



Appeal Decision

Site visit made on 3 September 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/X1118/W/23/3330485

Land at High Tide, North Morte Road, Morteheo EX34 7EG

- 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 Ms Catherine Cull Thomas against the decision of North Devon District Council.
 - The application Ref is 77084.
 - The development proposed is the erection of a new dwelling and associated works.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Ms Catherine Cull Thomas against North Devon District Council. This is the subject of a separate decision.

Preliminary Matters

3. Since the Council determined the application a new version of the National Planning Policy Framework (the Framework)¹ came into effect. During the appeal, the main parties have had the opportunity to provide further comments on the revised Framework and, where received, I have taken them into account in my decision. I am satisfied no party would be prejudiced by determining the appeal accordingly.
4. In November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England, including the North Devon AONB, became known as National Landscapes. Their statutory status remains unchanged.
5. On the decision notice, the Council referred to Policy DM08 of the Local Plan² which relates to Biodiversity and Geodiversity. During the appeal, the Council confirmed that Policy DM08A should have been listed on the decision notice. The Application Report, however, makes specific reference to Policy DM08A and the Council's statement of case highlights the typographical error. I am, therefore, satisfied that no party will be prejudiced by the appeal being determined against Policy DM08A.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the North Devon National Landscape (the NDNL).

¹ December 2023

² North Devon and Torridge Local Plan 2011-2031 (the Local Plan)

Reasons

7. Given the site's location within the NDNL, in considering the proposed development I have had regard to Chapter 15 of the Framework. This requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of the area. Further, as a National Landscape, the NDNL has the highest status of protection concerning these issues, reflecting its statutory purpose. Policy DM08A of the Local Plan is consistent with this approach by giving great weight to conserving the landscape and scenic beauty of the designated landscape and its setting.
8. The special characteristics of the part of the NDNL within which the site is located, include the dramatic and rugged coastline. Whilst large areas of the coastline are undeveloped, linear settlements such as Morteheo and tourism developments follow the narrow roads which meander across the landscape including North Morte Road.
9. Located back from North Morte Road, the site is accessed via a shared private drive and comprises a two-storey dwelling known as High Tide. Other properties are accessed off the drive comprising large, detached buildings set within generous plots, many of which are screened by substantial mature trees and dense hedging screens. As the private drive rises and curves away from North Morte Road, the landscape features dissipate creating a sense of openness to the area immediately around High Tide.
10. The scale of High Tide is more modest in comparison to other buildings and their plots nearby. However, the existing dwelling's siting away from the private drive combined with the openness of its gardens and limited, low-level manufactured boundary treatments maintain the open and spacious character of the area. Although the proposed dwelling would be positioned at a lower level than High Tide, the space between the two dwellings would be significantly smaller than the spacing between the other buildings in the private drive. This cramped arrangement would erode the open and spacious character of the area and encroach on the setting of High Tide, even if strong boundaries between the two properties are proposed.
11. Behind High Tide, the imposing property known as The Grange is located which predominately obscures visual connections between the site and the wider landscape, including the NDNL. As the proposed dwelling would be located between High Tide and North Morte Road on a steeply sloping part of the site, it would be surrounded by existing development. Consequently, the enveloped location of the proposed dwelling has a character more strongly influenced by the built form, topography and landscape features in its immediate surroundings. As such, the proposed development's limited physical and visual relationship with the wider area, including the NDNL, would conserve the special characteristics of the landscape and scenic beauty of the designated landscape.
12. Beyond the cluster of buildings around the private drive, more variety in building types, scales, plot sizes and the integration of trees and hedgerows on the character of the area is evident. The pattern of development associated with the private drive, however, shares few characteristics with the built form in the wider area. Even if properties in the surrounding area, like the appeal site, are located on land formerly part of The Grange, the relationship between these areas is limited as a result of the lack of visual and physical connections.

13. The site's location behind existing properties on North Morte Road, existing landscape features and the rising topography, limits the views of the site from the road. Whilst sited closer to the road than High Tide, the retained trees and undergrowth along the private drive would screen a significant proportion of the new dwelling, particularly when the deciduous vegetation is in leaf. Regardless of this, the cramped arrangement of the proposed development on the site and its close proximity to High Tide would be experienced by occupiers of both dwellings and those residing in other properties off the private drive. Consequently, the appeal scheme would result in an incongruous building form in the area which would be detrimental to the character and appearance of the area.
14. Evidence before me indicates that the Council had no in-principle concerns regarding the introduction of a dwelling in this location given the spatial strategy set out in Policy MOR of the Local Plan in response to a pre-application enquiry³. Similarly, no significant concerns were raised regarding the overall size, scale, bulk and massing of the proposal.
15. Notwithstanding the limited evidence before me about the proposal therein, the enquiry comprised a single-storey dwelling with a lower ridge height to the appeal scheme. Furthermore, the Council's response states that to avoid/mitigate any likely visual presence of the works in this sensitive location, it is recommended that any proposal remains at a single-storey level. In any event, the Council is not bound by any advice provided at the pre-application stage. This also applies to the advice given by a case officer during a pre-planning meeting on site⁴ and the acceptability of a 1.5-storey dwelling, even if evidence was before me to verify this statement.
16. In concluding that the proposed development would not harm the NDNL, this appeal case displays similarities with the Greenfield House decision⁵. Notwithstanding the limited evidence before me regarding the Greenfield House scheme, any further comparisons between these two cases are negligible due to the proximity of the Greenfield House site to the road and the neighbouring pattern of development. Furthermore, at the time the appeal was determined, the Council were unable to demonstrate a five-year supply of deliverable housing sites. No substantive information has been provided confirming that the Council's supply of housing falls below the requirements of the Framework. Therefore, I have based my decision on the specific merits of the case before me, taking into account the information provided and my site visit observations.
17. I conclude that the proposed development would harm the character and appearance of the area, contrary to policies DM04, DM08A and ST04 of the Local Plan. In combination, these policies require development to have regard to its setting and reinforce the key characteristics and special qualities of the area and landscape, amongst other aspects. I also find conflict with the Framework's objective for development to contribute to and enhance the natural and local environment.
18. Whilst not listed on the decision notice, Policy ST14 of the Local Plan is referenced in the Application Report. As this policy also relates to the need for new development to contribute to protecting and enhancing the local landscape

³ Ref: ENQ/0778/2022, dated 3 November 2022

⁴ 28 October 2022

⁵ APP/X1118/W/22/3295511 – Land adjacent to Greenfield House, dated 10 October 2022

character, amongst other aspects, I also conclude that the proposed development conflicts with the requirements therein.

Other Matters

19. The proposed development would provide social and economic benefits from the construction and occupation of a new dwelling, supporting the Framework's objective of significantly boosting the supply of housing. Additional residents to the area would also aid the vitality of existing services and facilities in Morteheo. However, given the small scale of the development, any such benefits would be limited. Similarly, any environmental benefits resulting from low-carbon heating and cooling solutions and the use of modern technologies in a highly efficient dwelling would be small despite the Council's declared Climate Emergency. I attached limited weight to these benefits as a result.
20. Even if I were to conclude that the proposed development complies with policies DM01, DM05, DM06 and DM08 of the Local Plan this would be a neutral factor in my decision.

Conclusion

21. The proposed development conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, the appeal is dismissed.

Juliet Rogers

INSPECTOR