



Appeal Decision

Site visit made on 10 September 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/K1128/W/18/3215689

South Barton Farm, Veasy Park, Wembury PL9 0ES

- 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 Mr B Stephens against the decision of South Hams District Council.
 - The application Ref 3769/17/OPA, dated 12 October 2017, was refused by notice dated 22 June 2018.
 - The development proposed is the erection of 15 no. dwelling houses all matters reserved save for access and layout.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr B Stephens against South Hams District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application form indicates that the proposal was for outline planning permission with all matters reserved. The appellant's description of development indicates that approval is sought for access and layout now. This description has been reflected in the Council's decision notice and officer report. I shall, therefore, also treat the proposal as seeking approval for access and layout and given the consistent approach by the Council mentioned above, no injustice will arise from me doing so. Plans have been provided indicating the access and layout arrangement that I have treated as part of the proposal.
4. Since the Council determined the application the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP) has been adopted. I must determine the appeal on the basis of the development plan as it exists now. The appellant has been afforded opportunity to comment on the new policy environment, so no injustice in this regard will arise.
5. Following my site visit I have been provided with various planning obligation documents and associated emails. There is a Unilateral Undertaking to Devon County Council in respect of education contributions, but the copy provided to me is missing page 5 and does not appear to stipulate when the contributions would be made. There is also a Unilateral Undertaking to South Hams District Council in respect of affordable housing, sport and recreation contributions,

landscape and ecological management and open space. Neither of these undertakings have been signed by the mortgagee, which casts doubt over their robustness.

6. In addition, there is a Section 106 agreement in respect of similar obligations and some highway works, between the appellant, a bank, South Hams District Council and Devon County Council. However, the agreement is undated and only signed by the appellant.
7. Whilst the appellant claims not to have been aware of all of the Council's requirements until late in the appeal process, the shortcomings in the various obligations do not give me certainty over delivery of the various matters. It may be that, with time, the shortcomings could be rectified, but in light of my decision in respect of the appeal overall, and for the reasons explained later in my decision, no injustice will arise if I do not afford such an opportunity.

Main Issues

8. The main issues are (i) the effect of the development on the character and appearance of the area, with particular regard to the natural beauty of the South Devon Area of Outstanding Natural Beauty (AONB); (ii) the effect on the living conditions of future occupants with particular regard to the proximity of farming activities; and (iii) whether the proposal makes adequate provision for mitigating the effect of development on infrastructure in the locality.

Reasons

Character and appearance

9. The site lies within the South Devon AONB. The appellant's Landscape Strategy¹ indicates that it falls within Landscape Character Type (LCT) 'Open Coastal Plateaux' in the Landscape Character Types List for Devon County Council, 2007. It goes on to confirm that the LCT is described as a high, open plateaux, dissected or separated by combes and river valleys, windblown vegetation, regular and large field patterns, stone boundary walls, dense low hedges, mixed land use, mainly pastoral or arable, little woodland or limited deciduous woodland.
10. The site itself is adjacent to the settlement and existing housing at Veasy Park. The rolling landscape means that many views and vistas are short and, as such, Wembury's predominantly valley setting may well shield the settlement and appeal site from views from much of the coast path. However, there are locations from where the settlement and site can be seen.
11. As the site is alongside the existing urban edge, in mid-distance views, such as those from the road towards Wembury Point and around Ford Road near Mount Pleasant Cottage, development at the site would be read as part of Wembury. However, from these locations it is also evident that the site is a clear part of the undeveloped coastal landscape and is seen in context with wider expansive views of the coast available from higher ground. Thus, whilst views may be dominated by existing development that would distract a viewer from new development at the site, the proposal would result in a further intrusion into the landscape and represent a harmful change to its open, farmed character.

¹ Rathbone Partnership (29.09.2017) Proposals at South Barton Farm, Wembury Devon. Landscape Strategy: Site Landscape Character Appraisal Visual Assessment Proposals

12. There would be closer views from a footpath near Cliff Road where the site would clearly intrude into the rural landscape, beyond the existing settlement. Closer still are views from a path that leads from the coast and then between Veasy Park and the site. The existing farm buildings can be seen from some locations on this path and the appellant's Landscape Strategy indicates that the dwellings would be too. There are also filtered views of the site through the hedgerow as the path passes alongside the site and the change to residential use would harm the urban fringe appearance of this path.
13. The existing rear gardens that back onto this path provide a harsh urban edge in close views from the footpath. However, the nearby hedgerow that borders the site, together with those other hedgerows on the other boundaries of the appeal site help to soften this in wider views. This existing, relatively hard boundary does not, therefore, provide compelling justification for residential expansion beyond this urban edge.
14. Further footpaths exist between the existing farm buildings and an open area of land separating the site from Wembury House, and across this open land. From here, the stark and formal nature of nearby residential development is seen in marked contrast to the low-key farm buildings. Whilst those farm buildings are in poor condition, they do not intrude so heavily into views as the nearby dwellings and so I do not find that their replacement with dwellings would be a visual benefit. Moreover, the perception of the settlement extending further into the countryside would be reinforced by residential development in lieu of the farm buildings.
15. The proposed landscape planting may well have been conceived in a sympathetic manner that respects the established character and appearance of the area. Alongside the extensive retention and enhancement of existing landscape features, it is likely to visually settle the development into the countryside and soften views of the dwellings if care were taken over the detailed design. In this regard, the influence of the resultant development on the various views at short and mid distances would be tempered.
16. However, the appellant's Landscape Strategy indicates that the planting would take between 10 and 20 years to provide a convincing backdrop to the development or start to filter views in a meaningful way. Thus, there would be significant short-term harm. Moreover, the mitigation could not prevent the permanent harm that would arise from the change in landscape character and general openness of this part of the AONB.
17. With regard to the above, I find that the proposal would harm the landscape and scenic beauty of the AONB. It would not, therefore, comply with those aims of JLP Policies SPT12, DEV23, DEV24 and DEV25 that seek to conserve and enhance landscape character and scenic visual quality, avoid detrimental effects to the undeveloped coast, and conserve and enhance the natural beauty of protected landscapes.

Living conditions

18. Whilst some of the farm buildings at South Barton Farm are proposed for demolition, others would be retained in close proximity to the proposed dwellings. At my site visit, those retained buildings appeared to be in use,

including for cattle housing. Some associated noises and odours were evident in the yard area.

19. At my site visit, I saw that there are existing dwellings close to the farm with others under construction that have a similar relationship to those proposed. There is no substantive evidence that this current arrangement is harmful. Moreover, there is no clear evidence that the proposed dwellings would suffer more greatly than the existing ones.
20. The Council is further concerned that should unacceptable disturbance occur, then restrictions may be placed on the farming enterprise to the detriment of the local economy. However, the appellant indicates an intention to reduce or reorganise the farming operation, should planning permission be forthcoming for residential development. Therefore, I attribute limited weight to this concern.
21. For the above reasons, I find no compelling evidence that harm to living conditions would arise. As such, there would be no conflict with those aims of JLP Policies DEV1 or DEV2 that seek to protect the amenity of residents.

Infrastructure

22. The Council's appeal statement indicates that contributions are required to secure improvements in infrastructure relating to education, play and recreation. It also indicates a requirement for landscape management and the management of surface water drainage features. Whilst noting the appellant's contention that there may be capacity at the local school, there is no robust evidence before me that these contributions are not required to mitigate the effect of the development on infrastructure. In the absence of such evidence, or a properly completed planning obligation to provide the necessary contributions, I find the proposal contrary to those aims of JLP Policies DEV27 and DEV30 that seek to secure appropriate green/play spaces and ensure that the infrastructure needs of new homes are met.
23. In any event, those obligations would only be required to mitigate the effect of development and there is no clear evidence that they would provide a wider benefit. Accordingly, even if there were a completed obligation, the provision of this mitigation would only be neutral in the overall planning balance.

Other matters

24. The proposal would result in the delivery of homes which is a benefit. However, whilst the Council's housing targets may be a minimum, there is no dispute that the Council can now demonstrate a 5 year supply of deliverable housing land. In this context, I attribute limited weight to this benefit.
25. The appellant indicates a commitment to provide affordable housing and this is detailed within the incomplete planning obligations. If I were to accept that the affordable housing provision could be made, then it would weigh in favour of the proposal. However, the development would be of limited scale overall and, accordingly, I would attribute it moderate weight.
26. The appellant contends that Wembury has an elderly population and that the provision of family housing will go some way towards rebalancing the demographic of the local community, which would assist the viability of local services. This would comply with the aims of JLP Policy SPT2, that seek to

create sustainable rural communities. However, whilst the primary school may draw pupils from outside its catchment, there is no compelling evidence that the various services in Wembury are not viable, nor that there is a lack of available workforce to local businesses resulting in significant in-commuting. Accordingly, although local residents may have previously indicated a preference for family housing, I only attribute limited weight to the benefits that would arise from its provision.

27. The proposed landscaping and meadow creation may lead to some biodiversity enhancements. However, the scale of the benefit is likely to be moderate and therefore I attribute only limited weight to it. I also note some local support for the proposal.

Planning balance

28. The National Planning Policy Framework (the Framework), at paragraph 172, sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. It goes on to indicate that planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest, setting out a number of criteria that any such assessment should include.
29. At footnote 55, to paragraph 172, the Framework confirms that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. The purposes of AONBs are to conserve and enhance the natural beauty of the area².
30. The appellant contends that the development is not major and has made reference to criteria set out in the Tamar Valley AONB Management Plan 2014-2019 and an appeal decision³ relating to land at Abbey Meadows, Crapstone, Devon, where a development of 22 dwellings was found not to be major. However, whilst the objectives and legislative framework for the two AONBs may be similar, the site before me is not within the Tamar Valley AONB so its management plan does not apply. In any case, the Inspector at *Abbey Meadows* found that no harm to the scenic quality of the AONB would arise. That is not the situation here.
31. Having regard to the Framework I find that the development of agricultural land on the scale proposed at the edge of a settlement the size of Wembury, that would cause harm to the natural beauty of the AONB should be regarded as a major development. Given the weight that I attribute to the other considerations, in particular that there is no compelling need for the development in respect of housing delivery, and the detrimental effect on the landscape, the exceptional circumstances test at Framework paragraph 172 would not be passed.
32. Even if I am wrong about the scale of the development, in light of the weight that I attribute to the other considerations and potential benefits of the proposal, the great weight that must be given to conserving and enhancing

² Section 85 of the Countryside and Rights of Way Act 2000

³ APP/Q1135/W/17/3177360

scenic beauty means that the harm to the AONB is decisive in this case. The proposal would, therefore, conflict with the Framework, read as a whole.

33. Whilst I have found that there would be no harm to living conditions, I have found that the proposal would be contrary to the development plan in respect of the effect on the character and appearance of the area. Whilst there may be compliance with certain aims of some other policies, I find that there is a conflict with the development plan taken as a whole. There are no other material considerations that indicate a decision other than in accordance with the development plan.

Conclusion

34. For the reasons given above I conclude that the appeal should be dismissed.

M Bale

INSPECTOR