



Appeal Decision

Site visit made on 8 November 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2019

Appeal Ref: APP/K1128/W/19/3234364

Batson Hall Farm, Salcombe, Devon TQ8 8NE

- 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 Joe Cooray against the decision of South Hams District Council.
 - The application Ref 1322/18/FUL, dated 9 April 2018, was refused by notice dated 2 May 2019.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the appellant's name from the planning application form within the banner heading above.
3. The Salcombe Neighbourhood Development Plan (the 'SNP') passed a referendum on 25 July 2019 and now forms part of the development plan. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.

Main Issues

4. The main issues are (i) whether the proposal would adhere to the Council's spatial development strategy for residential development within the Thriving Towns and Villages Policy Area; (ii) the effect of the proposal upon the South Devon Area of Outstanding Natural Beauty and Undeveloped Coast; (iii) whether the proposed development would preserve or enhance the character or appearance of the Batson Conservation Area; and (iv) the effect of the proposed development on the setting of nearby listed buildings.

Reasons

5. The appeal site is located to the east of Shadycombe Road and opposite other residential buildings within the small settlement of Batson. The site is within the curtilage of Batson Hall Farm. Batson Hall Farm forms part of a group of Grade II listed buildings, which are understood to date from the 17th century or earlier. The buildings are identified by Historic England as Batson Hall Farmhouse, an ancillary bake-house, a former prison to the north of Batson

Hall Farmhouse (referred to by the appellant as the Goal House) and a cyder pound to the north-east of Batson Hall Farmhouse. The farmhouse is the largest of the buildings and it has been converted into two dwellings (known as Batson Hall Farm and Batson Hall Cottage) one of which is fire damaged. The building has a two-storey form with a stone exterior under a hipped roof.

6. The appeal site is within the Batson Conservation Area, the South Devon Area of Outstanding Natural Beauty (AONB) and an area of Undeveloped Coast, as defined by Policy DEV24 of the JLP.
7. It is proposed to erect a four-bedroom, two storey dwellinghouse with a green roof on the appeal site with an associated access. The dwelling would be partially dug into the hillside and would have a contemporary appearance with block and stone walls and cedar cladding.

Spatial development strategy for residential development

8. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy supports development which accords with the Council's settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside.
9. Paragraphs 5.8-5.10 of the supporting text to Policy TTV1 of the JLP identify the 'Main Towns', 'Smaller Towns and Key Villages' and 'Sustainable Villages' within the Thriving Towns and Villages Policy Area. However, 'Smaller Villages' and 'Hamlets' are not identified as part of the Policy TTV1.
10. Batson is not identified as a 'Main Town', 'Smaller Town', 'Key Village' or 'Sustainable Village' within the Council's Thriving Towns and Villages Policy Area. Consequently, for the purposes of Policy TTV1 of the JLP, the appeal site is located within the fourth tier of the Council's settlement hierarchy, which relates to Smaller Villages, Hamlets and the Countryside.
11. In respect of development within the Smaller Villages, Hamlets and the Countryside, Policy TTV1 (4) states that '*development will be permitted only if can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) including as provided for in Policies TTV26 and TTV27*'.
12. Policy TTV26 of the JLP relates to development in the countryside. Whereas Policy TTV27 of the JLP relates to the delivery of housing in rural areas, on sites adjoining or very near to an existing settlement, which meets a proven need for affordable housing for local people.
13. Batson is close to, but physically separated from the settlement of Salcombe. In terms of the Council's settlement hierarchy, Salcombe is identified as one of the 'Smaller Towns and Key Villages'. Given the appeal site's proximity to Salcombe, it is relevant to assess the proposal against Policy TTV27 of the JLP, as opposed to Policy TTV26.
14. The proposed development would be an open market dwelling and therefore it would not meet a proven need for affordable housing for local people. As such, the proposal would not accord with Policy TTV27 of the JLP.

15. In terms of the SNP, Policy SALC H2 supports open market housing in the Parish within allocated sites, as identified by the JLP, and, on infill sites within the settlement boundary and as part of an exception site, where the delivery of market housing is required to subsidise affordable housing, which meets a proven need for affordable housing for local people.
16. The appeal site does not form part of an allocated housing site and it is situated outside of the settlement boundary, as defined by Figure 1B of the SNP. Within such areas, the SNP does not support open market housing, unless it forms part of an exception site. The proposed development does not put forward any affordable housing as part of an exception site, therefore it fails to meet a proven need for affordable housing for local people. As such, the proposal would not accord with Policy SALC H2 of the SNP.
17. The appellant contends that by virtue of the site's proximity to local services and facilities, the site is a suitable location for residential development. The appellant states that the occupiers of the proposed dwelling would be able to walk to the local services and facilities, which are predominately located in Salcombe, and can be accessed via Shadycombe Road, which is located to the south of the appeal site and links the settlements of Batson and Salcombe, or via a public footpath which runs parallel with Batson Creek.
18. On my site visit, I noted that Shadycombe Road was a single width rural lane with a steep gradient, which had no pavements and no street lighting. In addition, the road which connects the appeal site to the public footpath at Batson Creek had similar characteristics. Given the distance between the site and Salcombe and the aforementioned road conditions, even if vehicle speeds were slow, the use of the rural lanes by the occupiers of the proposed dwelling, especially during the winter months where daylight hours are limited, to walk to the local services and facilities at Salcombe, would not be an attractive alternative to the use of the private motor vehicle for most journeys.
19. In conclusion, the proposal would conflict with the Council's spatial development strategy for residential development within the Council's Thriving Towns and Villages Policy Area and if allowed would undermine the local spatial strategy set out within the SNP, which predominately seeks to boost housing supply through the delivery of open market housing on allocated sites and infill sites. Consequently, the proposal would not accord with Policy TTV27 of the JLP and Policy SALC H2 of the SNP.
20. In addition to the above, the proposal would be inconsistent with the objectives of paragraphs 77 and 78 of the National Planning Policy Framework 2019 (the 'Framework'), which supports housing developments that reflect local needs and promote sustainable development in rural areas.
21. In reaching the above conclusion, I am cognisant of the fact that the proposal would not result in the creation of an isolated home in the countryside in the context of paragraph 79 of the Framework, in so far as that the dwelling would be in close proximity to a number of existing buildings. However, this is not a matter which overcomes the very weighty conflict with the identified development plan policies above.

AONB and Undeveloped Coast

22. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
23. The supporting text to Policy DEV24 of the JLP explains that undeveloped coastlines are a hugely important part of the Plan Area's character, identity and economic asset base. The coastline of the Plan Area is punctuated with historic coastal settlements and the area retains a predominately undeveloped coastline. The policy seeks to protect the undeveloped character of the coast by ensuring that only development which contributes positively to its character is permitted.
24. Despite being partially tarmacked, the undeveloped nature of the appeal site and absence of built form contributes positively to the rural character of the surrounding area.
25. Whilst the proposed dwelling would be partially dug into the ground, the proposal would nonetheless introduce built form onto an undeveloped site, which occupies an elevated position within the wider landscape. Whilst I note that the view of the site from the roadside and the public footpath along Batson Creek are largely screened by mature planting and trees, the effectiveness of the existing screening would be greatly reduced in the winter months when the trees and planting would lose their leaves, and, in any event, it cannot be relied upon in perpetuity to screen the development, especially as some of the trees appear to be located on land outside of the appeal site.
26. The view from the public footpath along Batson Creek upwards towards Batson Hall Farm, is within a 'locally important view' as shown by Figure 13A of the SNP. Policy SALC ENV6 of the SNP explains that development within the foreground or middle ground of the views should not harm the existing composition of natural and built elements. In addition, development should not be overly intrusive, unsightly or prominent to the detriment of the view as a whole, or to the landmarks within the view. Given my findings above, I conclude that the proposal would have a detrimental impact upon the locally important view.
27. For the collective reasons set out above, I conclude that the proposal would neither conserve nor enhance the natural beauty of the AONB. In addition, the proposal would not contribute positively to the character of the Undeveloped Coastline. As such, the proposal would not accord with Policies DEV23, DEV24 and DEV25 of the JLP and Policies SALC ENV1, SALC ENV6 and SALC B1 of the SNP, which collectively require development proposals to conserve and enhance the natural beauty of the AONB, the positive character of the Undeveloped Coastline and respond to and integrate with the landscape context, including locally important views.

The significance of the heritage assets

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
29. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Batson Conservation Area (the 'CA').
 30. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and, the more important the asset, the greater the weight should be.
 31. Paragraph 194 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
 32. The heritage assets relating to this appeal are the group of Grade II listed buildings within Batson Hall Farm and the Batson Conservation Area.
 33. The listed buildings lie within the site of a former manor house, the remains of which are thought to make up the existing garden walls. The significance of the listed buildings is derived from their group value and connection with the former manor house and the historic farmstead. Externally, the buildings have a traditional appearance with stone exteriors and sit well within the rural landscape. There is also historic interest, as it is understood, that the Goal House was used by Judge Jeffreys during the Bloody Assizes uprising in 1685, which was led by the Duke of Monmouth.
 34. The appeal site lies outside of the immediate rear garden area of Batson Hall Farm and Batson Hall Cottage, but forms part of the historic farmstead, with the submitted Historic Building Assessment & Heritage Impact Assessment stating that the area was historically used as a vegetable patch for the farmhouse.
 35. When viewed within its immediate context, the historical development and cumulative value of the group can be clearly read, save for a substantial new detached building constructed on neighbouring land to the south of the heritage assets. Due to the surrounding rural landscape, the wider setting of the historic farmstead is still mostly characterised by agricultural fields and hedges.
 36. The CA encloses Batson Hall Farm and runs down the road to the village green, encompassing that and the creek and then runs up the main street enclosing most of Lower Batson. The single-track nature of the road, high hedges, mature trees and fragmented pattern of generally modest and well-proportioned residential properties, with views of the open countryside beyond, gives the immediate area an intrinsically rural character, which adds positively and distinctively to the significance of this part of the CA.
 37. The proposal would result in the introduction of built form on a parcel of undeveloped land near to the group of listed buildings, which would be detrimental to the area's rural character and appearance, and, thus, to the historic farmstead setting of the listed buildings, which remains characterised

by agricultural fields and hedges. Furthermore, the contemporary appearance of the proposed building, with its angular roof form and curved walls would have a stark and jarring appearance when viewed in the context of the historic listed buildings, which have a traditional appearance.

38. In addition to the above, the proposal would result in the loss of an off-street parking area, which has historically been used by the existing dwellings. The appellant states that an area of hardstanding next to the cyder pound building has been used for off-street parking since about 2010, with one allocated space provided per dwelling. The appellant argues that this level of parking is appropriate given that the respective dwellings are two-bedroom properties.
39. Whilst the current arrangement may be acceptable for the existing owners/occupiers, I note that the parking area adjacent to the cyder pound building provides no visitor parking and features a very limited amount of turning space, which means vehicles will likely need to reverse out into the road. Consequently, if the appeal were allowed, it may generate pressure from future occupiers for alterations to the existing boundary walls or the adaptation of existing buildings to facilitate a reasonable standard of parking. This would not be consistent with the aims of paragraph 192 of the Framework, which states that decisions should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
40. The appellant has drawn my attention to the erection of a residential outbuilding at Batson Hall Barn, which was granted planning permission in 2016¹ and completed in 2017 and sits on neighbouring land, near to the southern boundary of Batson Hall Farm. The building has a two-storey appearance and is visible from the public footpath along Batson Creek when looking upwards towards Batson Hall Farm. The appellant argues that the building competes with the setting of the listed buildings and introduces a modern character into the immediate setting of the listed building. Even if I were to accept that this were the case, the existing harmful impacts on the setting of the listed buildings and character and appearance of the CA, do not provide justification to allow further harm, which results from the appeal proposal. In addition, based on the evidence before me, the decision appears to pre-date the Framework, the JLP and the SNP, and, in any event, I have determined this appeal on its individual planning merits.
41. For the collective reasons outlined above, the proposed development would be harmful to the setting of the group of listed buildings and would neither preserve or enhance the character or appearance of the CA, and, thus, it would be harmful to the significance of the designated heritage assets. Nevertheless, I consider that the harm would be less than substantial and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal, including securing its optimal viable use.
42. The appellant states that as part of the development they intend to preserve and refurbish the entire site, which includes the restoration of the badly damaged and derelict Goal House building. Once complete, the appellant's aim would be to allow public access to the building, such as trips by local schools or visiting tourists. However, no substantive information or appropriate mechanism has been put forward to demonstrate how these benefits would be

¹ Council Ref: 41/2029/15/F

achieved. In addition, the scope of the works is not clearly defined, and no financial information has been put forward to demonstrate that the proposed development is the minimum amount of enabling development necessary to achieve the benefit. Moreover, it has not been demonstrated that there are not any other realistic means by which the restoration of the listed buildings might be achieved.

43. Given the above, I am not persuaded by the appellant's claim that the proposal *'would make a positive contribution by sustaining and enhancing the significance of the heritage assets and using them in viable ways, consistent with conservation'*.
44. In terms of public benefits, the proposal would make some contribution to the vitality and viability of the facilities and services in the neighbouring settlement of Salcombe, but any social or economic benefits associated with the erection of one dwelling would be modest. However, the proposed development would be an open market dwelling, which, as set out above, would fail to meet a proven need for affordable housing for local people; neither conserve nor enhance the natural beauty of the AONB, nor contribute positively to the character of the Undeveloped Coastline. Consequently, I find they would not be sufficient to outweigh the harm to the significance of the group of Grade II listed buildings within Batson Hall Farm and the Batson Conservation Area.
45. In conclusion, the proposal would, therefore, fail to sustain or enhance the significance of the designated heritage assets. As such, the proposal would not accord with Policy DEV21 of the JLP and Policy SALC B1 of the SNP, insofar as they require development proposals to conserve and, where appropriate, enhance the historic environment, which includes giving great weight to the conservation of designated heritage assets within the Plan Area. In addition, the proposal would conflict with Chapter 16 of the Framework.

Other Matters

46. The Council state that following the adoption of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the 'JLP') they are now able to demonstrate a five-year supply of deliverable housing sites. The Council's current housing land supply position has not been disputed by the appellant. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the Framework is not engaged.
47. The Council have drawn my attention to the requirements of Policy SALC H3 of the SNP, which requires new open market housing only to be occupied as a person's sole, or main place of residence. The Council have suggested a planning condition to control the use of the proposed dwelling. Nevertheless, as I have concluded that the proposed development would conflict with other development plan policies, I have not undertaken an assessment of the condition against the tests as laid out in paragraph 55 of the Framework. However, given my findings on the main issues, this is not a matter I need to address.
48. Reference has been made with regards to the Council's handling of the planning application and pre application advice. However, I have considered this appeal proposal on its individual planning merits only, against the adopted development plan and the Framework, and concluded that it would cause harm for the reasons set out above.

Conclusion

49. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR