



# Appeal Decision

Site visit made on 6 December 2022

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

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

**Decision date: 04 January 2023**

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**Appeal Ref: APP/X1118/W/22/3304360**

**Land southeast of Bottoms Lane, Darracott, Georgeham EX33 1JY**

- 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 Miss Emma Hill against the decision of North Devon Council.
  - The application Ref 74539, dated 14 December 2021, was refused by notice dated 23 June 2022.
  - The development proposed is demolition of equestrian buildings and construction of a self-build, local need dwelling and garage.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - The effect of the proposed development on the character and appearance of the surrounding area, including the North Devon Coast Area of Outstanding Natural Beauty (the AONB); and,
  - Whether the proposed development would be in a suitable location for housing having regard to the proximity of services, limiting the need to travel and offering a genuine choice of transport nodes, and having regard to the spatial strategy of the development plan.

## Reasons

### *Character and appearance*

3. The appeal site is part of a field that comprises a row of small equestrian buildings and a riding arena, located on the eastern side of Bottoms Lane and the hamlet of Darracott. A track providing access to the site from Bottoms Lane runs along its northern boundary. The northern part of the field is relatively flat, with the land in the south falling away to the boundary of the field. There are fields to either side with the main nucleus of buildings within Darracott to the west. The appeal site is located within the AONB.
4. It lies in the Downland Landscape Character Type which is characterised by a simple agricultural landscape dominated by sky. It has dispersed farmsteads and nucleated villages and hamlets located in tributary valleys and around crossroads.
5. Darracott is a cluster of low-density residential properties which are predominately rendered houses with slate or tile roofs. There are examples of

more modern dwellings, including along the northern side of the track providing access to the appeal site. Although the appearance and character of those developments generally reflect and respond to the local traditional building character and appearance of Darracott, contributing to an overall attractive built scene. The context of existing development and the relationship of the site with Darracott means that it is not isolated.

6. However, the proposed development would result in a much larger building on the site, which due to its scale, position and materials, would be conspicuous particularly in views from the south and from Orchard Lane, and would fail to assimilate with the existing residential buildings within its setting. Further, its design would jar with the traditional building character of Darracott by virtue of its fenestration, materials and massing. The proposed building would be at odds with the form and vernacular of the residential development locally, which would cause it to appear incongruous. This would be uncharacteristic of the area and harmful in this location on the edge of the hamlet. The whole effect is a scheme that which would lack a sense of subtleness, and it would be a dominant building causing harm to the landscape and scenic beauty of the area and the AONB.
7. The Devon bank hedge proposed to the south and east boundaries of the site would help to mitigate the visual impact of development somewhat and I am cognisant that the proposal would replace existing buildings on the site, although these are small low-lying buildings positioned close to the west boundary hedge. Having regard to these factors, the harm to the AONB identified above would be moderate. Applying paragraph 176 of the National Planning Policy Framework (the Framework) this harm is something to which great weight should be given. I return to this in the overall planning balance.
8. For the reasons above, I conclude that the proposed development would be harmful to the character and appearance of the surrounding area, including the AONB. As such, in this respect, the proposal would not accord with Policies ST14 and DM08A of the North Devon and Torrington Local Plan (the LP) or Policy BE5 of the Georgeham Parish Neighbourhood Plan (the NP) which together, amongst other things, require that development is of an appropriate scale and design and conserves the special character and qualities of the AONB.
9. The Council has referred to Policy DM08 of the LP within its reason for refusal. This policy relates to biodiversity and geodiversity. Therefore, with regard to this main issue, I find no conflict with Policy DM08.

#### *Location of development*

10. The appeal site lies in a rural area on the edge of Darracott and approximately 1km to the southeast of the edge of the main built form of Georgeham. Policy ST07 of the LP provides support for development in accordance with a settlement hierarchy, including directing development to the defined Local Centres and Villages, as well as the 'Rural Settlements'. Policy DM24 of the LP refers to development in Rural Settlements. However, as Policy ST07 defines a Rural Settlement as one which contains at least one prescribed service or community facility, Darracott is not a Rural Settlement. Accordingly, the proposal would not fall within the terms of Policy DM24.
11. For the purposes of planning policy, the appeal site falls within the countryside where part (4) of Policy ST07 of the LP indicates that development will be

limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location. The Council clarify that the FAQs that support the LP advise the evidence required to demonstrate development as meeting a particular 'economic or social need' is linked to that required by provisions of policies within the development plan. Paragraph 4.16 of the LP advises that in the countryside, the LP seeks to control dispersed development, guarding against unsustainable locations. It advises that housing adjoining a Local Centre, Village or Rural Settlement may also be enabled on an "exceptions" basis to meet an identified local need that could not otherwise be addressed.

12. The appellant refers to Policy H3 of the NP which is concerned with rural exception sites and the delivery of affordable housing development. However, there is no signed Section 106 Agreement or other mechanism in place to secure the proposed dwelling as affordable housing. Accordingly, the proposal would not comply with the terms of Policy H3 of the NP, and it would not be permissible on an "exceptions" basis.
13. Notwithstanding that, the Council has agreed that the appellant meets a "locally identified need" for housing in accordance with Policy DM24. However, as set out above, the proposal would not comply with the terms of this policy because it would not be within a Rural Settlement.
14. The Framework (paragraph 104), amongst other things, seeks to ensure that opportunities to promote walking, cycling and public transport are identified and pursued. It requires that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport nodes (paragraph 105). Although the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
15. Due to the relationship of the site with Darracott, the proposal would not result in an 'isolated' dwelling under the terms of paragraph 80 of the Framework. However, future occupants of the development would need to travel to Georgeham as the nearest settlement which has a limited range of shops, facilities, bus services and employment opportunities. While it may be technically possible to access these facilities by foot or bicycle, the roads beyond the settlement are generally unlit with no pedestrian footway and are relatively steep in places. Although these routes may be lightly trafficked and subject of a 20mph speed restriction, these circumstances do not lend themselves to safe use by pedestrians and would be unlikely to encourage cycling, in particular at times of darkness or adverse weather conditions.
16. It is therefore highly likely that future occupiers of the development would be dependent on the use of a private car rather than the use of sustainable modes of travel for most day-to-day needs.
17. The proposal would be in the countryside, beyond Local Centres, Villages and Rural Settlements and so as not to be accessible by sustainable means of transport in order to minimise the need to travel by private car, and would not be a sustainable location for development. It is likely that car borne travel would be encouraged. As such, on this main issue, the proposal would conflict with Policy ST07 of the LP, which amongst other things, provides a spatial strategy for development and seeks to control dispersed development, guarding against development in unsustainable locations.

18. In its reason for refusal the Council also refers to policies ST09, ST14 and DM08 of the LP. Policy ST09, amongst other things, seeks to safeguard the landscape setting and cultural heritage of the Coastal and Estuarine Zone. Policy ST14 seeks, amongst other things, to ensure development conserves environmental assets, including the special character and qualities of the ANOB. As already mentioned, Policy DM08 refers to biodiversity and geodiversity. These policies do not set out a spatial strategy for housing and, with regard to this main issue, I find no conflict with these policies.

### **Other Matters**

19. On the evidence before me I am unable to rule out, in the first instance, likely significant effects on the integrity of the Braunton Burrows Special Area of Conservation as a result of potential impact of recreational pressure in combination with other plans and projects. Had I been minded to allow the appeal, it would have been necessary for me to consider these matters further within an Appropriate Assessment. However, as I am dismissing the appeal for other reasons given above, I have not pursued these matters further.
20. The appellant advises that permitted development rights typically available to dwelling houses could be restricted by condition. Be that as it may, this would control potential future development and would not therefore affect the impact of the development proposed on the character and appearance of the area, including the AONB. Accordingly, I give this very limited weight.
21. The appellant advises that the site is previously developed land (PDL). The Framework encourages the use of PDL and sites that are physically well related to existing settlements where suitable opportunities exist. Part of the site is occupied by buildings in equestrian use, and part is grassed which does not display a PDL. The scale of the proposal in relation to the existing buildings and the area of PDL that it would replace, together with its unsustainable location, somewhat diminishes the positive weight that I attach to the use of PDL.
22. I have been referred to a number of schemes granted by the Council elsewhere. The appellant has not supplied detailed evidence to demonstrate the relevance of these cases to the current proposal and how it should, in the appellant's opinion, support a grant of planning permission in this appeal. In any case, the circumstances in each proposal are likely to be different, and the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above. The effect of development on the AONB and its location are materially different to those cases. Therefore, these are matters to which I attach limited weight.
23. I have also been referred to appeal cases. The case at Land at Croyde Road was considered to be just outside the development boundary of Croyde and that the development would appear as part of the established built form of the settlement. At Norway, the history of planning permission for a dwelling on the site through the conversion of a building had bearing. The case at the Old Chicken Shed involved the conversion of an existing building and that building lies markedly closer to Georgeham. As such there were significant differences and, accordingly, these schemes have attracted limited weight and they do not deflect from my concerns relating to the appeal scheme.

## Planning Balance

24. The Council accepts that it is not possible to demonstrate a five-year housing land supply at present, with it only having a 4.23 year supply. Paragraph 11 of the Framework states plans and decisions should apply a presumption in favour of sustainable development and that for decision-taking this means that, where the policies which are most important for determining the application are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
25. The proposal would align with the aims of paragraph 60 of the Framework to significantly boost the supply of housing. The economic and social benefits from the build and occupation of the proposed dwelling would align with the Framework where it states development in one village may support services in others. The proposal for a Passivhaus design dwelling would align with the aims of the Framework to support the transition to a low carbon future. However, the provision of one additional unit within the site would make little meaningful difference to the supply of housing and these benefits would be limited. Accordingly, these are factors to which I attach limited weight.
26. The proposal would conflict with the housing strategy of the development plan. However, given the existing shortfall, I give the conflict with these policies moderate weight.
27. The Framework recognises that opportunities to maximise sustainable transport solutions vary between urban and rural areas. I acknowledge that there is generally a greater reliance on private cars in more rural areas and there are already a number of residential properties a similar distance from services and facilities within Darracott. Nonetheless, this would run contrary to the aim of providing sustainable patterns of growth. I give this considerable weight.
28. The appellant has offered the dwelling as an affordable self-build dwelling and has included a draft Section 106 Agreement. However, there is no signed Section 106 Agreement or other mechanism before me to secure the dwelling as an affordable self-build dwelling. As such, this has no bearing on my consideration of this appeal. However, the appellant is a key worker employed at a local school and the parties agree the appellant would comply with the definition of 'local need'. The appellant has also offered that the dwelling be conditioned so as to require it to be occupied by a local person. I afford the matter that the dwelling would meet a local need moderate weight.
29. The proposal would fail to accord with the Framework where it recognises the intrinsic character and beauty of the countryside. There would be moderate harm to the character and appearance of the surrounding area and to the landscape and scenic beauty of the AONB. It would be contrary to the adopted development plan policies in this regard that are broadly consistent with the Framework. Accordingly, I give this considerable weight.
30. The application of the policies of the Framework that protect areas or assets of particular importance, in this case harm to the AONB, provides a clear reason for refusing the development proposed. Therefore, in accordance with paragraph 11 d) i) of the Framework, the balance in paragraph 11 d) ii) is not engaged.

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.

**Conclusion**

32. 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