



# Appeal Decision

Site visit made on 15 November 2022

**by Juliet Rogers BA (Hons) MA MRTPI**

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

**Decision date: 21 December 2022**

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**Appeal Ref: APP/X1118/W/21/3288689**

**Land Adjacent to The Stables, Patchole, Kentisbury, Barnstaple EX31 4NB**

- 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 Mrs L Nicholas against the decision of North Devon District Council.
  - The application Ref 72698, dated 24 December 2020, was refused by notice dated 18 October 2021.
  - The development proposed is the erection of 3no. dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal scheme is for outline planning permission with detailed approval sought for access, layout, scale and landscaping. Matters relating to appearance are reserved for future approval. Whilst not formally part of the appeal scheme, I have treated any details submitted with the appeal application relating to appearance as indicative.

## Background and Main Issue

3. The appeal was submitted following the Council's refusal of the planning application due to the development of open market housing not meeting an identifiable local need and the lack of a planning obligation to secure green infrastructure.
4. During the course of the appeal, a Section 106 Agreement (the S106) was submitted, dated 8 July 2022 and signed by the appellant and the Council. The S106 requires the appellant to pay a Recreation Contribution to the Council prior to the commencement of development, and for the contribution to be used only towards specific local facilities. This satisfies the Council's concerns in respect of green infrastructure.
5. Consequently, the main issue of this appeal is whether the site is an appropriate location for open market housing, having regard to local planning policies in respect of villages without development boundaries.

## Reasons

6. The appeal site comprises two paddocks located at Patchole. Patchole forms part of the dispersed settlement of Kentisbury, along with Kentisbury Town and Kentisbury Ford. The Rural Areas Strategy, as defined within Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (2018) (the Local Plan),

- identifies Kentisbury as a Schedule B Village. In the case of Schedule B settlements, development “will be enabled: within development boundaries and on allocated sites defined on the Policies Map, and within the principal built form of settlements without development boundaries”.
7. Although Kentisbury does not have a defined development boundary, reflecting community preference, Policy DM23 supports residential development in villages without development boundaries where:
    - it is located within the principal built form of the settlement and is not protected for any other use; OR
    - it is well related to the main built form of the settlement and provides an affordable housing focused development, in accordance with Policy ST19.
  8. The appeal scheme would not provide an affordable housing focused development. Therefore, as the site is not protected for any other use, the first scenario above is relevant. Although the term ‘well related’ is defined in the Local Plan<sup>1</sup>, there is no definition setting out the meaning for ‘within the principal built form’. As a result, it is necessary for me to consider the relationship of the appeal site to the existing principal built form of Patchole, regardless of the terminology used by the Council officers in their description of the site.
  9. The settlement network that forms the village of Kentisbury comprises dispersed clusters of built form, predominately focussed along the key roads in the area. In Patchole, the principal built form is clustered around the junction between Ley Lane and Ford Hill/Stonecombe Hill, with properties primarily fronting these roads. The private lane access to the site connects to Stonecombe Hill, with built form, including Patchole Manor and buildings to its rear, located on the opposite side of the lane to the site.
  10. Although three sides of the site adjoin the property boundaries associated with the principal built form, combined with existing garden areas, the two paddocks create a ‘U’ shaped gap between the existing buildings. Existing landscape features along the site boundaries also provide a visual separation between the existing built form around Ley Lane/Higher Patchole Farm and Patchole Manor. Additionally, as the appeal site is located to the rear of Spring Cottage, away from Ford Hill/Stonecombe Hill, the proposed development would not front the road unlike the majority of the principal built form of the settlement.
  11. Given the above, it is my view the appeal site is not located within the principal built form of Patchole. It does, however, meet the definition of being well-related to Patchole, as it adjoins the main built up form of the settlement.
  12. I conclude that the location of the proposed development is not appropriate for open market housing, contrary to policies ST01 and DM23 of the Local Plan. These policies, amongst other provisions, seek to ensure new development achieves the principles of sustainable development and supports the implementation of the Rural Areas Strategy.

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<sup>1</sup> “Sites adjoining the main built up form of a settlement, particularly in relation to villages without identified development boundaries”.

13. On the decision notice, the Council also refers to Policy ST19 of the Local Plan. As this relates to the requirements where affordable housing is proposed on exception sites, it is not determinative in respect of the appeal scheme.

### **Other Matters**

14. My attention has been drawn to Higher Patchole Farmhouse, which is a Grade II Listed Building located close to the site. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990, I have paid special regard to the desirability of preserving the setting of this designated heritage asset.
15. The building of Higher Patchole Farmhouse is constructed from unrendered stone rubble and, despite the presence of additions to the building, has a traditional rural character. Accessed off Ley Lane, the side elevation of the farmhouse is orientated towards the site with a kitchen garden to the front. Therefore, I consider that its significance/special interest is largely derived from its form, historic fabric and particular architectural features. I have no evidence before me as to whether the listed building is still associated with an agricultural use and several stone barns close to the farmhouse have been converted into dwellings and have separate private gardens. As such, the perception of the original function of these buildings has been eroded.
16. Moreover, many of these dwellings are located between the farmhouse and the appeal site providing, in combination with the adjoining small paddock, a physical and visual separation between the listed building and the appeal site. Accordingly, the ability to appreciate and understand its significance/special interest would not be materially affected by development of the appeal site. I find, therefore, that the special interest and significance of the listed building, and its setting, would be preserved.
17. Even if I were to conclude that the proposed development preserves the rural character of the settlement and conserves the landscape setting, these would be neutral factors.

### **Planning Balance**

18. I have concluded that the proposed development is contrary to policies ST01 and DM23 of the Local Plan. In respect of achieving sustainable development and the plan led approach to housing delivery, I consider policies ST01 and DM23 to be consistent with the principles set out in Sections 3 and 5 of the Framework. Consequently, the proposed development conflicts with the development plan when read as a whole.
19. There is no disagreement between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the National Planning Policy Framework (the Framework). Although the latest position confirmed by the Council is from April 2019, I have no substantive evidence before me that indicates the 4.23 year supply identified has improved to the extent that a 5 year supply of deliverable housing sites can now be demonstrated. As such, paragraph 11dii applies. As I have found that policies ST01 and DM23 of the Local Plan are consistent with the Framework, I apportion considerable weight to the conflict identified above.
20. In terms of the appeal scheme's benefits, it would have social, environmental and economic benefits. The construction of three additional dwellings supports

the Framework's objective of significantly boosting the supply of homes whilst supporting local jobs and income. Whilst the appellant argues that the proposed dwellings would provide much needed family homes to meet local needs, I have limited evidence to justify this. Nevertheless, three additional units would make a limited contribution to the Council's housing land supply. As such, I attach moderate weight to the benefits that would be brought about by additional open market housing. Further social benefits from the green infrastructure contributions, in the form of open space and play provision in Kentisbury would be small and therefore of limited weight. The environmental benefits resulting from a net gain in biodiversity ultimately achievable would be modest given the site's size and such benefit would attract limited weight.

21. Therefore, the adverse impacts of the development significantly and demonstrably outweigh the benefits, and the presumption in favour of sustainable development, as set out in the Framework, does not apply. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

### **Conclusion**

22. For the above reasons, the appeal is dismissed.

*Juliet Rogers*

INSPECTOR