
Appeal Decision

Site visit made on 28 September 2016

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2016

Appeal Ref: APP/K1128/W/16/3153009

Land opposite Thorndean, Stoke Road, Noss Mayo PL8 1DX

- 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 Richard May against the decision of South Hams District Council.
 - The application Ref 2611/15/FUL, dated 29 October 2015, was refused by notice dated 24 December 2015.
 - The development proposed is described as “new two-storey chalet style dwelling set into the hillside”.
-

Decision

1. The appeal is allowed and planning permission is granted for a two-storey chalet style dwelling at land opposite Thorndean, Stoke Road, Noss Mayo PL8 1DX in accordance with the terms of the application, Ref 2611/15/FUL, dated 29 October 2015, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area which is within the South Devon Area of Outstanding Natural Beauty (AONB).

Reasons

Policy background

3. It is not disputed that the Council do not currently have a five year supply of housing. In such circumstances, paragraph 49 of the National Planning Policy Framework (the ‘Framework’) advises that policies relating to the supply of housing should not be considered up-to-date.
 4. The site is located outside the development boundary on Noss Mayo. Policy CS1 of the South Hams Core Strategy (CS) advises that development outside development boundaries will be strictly controlled and only permitted where it can be delivered sustainably and in response to a local need. As this policy aims to restrict housing outside the development boundaries, I consider it relates to the supply of housing and therefore should not be considered up-to-date. Consequently I give it only limited weight in my considerations.
-

5. The Council refers to an Inspector's appeal decision¹ relating to a case elsewhere in the District which concluded that Policy SC1 is not a policy for the supply of housing having had reference to the case of Cheshire East Council v SSCLG and Richborough Estates Partnership. However I have had regard to the Court of Appeal's judgement on this case² published since the time of the previous Inspector's decision, which confirms that policies relating to the supply of housing include: "*policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.*" From this, I consider it is clear that Policy SC1 is a policy for the supply of housing.

Character and appearance

6. Noss Mayo is a small village on the southern bank of Newton Creek. The larger settlement of Newton Ferrers is sited on the opposite bank and Bridgend is a hamlet centred around the point where the creek emerges from a culvert. The Newton Creek valley is steeply sided with development generally being located along the waterside and with undeveloped and generously wooded land higher up the valley sides. The verdant and rural character of the area is a key characteristic of the AONB. The site is also within an area designated as Heritage Coast.
7. Stoke Road runs parallel to the south bank of the Creek and connects Noss Mayo with Bridgend. There is a contiguous line of dwellings between Noss Mayo and Bridgend, mostly, but not exclusively, positioned on the north side of Stoke Road. The site is located on the south side of Stoke Road adjacent to a wooded area to its west and a small cottage to its east. Due to the topography, the proposed dwelling would be higher than road level and the dwellings opposite, including Thorndean, are lower than the road.
8. The proposed dwelling has been designed to have a chalet style appearance with front dormer windows set in to the roof at first floor level. The site is extensive and the building would be sited towards the front of the site with the vast majority of the site remaining undeveloped.
9. The dwelling would be seen against the verdant and undeveloped backdrop of the remainder of the site and the valley side, particularly when seen from viewpoints on the north bank of Newton Creek. From these locations the dwelling would project up the side of the valley above the properties opposite the site. However it would not be the only building which extends up the valley side. The nearby dwelling at Eastwood and other houses further west also appear to reach up the side of the valley, and to a greater extent than the proposal.
10. The Stoke Road street scene comprises a mixture of houses and undeveloped land. The proposal would result in the removal of some vegetation along the

¹ APP/K1128/W/15/3007538

² Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East, SSCLG [2016] EWCA Civ 168.

frontage of the site to provide vehicular access. However it is not considered that this, nor the construction of the dwelling, would depart from the established character of the street scene.

11. As such although the dwelling would project into the countryside, it would not significantly erode the undeveloped and predominantly rural character of the valley due to its small scale and position close to the front of the site and close to the other development on Stoke Road. In particular, it would not result in a coalescence of Noss Mayo with Newton Ferrers as there is already significant development between these two villages, notwithstanding the fact that these two settlements are primarily separated by Newton Creek itself.
12. Accordingly the development would protect the character and appearance of the area, the wider AONB and the heritage coast. Therefore the development would comply with Policy DP15 of the South Hams Development Policies (DP) and CS1 of the CS which both support sustainable development which preserves the character and appearance of the countryside, and policies DP2 of the DP and CS9 of the CS which seek to protect landscape character including in AONBs. The Council's decision also refers to saved Policy SHDC1 of the South Hams Local Plan. However this relates to development within development boundaries and so is of little relevance to the proposal.
13. I have carefully considered the previous appeal cases referred to by the Council. However I have limited details of these cases, and the cases that the Council take quotes from with respect to the effect of the development on the countryside, pre-date the publication of the Framework so were determined in a different policy context. Notwithstanding this each case must be dealt with on its own merits. Indeed, for this reason I do not consider the development would create a precedent.

Planning balance

14. Paragraph 14 of the Framework advises that where relevant policies are out of date, such as is the case here, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the Framework indicate development should be restricted. Such specific policies could include those relating to AONBs or Heritage Coast.
15. I have had regard to the contents of paragraph 114 and 115 of the Framework which advise, respectively, that the distinctive landscape of the Heritage Coast should be protected and that great weight should be given to conserving the landscape and scenic beauty of AONBs. I consider the small scale of the proposal and its position within close proximity to other dwellings means it would have a limited impact on the landscape and scenic beauty of the AONB and Heritage Coast.
16. The Council raise no objection to the proposed method of drainage of the site, vehicular access or parking provision and, from the evidence before me, I have no reason to come to a different view.
17. Although the dwelling would be elevated above the dwellings opposite, there would most likely not be any adverse overlooking or overshadowing from the proposal as there is a substantial distance between the development and the properties opposite.

18. The development makes only a small contribution to the Council's housing supply. However from the evidence before me, the Council's supply of housing is 1.9 years which indicates an acute shortage of housing land and a supply far short of the 5 year target. Therefore the proposal would be a significant benefit in addressing this shortfall.
19. Accordingly, on balance, it is considered that the limited adverse impacts of the development would not significantly and demonstrably outweigh the benefits. Consequently, the development represents sustainable development and planning permission should be granted in accordance with the presumption in favour of sustainable development in the Framework.

Conditions

20. In accordance with the requirements of the Planning Practice Guidance and the Framework I have imposed the standard condition relating to the commencement of development. I have also imposed conditions specifying the relevant plans in order to provide certainty, conditions requiring the submission of further details of materials and landscaping to protect the character and appearance of the area, conditions in the interests of highway safety and a condition to ensure the satisfactory drainage of the site.
21. Some conditions require compliance prior to the commencement of development so that the effects of the proposal are properly mitigated for in order to make the development acceptable.

Conclusion

22. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

Andrew Owen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1311/SK 59, 1311/SK 60, 1311/SK 61, 1311/SK 62, 1311/SK 63, 1311/SK 64, 1311/SK 65, 1311/SK 66, 1311/SK 67, 1311/SK 68, 1311/SK 69 and PDL-100 Rev B.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 1311/SK 61 for one car to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) Within the sight lines as shown on drawing no. 4113 Rev A within Appendix B to the Technical note by PCL Transport, no shrubs, trees or other vegetation shall be allowed to grow above 0.6 metres in height, and no structure or erection exceeding 0.6 metres in height shall be placed.
- 8) No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shown on drawing no. PDL-100 Rev B shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
 - i) a timetable for its implementation; and,
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.