Laurels Inn has been marketed for sale at a little under £400,000 (pre-pandemic) and is currently on the market at £450,000. Those figures need to be seen in the light of the fact that the appellants purchased the Laurels Inn in 2017 for £269,000. It may well be that the recent marketing takes account of the potential for outbuildings to be converted to guest accommodation, but that cannot adequately explain why so great an uplift has been applied to a business that is said to be failing.

[1] I do not consider that my reasoning on this matter is at odds with the approach of my colleague Inspector in APP/W1145/W/21/3269314
[2] 2018/19 and 2020

11. Further, I note that an offer of around the asking price was received in 2020. That strongly suggests to me that at the time, someone clearly thought the business had at least the potential to be viable, contrary to the viability case advanced by the appellants. The sale fell through with the onset of the pandemic, but that does not undermine my finding.

12. I am told that post-pandemic, the prospects for public houses generally, and rural public houses especially, have become yet more difficult, hence the closure of the premises in September 2021. That may well be so. Nevertheless, I find it impossible to square that with the fact that the Laurels Inn is currently being marketed at a price £50,000 more than it was pre-pandemic.

13. Taking all those points together, I do not consider that the marketing campaign has been a sufficiently realistic one.

14. In that overall context, I am of the firm view that the evidence provided on behalf of the appellants is anything but compelling and it does not demonstrate that use of the Laurels Inn as a public house is not viable or could not be made commercially viable. The proposed change of use does not comply, therefore, with Policy ST22(3)(a).

15. Turning to (3)(b), there are two main points to be made. First, the village hall does not, in my view, provide an alternative local provision. It does not operate like a public house in that it relies on events; it does not cater for the opportunistic, as opposed to planned, visit. It is, therefore, no substitute for a public house. While there are public houses in nearby villages, these are not readily accessible by walking or cycling. I appreciate that when there was consideration of the matter, it was found that the Laurels Inn was not an Asset of Community Value. However, that consideration has a different scope and basis to the one required under Policy ST22(3)(b). In my view, what is proposed here does not accord with Policy ST22(3)(b).

16. Bearing in mind the way that Policy ST22(3) works, that is the end of the matter, but I will address (3)(c) for the same of completeness. It is very clear from what I heard at the hearing, and read in the representations, that the ability to access a public house in the village is something that is very much valued. It cannot be said, realistically, that the premises are no longer required to meet the needs of the local community.

17. Bringing all those points together, the proposed change of use plainly fails to comply with LP Policy ST22(3). The next question is whether there are any material considerations that would justify a decision contrary to the provisions of the development plan, in this case.

18. It has been argued that because the premises ceased operation as a public house in September 2021, the change of use proposed would not result in the loss of a community service or facility. I do not consider that argument to be one that justifies the change of use proposed because it would remove the potential for another operator or operators to carry out the business of a public house from the premises, without a fresh grant of planning permission. That potential is part of what Policy ST22(3) seeks to protect. While I appreciate that the Council might well support such an application, it would undoubtedly make the property less attractive to a potential operator. Indeed, a potential operator might have to purchase the property as a private dwelling, and then carry out significant works, in order to then turn it back into a public house.

19. In the challenging environment for rural public houses, that seems to me very unlikely and if planning permission is granted for the change of use of the premises to a private dwelling, it is very difficult to see how a public house would ever be operated from the premises again.

20. I accept that the appellants are under no obligation to re-open the public house and can continue to live in the property. Again though, one must treat this matter with care because it would be open to the Council to take enforcement action if they became concerned that the balance between the public house and residential uses of the premises was tipping too far towards the residential element. In that way, the potential for a public house to be operated once again from the premises can be protected.

21. With those points in mind, I do not consider that the closure of the public house in September 2021, and the implications that flow from that, are sufficient, as material considerations, to set aside the approach of the development plan and Policy ST22(3) in particular. There are no other material considerations that are weighty enough to justify a decision contrary to the development plan either.

Other Matters

22. The Council refused planning permission for two reasons but in the lead up to the Hearing confirmed that the second of those two reasons, relating to design, and the provision of what was termed 'private amenity space' would not be pursued on the basis that the issues raised could be addressed by a condition that covered any boundary treatments. That seems to me an eminently sensible approach and in that context, I have taken the matter no further.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

Mr John Gower	Quiet Water Consultancy
Mr & Mrs Johnson	Appellants

FOR THE LOCAL PLANNING AUTHORITY

Ms Odette Challaby	Counsel
Ms Sara Boyle	Development Management Team Leader

INTERESTED PERSONS

Kate Smith	Local Resident
Cheryl Cottle-Hunkin	District Councillor
Malcolm Busby	Chair of Trustees of Baxter Hall and Parish Council
Mike Thompson	Local Resident
Lise Linney	Local Resident

DOCUMENTS

Document 1	Council's Response to Costs Application and Costs Application
Document 2	Appellants' Response to Council's Costs Response
Documents 3	Appellants' Response to Council's Costs Applications