



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: 1 October 2024

Appeal Ref: APP/X1118/W/24/3343651

Higher Mullacott, Road from St Brannocks Road to Mullacott Cross Roundabout, Ilfracombe, Devon EX34 8NA

- 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 Mr S Greenwell against the decision of North Devon District Council.
 - The application Ref is 78277.
 - The development proposed is the erection of a holiday let unit, improved access and resurfacing to create additional parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a holiday let unit, improved access and resurfacing to create additional parking at Higher Mullacott, Road from St Brannocks Road to Mullacott Cross Roundabout, Ilfracombe, Devon EX34 8NA in accordance with the terms of the application, Ref 78277, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr S Greenwell 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 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. I note from the appeal documentation and my site visit that the construction of a building has commenced. However, as I cannot be certain that the ground floor slab and walls constructed reflect the appeal scheme, my assessment relates to a commenced but not completed development. Therefore, my decision is based on the submitted plans.

Main Issues

5. The main issues are:

¹ December 2023

- the effect of the proposed development on the character and appearance of the area; and
- whether the appeal site is suitable for the proposed development, having regard to the local development strategy for tourism accommodation.

Reasons

Character and appearance

6. The appeal scheme comprises a detached building which would be used as a holiday let, increasing the number of tourist accommodation units at Higher Mullacott Farm Cottages. The existing accommodation is located within former farm buildings, arranged around a communal courtyard. Together, this arrangement, use of materials and agricultural features create a development which has a traditional appearance that reflects the character of its countryside setting.
7. Although a separate building, the proposed development would be situated a short distance from the existing holiday lets and share the gravel access driveway off the A361. It would incorporate many of the traditional features evident on the existing buildings, including small timber windows set immediately below the eaves, with divided glazing lights, oak lintels and slate windowsills, plus rendered walls and areas of exposed brickwork. This would establish a visual connection between the existing and proposed forms. While not a copy of the existing buildings, nevertheless the proposed building has a character and appearance which demonstrates a clear, albeit more modern, interpretation of their key features and characteristics.
8. The proposed building would be evident in the vista from the Lower Mullacott Farm access road (part of which is also a public right of way). However, it would not be isolated in this view but rather experienced as part of the Higher Mullacott Farm Cottages farmstead. Moreover, at this distance, the built form would partially merge into the densely wooded boundary hedging located on the gently rising land behind the site. Instead, the eye is drawn more to the open and lush pastureland of Mullacott Alpacas located between the access road/public right of way and the appeal site. Despite the introduction of built form on the appeal site, the undulating patchwork of open fields, interspersed with densely wooded areas and scattered farmsteads characteristic of the surrounding landscape would be maintained.
9. The Council referred to concerns regarding the size of the proposed building in the Application Report, although no further clarification of this is outlined therein. The proposed holiday let would comprise a building footprint with different proportions to the existing buildings, primarily in terms of its depth. However, due to its siting away from the existing buildings, slightly elevated position relative to the existing holiday lets and close to the wooded site boundary, this difference would not be readily apparent to the observer. It would not therefore be harmful.
10. Even if I were to conclude that the reduction in the area of glazing between the appeal scheme and the previously refused planning application² and

² Council ref: 74197, dated 9 November 2022

subsequently dismissed appeal³ is minimal, I have based my decision on an assessment of the scheme before me.

11. I conclude that the proposed development would not harm the character and appearance of the area. It accords with policies ST09 and ST14 of the Local Plan⁴ which, amongst other provisions, support development that does not detract from the unspoilt character, appearance and tranquillity of its landscape setting.

Location

12. As the site is located outside the hierarchy of settlements set out in Policy ST07 of the Local Plan, for the purposes of the development plan it lies within open countryside where development is restricted. However, some forms of development, including those which meet local economic and social needs are excluded from this restriction. Policy DM18 of the Local Plan amplifies this approach with specific reference to tourism accommodation, supporting the expansion of existing tourism accommodation where it improves the facilities or diversifies its range, amongst other provisions.
13. The proposed development would provide additional tourism accommodation. Consequently, it would be beneficial to the local economy and increase the range of units available at an existing holiday let location. Policy DM18 also requires development to respect the key characteristics of the landscape character. As I have found the proposed development would not harm the character and appearance of the area, there is no conflict with Policy DM18.
14. I conclude that the appeal site is suitable for the proposed development, having regard to the local development strategy for tourism accommodation. It therefore accords with policies ST07 and DM18 of the Local Plan which support development in the countryside that meets the needs of the local economy, improves the facilities and diversifies the range of tourism accommodation available.

Conditions

15. As the development has commenced but is not yet complete, I have not imposed the standard time limit condition. However, I have imposed a condition requiring the development to be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of the character and appearance of the area.
16. Notwithstanding the materials and landscape proposals indicated on the plans, to protect the character and appearance of the area, I have imposed conditions requiring the details of the external materials and finishes, and landscaping works to be submitted to and approved by the Council. These conditions are imposed to ensure that such details are submitted, approved and implemented to make the development acceptable in planning terms. There is a strict timetable for compliance and implementation within both of these conditions because the development has commenced. It is not possible to use a negatively worded condition to secure the approval of these details before the development takes place. They also ensure that the development can be enforced if the requirements therein are not met.

³ Appeal ref: APP/X1118/W/23/3315960, dated 5 October 2023

⁴ North Devon and Torridge Local Plan 2011-2031 (the Local Plan)

17. A condition which aims to ensure any trees planted as part of the landscaping works are retained and managed in the interests of protecting the character and appearance of the area is also imposed. To protect ecology and prevent surface water flooding, two conditions requiring the installation of bat and bird boxes and the approved soakaway system before the first use of the holiday let are necessary.
18. To prevent the creation of a permanently occupied dwelling in the countryside, I have imposed a condition restricting the use of the proposed development to holiday accommodation. This limits the maximum number of days a person or persons can continuously occupy the holiday accommodation to 28 days per calendar year. I have also imposed a condition which removes the permitted development rights of the proposed development to ensure any proposals seeking to enlarge or add to the building, or further structures within the site, protect the character and appearance of the area. Whilst not included in the Council's version of this condition, I have also included Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as this refers to further additions to the roof.
19. A condition relating to the discovery of soil or groundwater contamination during the development of the site has been provided by the Council. However, I have no substantive evidence before me to conclude that this is a potential risk for the appeal site. Nor have I been presented with evidence that the works already undertaken on the site have led to the discovery of any contamination. Therefore, I have not found it necessary to impose this condition.
20. The highway safety condition suggested by the Council would require the recommended approach to the site to be publicised by the appellant on their website and in any booking confirmation emails. Notwithstanding the difficulty drivers may have when turning right off the A361 into Higher Mullacott, particularly during the peak tourism season, there is good forward visibility to enable the manoeuvre to be undertaken safely. Alternatively, drivers also have the option to continue along the A361 a short distance to the roundabout before doubly back. Moreover, I have no substantive evidence before me to conclude that the proposed development would lead to a noticeable increase in traffic, nor that there is a history of accidents at or within the vicinity of the site. Irrespective of the enforceability of this condition, its imposition is not necessary to make the proposed development acceptable and I have, therefore, not imposed it.

Conclusion

21. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:

428-PL-02	Block Plan as Proposed
428-PL-03 rev A	Plans as Proposed
428-PL-04	Roof Plans as Proposed
428-PL-05 rev B	Elevations as Proposed

- 2) Notwithstanding the details shown on the plans referred to in condition 1), unless within three (3) months of the date of this decision details of the materials to be used in the construction of the external surfaces of the development hereby permitted are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within nine (9) months of the local planning authority's approval, the development hereby approved shall be demolished to ground level with all equipment and materials brought onto the land for the purposes of such use and any materials resulting from demolition, shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within eighteen [18] months of the date of this decision, the works shall cease and the materials and finishes shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation, the materials and finishes agreed upon by the local planning authority pursuant to this condition shall thereafter be retained and maintained in accordance with the agreed details.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Notwithstanding the details shown on the plans referred to in condition 1), unless within three (3) months of the date of this decision details of the hard and soft landscaping works associated with the development hereby permitted are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within nine (9) months of the local planning authority's approval, the development hereby approved shall be demolished to ground level with all equipment and materials brought onto the land for the purposes of such use and any materials resulting from demolition, shall be removed until such time as a scheme is approved.

If no scheme in accordance with this condition is approved within eighteen [18] months of the date of this decision, the development hereby approved shall be demolished to ground level with all equipment and materials brought onto the land for the purposes of such use and any materials resulting from demolition, shall be removed until such time as a scheme is implemented.

Upon implementation, the hard and soft landscaping works agreed upon by the local planning authority pursuant to this condition shall thereafter be retained and maintained in accordance with the agreed details.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) All trees shall be planted in accordance with British Standard BS 8545: Trees: from nursery to independence in the landscape - Recommendations (or an equivalent British Standard if replaced) and BS 4428: Code of practice for general landscape operations (excluding hard surfaces) (or an equivalent British Standard if replaced).

If, within a period of 5 years from the date of planting, the tree (or any tree planted in replacement of it) is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction, death or damage to the original tree.
- 5) Prior to the first use of the development hereby permitted, bat and bird boxes shall be installed on the building, in accordance with the approved details set out in the Ecology Report (Ref SWE 1032) prepared by South West Ecology, dated 1 February 2024 and shown on the Elevations as Proposed (Ref 428-PL-05 rev B). The bat and bird boxes shall be retained and maintained thereafter.
- 6) Prior to the first use of the development hereby approved, the soakaway system as detailed on the Block Plan as Proposed (Ref 428-PL-02) and the Critical Drainage Statement dated January 2024, prepared by Victoria Needham Architect, shall be installed and operational. The system shall be retained and maintained thereafter.
- 7) The development hereby permitted shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons exceeding a continuous period of 28 days in any calendar year. An up-to-date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of Schedule