



Appeal Decision

Site visit made on 16 April 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2019

Appeal Ref: APP/K1128/W/19/3222440

Scarswell, Newton Cross to Thorn Cross, Slapton TQ17 2RD

- 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 Jeff Beer against the decision of South Hams District Council.
 - The application Ref 2827/18/FUL, dated 21 August 2018, was refused by notice dated 15 November 2018.
 - The development proposed is demolition of the mono-pitched store on the south side of the site and conversion of the main livestock building within the existing envelope to a 5 bedroom detached dwelling with guest suite, to include integrated garage parking and a parking and turning area.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the mono-pitched store on the south side of the site and conversion of the main livestock building within the existing envelope to a 5 bedroom detached dwelling with guest suite, to include integrated garage parking and a parking and turning area at Scarswell, Newton Cross to Thorn Cross, Slapton TQ17 2RD in accordance with the terms of the application, Ref 2827/18/FUL, dated 21 August 2018, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. At the time that the Council made its decision, the development plan consisted of the South Hams Local Development Plan (SHLDP). Since that time, the Plymouth and South West Devon Joint Local Plan 2014-2034, adopted 2019 (JLP) has been adopted and its policies superseded those of the SHLDP. Both parties were consulted on the changes to the development plan and, in the light of this, I have relied on the policies from the JLP in my decision.

Main Issues

3. The main issue is whether the proposal accords with local and national policy, having regard to its effect on the character and appearance of the area and the proximity of the site to local facilities and services.

Reasons

4. The site lies in a rural location, separated from other development, within the Area of Outstanding Natural Beauty (AONB) where a network of small lanes link sporadic farmsteads and small villages. It sits within a small valley on the western side of such a lane. It consists of a number of agricultural buildings of

- a utilitarian design, which are presently unused, that sit within an extensive concrete yard.
5. It is proposed to convert the largest building to a dwelling with accommodation set over two floors. A small extension would be erected to link it to a smaller building, which would be converted to form guest accommodation. A fairly large building lies close to the access to the site, described as a store on the Site Block Plan; this faces the building to be converted across the concrete yard. This store, along with other structures and much of the concrete yard, would be removed as part of the proposed development. A stream that is presently culverted beneath this yard would be largely opened up and the site would be comprehensively landscaped.
 6. The buildings on the site are set back from the road. The large building that would be retained is set into rising ground and is effectively screened from the road when approaching from the north. Its south facing gable and part of its roof is seen from relatively close-by, when approaching from the south, and from the access gate. However, given the area's topography, it is not prominent in the landscape. Although not prominent in the wider landscape for similar reasons, the livestock building to be removed is more clearly seen from the gateway. It is also seen as one approaches from the north.
 7. Policy support for development in the open countryside is restricted and, given its national importance, the protection and enhancement of the AONB is to be given great weight. Paragraph 79 of the Framework sets out that decisions should avoid isolated homes in the countryside, unless certain circumstances apply. As the resultant dwelling would be physically separate and remote from any settlement, it would constitute an isolated home in the countryside for the purposes of paragraph 79. Amongst the exceptional circumstances set out in this paragraph is the re-use of redundant or disused buildings in a manner that would "enhance its immediate setting". JLP Policy TTV 26 reflects this. However, it does not mention the Framework's requirement to enhance, referring instead to the need for an appropriate resultant use.
 8. There is nothing in Paragraph 79 to suggest that a dwelling would be an inappropriate use due to its distance from local services. Indeed, the reference to isolated dwellings in Paragraph 79 acknowledges that by their very nature the locations that these dwellings might be in may not have good access to local services and facilities. By explicitly setting out this exception, Government policy would therefore seem to acknowledge that there will be some circumstances in which rural development will be acceptable despite non-compliance with the general aspiration to locate housing close to such services and facilities. I therefore find that this would be an appropriate re-use of the building, in accordance with JLP Policy TT 26.
 9. My finding is, therefore, that the proposal would represent sustainable development that would accord with the Framework and the terms of Policies SPT1 and SPT2 of the JLP, as well as that Plan's Policy TTV1 which makes reference to them.
 10. In this case, I consider that the removal of the fairly large shed closest to the road and much of the extensive concrete yard, the latter resulting in the opening up of much of the stream, would represent a significant enhancement to the setting of the barn that is proposed to be converted.

11. The buildings to be retained and converted are well-screened and not prominent in public views. The proposed design of the conversion would be appropriate to the area. The increase in the solidity of the building through the infilling of openings would not be harmful, nor would the proposed finishes, use of glazing and light generation from the building. I agree that unchecked external lighting, incremental additions to the dwelling and the provision of buildings in the curtilage, for example for storage uses, could be harmful to the character and appearance of the area. However, I am of the view that these can be adequately controlled through appropriately worded conditions. Furthermore, these effects would be mitigated by the landscaping scheme that is proposed.
12. My finding is that the proposed development would not represent damaging or inappropriate development in the AONB, in accordance with JLP Policy DEV25, and would accords with the aims of JLP Policy DEV23 to conserve and enhance the landscape. It would also accord with the terms of Framework.
13. In reaching my findings, I have taken account of the two appeal decisions that have been referred to by the Council. As each proposal should be assessed on its individual merits, these cannot be used in a definitive manner here. However, there appear to be significant differences between those proposals and that which is before me. In that from Kingsbridge¹ I note that the Inspector found that the resultant structure would have been "much more prominent" in views, which would not be the case here. In the case from Combe Martin², it was found that the works that were proposed went beyond what could reasonably be interpreted as 're-use' regarding NPPF paragraph 79.

Conditions

14. The Council has proposed a number of conditions to be attached, if the appeal is allowed and permission granted. In addition to the statutory time limit, I agree that a condition requiring compliance with the approved plans is necessary for reasons of certainty and for the avoidance of doubt. It is, however, necessary to include reference to the Site Location Plan and Site Block Plan drawings as these define the site area. Their inclusion would not prejudice either party.
15. Conditions that are proposed relating to the provision of information of external finishes, boundary details, lighting and landscaping are necessary to protect the character and appearance of the AONB. I have, however, slightly amended the first of these for the sake of clarity. Although the use of conditions restricting permitted development rights³ should be used rarely, I find that one restricting certain permitted development rights is necessary in order to protect the character and appearance of the area from future incremental changes that might be harmful. However, I have omitted reference to Class D (porches) and F, (microwave antenna), as the limited size of these features would have little effect on the character and appearance of the building or the wider area, and Class B, as this does not apply to dwellings in the AONB.
16. Given that the stream running through the site drains to Slapton Ley, which I am told is of nature importance, the use of a condition relating to

¹ APP/K1128/W/18/3200210

² APP/X1118/W/18/3202063

³ Set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, (as amended)

contamination is necessary. For similar reasoning, a condition relating to surface water drainage is necessary. However, I have omitted reference to the requirement to gain the permission of the water company for connection to the sewer, as this is essentially an informative and is unnecessary in a condition. I have added the requirement for any mitigating drainage alternative to be agreed in writing, in the interests of clarity. Lastly, I find that a condition regarding compliance with the ecology report is required to mitigate the effect of the development on wildlife, and one requiring the implementation of the landscaping scheme is required to mitigate the effects of the proposed development on the landscape.

Conclusion

17. For the above reasons, and having taken all other matters into account, the appeal is allowed.

Roy Curnow

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 plan: 2283.SLP; 2283.10; 2283.11; 2283.12; PC/SHP/556-01; DTS18.16.1.TPP.
- 3) Prior to their installation, details and samples of external materials to be used in the approved development shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved materials and retained in perpetuity unless agreed in writing by the local planning authority.
- 4) Prior to their installation and notwithstanding details on the approved plans, full details of site boundaries or gates shall be submitted to and approved by the local planning authority and shall be implemented in accordance with the approved details. They shall be retained permanently unless agreed in writing by the local planning authority.
- 5) If, during development, contamination not previously identified is found to be present at the site then no further development, (unless otherwise agreed in writing with the local planning authority), shall be carried out until the developer has submitted to, and obtained written approval from, the local planning authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority.

- 6) Notwithstanding the submitted details, the development hereby permitted shall not be commenced until full details of a drainage scheme for the surface water have been submitted to and approved in writing by the local planning authority. The drainage scheme should follow the drainage hierarchy with soakaways as the first choice. Only if soakaways are not feasible will an alternative scheme be considered. Design steps as below
 - Percolation testing in accordance with DG 365 will be required to support the use of soakaways, or justify an alternative option. The report should include the trial logs and calculate the infiltration rate.
 - Soakaways to be designed for a 1:100 year event plus an allowance for climate change (currently 40%).

- If the ground conditions are not suitable then a controlled discharge to a watercourse or sewer can be considered. The surface water should be attenuated for a 1:100 year event plus 40% for climate change. The discharge must be limited to the green field run-off rate. If the site is within a Critical Drainage Area then any surface water leaving the site must be limited to the 1:10 year green field run-off rate.

If the local planning authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed in writing with the local planning authority.

The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

- 7) No external lighting shall be installed without the prior written consent of the local planning authority.
- 8) The recommendations, mitigation and enhancement measures of the ecological report by Colin N Wills dated 1 June 2018 shall be fully implemented prior to the commencement of the use hereby approved and adhered to at all times. In the event that it is not possible to do so, all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the local planning authority.
- 9) The approved landscaping scheme shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained replaced as necessary for a minimum period of five years following the date of the completion of the planting.

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission.

From Part 1:
Classes A, C, E; and F.

From Part 2:
Class A.

END OF SCHEDULE