



# Appeal Decision

Site visit made on 4 October 2022

**by J White BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 October 2022**

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**Appeal Ref: APP/X1118/W/22/3296731**

**Centre of Pond 110m from The Cedars, Poole Lane 87m From Pool Lane, Poole Lane, Woolacombe, EX34 7AP**

- 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 Trevor John Jordan against the decision of North Devon Council.
  - The application Ref 72538, dated 25 November 2020, was refused by notice dated 2 February 2022.
  - The development proposed is create phase one of holiday accommodation which includes the siting of 2 number 2-bedroom lodges.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During my site visit I observed a track across part of the site, that earth banks have been formed and construction works for the holiday lodges have been carried out, although partially complete. I cannot be certain that the track and lodges have been constructed in accordance with the plans. Accordingly, I have considered the proposal presented upon the plans that are the subject of the appeal and not in regard to what I observed at my site visit.

## Main Issues

3. The main issues are (i) the effect of the proposed development upon the character and appearance of the area, having particular regard to the location of the site within the North Devon Coast Area of Outstanding Natural Beauty (AONB) and the Coast and Estuary Zone (CEZ); and (ii) whether the proposed development would provide a suitable location for the holiday accommodation having regard to development plan policies.

## Reasons

### *Character and appearance*

4. The site lies in an elevated position within the AONB and within the Heritage Coast and the CEZ. The statutory purpose of AONBs is to conserve and enhance the natural beauty of the area. The National Planning Policy Framework (the Framework) attaches great weight to the conservation of landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty.

5. The character of the landscape in this part of the AONB is distinctive and is marked by broad rounded hilltops with views to the coast. Although clearly manmade in respect of the field patterns, which is interceded with holiday parks, farmsteads and residential development, it has a marked natural beauty.
6. As observed during my site visit, apart from the holiday lodges that are being constructed, there are some small buildings, including on the eastern boundary and shelters for poultry in the northeast corner of the site. Tree planting has been carried out, including a double line of evergreen trees, and there are fruit and other trees over a roughly L-shaped area. Earth banks have been formed within the southern area. A pond, whilst largely empty of water at the time of my visit, occupies a central position. The site nonetheless has the appearance of a verdant generally undeveloped site, which contributes to the open character of the landscape.
7. The lodges would be dispersed within the site. Although the topography and vegetation around it is such that the visual impact would be limited, from my own observations, the development would be visible from positions to the south, including from the public footpath that crosses Poole Lane and heads east across farmland.
8. In addition, the lodges, by virtue of the proposed siting in relation to the field boundaries would provide a scattered form of development, contributing to dispersed development and erosion of the generally undeveloped character of the site, with consequent harm to the open character and appearance of this part of the AONB and CEZ. This harm would be further exacerbated by the provision of associated tracks, parking areas, landscaping and other domestic paraphernalia that would be likely to appear. The lodges would create a domestic setting that would be harmful to the site's intrinsic open character and the scenic beauty of the AONB and CEZ.
9. The appellant refers to development within the locality, including the residential development to the sides of the site, which I found to be of low density and generally positioned close to the public highway, and the substantial holiday parks. I am not aware of the circumstances that led to those developments. In any case, it is the sporadic nature of the development proposed and the erosion of the open generally undeveloped nature of the site that is of concern. I find that the proposal would exacerbate dispersed development of the countryside causing harm to the open character and scenic beauty of the landscape.
10. Whilst not specifically referred to in the Council's reason for refusal, the parties have referred to Policy DM08A of the LP in their submissions. Policy DM08A requires that great weight be given to conserving the landscape and scenic beauty of the AONB. This is consistent with Paragraph 176 of the Framework, which I have had regard to in this decision and is accordingly relevant to this appeal. There would be conflict with Paragraph 176 of the Framework.
11. Consequently, the proposal would harm the character and appearance of the area, having particular regard to the location of the site within the AONB and CEZ. It would, on this issue, therefore conflict with North Devon and Torridge Local Plan 2011 -2031 (the LP) Policies ST04, ST09, ST14 and DM04, which amongst other things seek to deliver high quality design that conserve the characteristics and appearance of the area. Accordingly, there would also be

conflict with Policy DM08A of the LP with regard to the character and appearance of the area.

*Location*

12. Policy ST01 of the LP reflects the presumption in favour of sustainable development contained in the Framework. Policy ST07 of the LP provides a spatial development strategy for Northern Devon's Rural Area. It supports development in accordance with a settlement hierarchy. The LP seeks to sustain the rural area of Northern Devon as a living and working environment whilst seeking to ensure development does not exacerbate the area's dispersed settlement pattern, that the landscape quality is not compromised and any conflicts with the principles of sustainable development are minimised.
13. Morteheo and Woolacombe are settlements west of the site. The holiday lodges would be in a countryside location beyond these settlements. In such locations development is limited to that which meets local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.
14. Policy ST13 supports high quality sustainable tourism development. Policy DM18 refers to tourism accommodation. Outside the identified settlements development of new tourism accommodation is supported in accordance with part (2) of Policy DM18 where it:
  - (a) is related directly to and compatible in scale with an existing tourism, visitor or leisure attraction; or
  - (b) reuses or converts existing buildings; or
  - (c) improves facilities for or diversifies the range or improves the quality of existing tourism accommodation.
15. In circumstances where one of these criteria are met, development is acceptable subject to the requirements of criteria (d) to (h) of the Policy.
16. The appeal site is not related to an existing tourism, visitor or leisure attraction in terms of DM18 (2) (a) and, as such, would not accord with this part of the policy. The proposal would also fail (2) (b) and (c) of Policy DM18 because it would not reuse or convert a building and it does not relate to existing tourist accommodation.
17. Notwithstanding this, in support of the proposal the appellant considers the site is a suitable location in accordance with the Framework, notably Paragraph 84, and he refers to the accessibility of the site. I observed during my site visit that a bus stop is a short distance from the site, however I do not have full details of the service. As such there is no substantive evidence to indicate that this would be a likely alternative option to car use for most needs.
18. There are also pedestrian links to Woolacombe along the no through road of Poole Lane with links to other footpaths, however, the site is elevated and the route is steep in places and unlit. There is no evidence to show that Morteheo would be any more accessible and there is no substantive information before me to demonstrate that the proximity of other development, including holiday parks, would contribute to improving the accessibility of this site.

19. Given this and the distance to services and the coast, although the site does present some opportunity for alternative forms of travel, from the evidence available I consider it most likely that guests would be reliant on a car to meet their day-to-day needs.
20. Therefore, when judged against LP policies, the proposal would not be in a suitable location. Permitting it would undermine the strategy for the distribution of tourism accommodation, it is likely that car borne travel would be encouraged and, as I have found above, the proposal would cause harm to the character and appearance of the area, having particular regard to the location of the site within the AONB and CEZ. As such, the proposal would not be a sustainable form of holiday accommodation and there would be conflict with relevant development plan policies.
21. Notwithstanding that, the appellant considers that the weight attached to the LP and its policies, including Policy DM18, should be limited because the plan predates the Framework. However, the weight to be attached does not hinge on the age of the Local Plan. Rather Paragraph 219 of the Framework makes it clear that due weight should be given to existing LP policies according to their degree of consistency with the Framework.
22. The Framework seeks to enable sustainable growth and expansion of all types of business in rural areas, including through well-designed new buildings. It also seeks, amongst other things, to enable development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism that respects the character of the countryside.
23. Paragraph 85 of the Framework recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. Therefore, the general thrust of the LP in supporting high quality sustainable tourism development and providing for this outside the identified settlements when certain criteria are met is consistent with the overarching approach of the Framework. The conflict between the proposal and the relevant LP policies should therefore be given significant weight in this appeal.
24. The appellant and Council disagree on the extent to which Policy DM14 of the LP, which supports new small scale economic development, is relevant to the proposal. The appellant has also referred to Policy DM15, although he considers the policy is inconsistent with the Framework, specifically Paragraph 84, and, therefore, should be afforded limited weight. However, Policy DM15 enables farm diversification, which I find is consistent with the general thrust of the Framework.
25. In any case, in having regard to this, although the appellant advises that the site supports a horticultural business, I do not have full details of this and there is no substantive evidence of the scale of an existing activity taking place. Whilst I observed fruit trees within the site and although some poultry were present, large areas are comprised of grass. From the evidence available to me I am not satisfied that the proposed development would have a strong functional link to local agriculture, forestry or other existing rural activity, that the scale of development proposed is justified by the operational needs of an agricultural enterprise or that it would reinforce the viability of an existing farm business. I am not therefore persuaded that the proposal would be supported by Policies DM14 or DM15.

26. I accept that the proposal has the potential to contribute favourably to the rural economy as a result of tourists residing at the site and that this would contribute to meeting demand for tourism accommodation. I also accept that tourism is a significant part of the local economy and that there is support for sustainable tourism developments under the LP. However, the proposal is only for two holiday lodges, which would limit the contribution the development makes to the local economy. In any case, the economic benefit alone does not carry sufficient weight to override the harm I have found in relation to the proposal's countryside location and its effect on the character and appearance of the area, the AONB and the CEZ.
27. Consequently I find that, on this issue, the proposal would not provide a suitable location for the proposed holiday accommodation. As such, the proposal would be contrary to policies ST01, ST07, ST13 and DM18 of the LP, which together seek to ensure that development proposals are suitably located for sustainable tourism.

#### *Other Matters*

28. In addition to the potential economic benefits of the proposal, which I have considered above, the appellant refers to ecological improvements and resulting social benefits through the creation of a biodiverse environment. However, there is little evidence before me in relation to these proposed improvements and, in any case, the overarching objectives of the Framework are interdependent, and should be considered as a whole. The benefits do not negate the development's overall conflict with the Framework and development plan.
29. Other appeal cases, where similar considerations have been part of a decision, have been brought to my attention. However, whilst the full details are not before me, these have clear differences from this appeal. It is evident that the case relating to 1 Bydown Cottages in North Devon was within a garden of an existing dwelling and outside of the AONB and, in any case, that appeal was dismissed. The case relating to land in Stockton-on-Tees was not subject to the North Devon and Torridge Local Plan policies. Nevertheless, I have determined this appeal on its merits based on the evidence provided in the submissions, and these cases have had little bearing on my findings.

#### **Conclusion**

30. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*J White*

INSPECTOR