



Appeal Decision

Site visit made on 24 February 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2020

Appeal Ref: APP/K1128/W/19/3242849

Wagland Farm, Lane past Wagland Farm, Halwell, TQ9 7LB

- 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 Jeremy Burgess against the decision of South Hams District Council.
 - The application Ref 2817/19/FUL, dated 30 August 2019, was refused by notice dated 25 October 2019
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the development plan supports the principle of the development in this area, with particular regard to access to services and facilities, and
- the effect of the development on the character and appearance of the area.

Reasons

Whether the development plan supports the principle of the development in this area

3. There are two agricultural barns positioned on a gently sloping part of the site. The Lower Barn is cut into the slope while the Upper Barn sits on a reasonably consistent level with the access and the adjoining section of field. The Lower Barn area has been the subject of various approvals including to convert the barn to a dwelling(s) under Class Q¹ and subsequently to replace the barn with a new build dwelling.
4. The intention of the proposal is to relocate the approved new build dwelling so that it would replace the Upper Barn rather than the Lower Barn. However, as the sites are separate it would be physically possible, if the appeal proposal was granted, to also construct the dwelling which would replace the Lower Barn. This would result in two dwellings on the site.
5. I am not satisfied that it would be possible to revoke an existing permission by a condition attached to a subsequent permission. In these circumstances, it

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 - Schedule 2, Part 3, Class Q – agricultural buildings to dwellinghouses.

would be necessary to resolve the issue of the other permissions and their potential implementation by way of a planning obligation. The appellant has suggested that this matter could be addressed by way of a condition included in any approval that would prevent development commencing until a planning obligation had been completed to ensure that any further development at the Lower Barn site was restricted.

6. The Planning Practice Guidance (the Guidance) advises that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. This is not a situation where the delivery of the development is at risk or a complex development scheme and therefore this would not be a case where a negatively worded condition would be reasonable and meet with the Guidance.
7. As I do not have a completed obligation before me, and therefore there is not a mechanism that would prevent a new dwelling at the Lower Barn, I intend to consider the appeal on the basis that the proposal would be an additional open market dwelling on the site. The permissions on the adjoining site are therefore not a fallback position and I attach them only limited weight in my overall considerations of this issue.
8. While I note the dwellings in the vicinity and villages in the area, the site is outside any defined settlements, and in all likelihood there would be a dependence by future occupiers on the private vehicle to access services and facilities. Consequently, this additional open market dwelling, without a justification for a countryside location, would not accord with the spatial approach for the location of development as set out in the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan).
9. In the light of the above analysis, I conclude that the development plan would not support the principle of the development in this area, and in particular the proposal would conflict with Policies SPT1, SPT2, TTV1, TTV2 and TTV26 of the Local Plan and the National Planning Policy Framework (the Framework) which seek, amongst other things, to support proposals that reinforce the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development.

Character and appearance

10. The design and size of the dwelling has been considered acceptable elsewhere on the wider land and the building makes acceptable references to a local vernacular style and materials that would not be out of place in this countryside location. When viewed from the main road, the position of the proposed dwelling is well screened by the established trees and there would only be glimpsed views of the proposed building. In these limited views the size and appearance of the building would not be harmful.
11. From within the field and along the drive broadly to the north, the dwelling would be visible but it would be sited in the context of the trees to the side, and with the backdrop of the trees that adjoin the road and the copse of trees at the junction with the main and side road. In these circumstances I consider that the dwelling would acceptably nestle within the landscape.

12. In terms of an alternative to the approved scheme for a dwelling on the Lower Barn site, while the proposed dwelling would be a little more prominent because of its higher level this would be balanced by the better relationship with the surrounding trees. Regardless of whether the Lower Barn is retained or replaced with one of the dwelling proposals, the proposed dwelling, replacing an existing building that already has a presence, would be acceptable in terms of its impact on the character and appearance of the area.
13. Accordingly, I conclude that the development would have an acceptable effect on the character and appearance of the area and therefore comply with Policy DEV23 of the Local Plan and the Framework which seek, amongst other things, to conserve and enhance landscape.

Other Matters

14. The proposed dwelling is indicated would be a self-build custom property and this would help meet some of the need for this type of dwelling within the plan area. It would provide a small boost to housing supply on a windfall site. There would be economic and social benefits to the wider area during construction and in subsequent occupation. However, as only a single dwelling is proposed the cumulative benefits afford limited weight.

Conclusion

15. I have found that the proposal would have an acceptable impact on the character and appearance of the area and that the benefits of the additional dwelling which would be delivered afford limited weight. For the reasons explained above, I have considered the proposal as an additional unit of open market housing in the countryside. This would not accord with the approach to the location of housing in the Local Plan, is a matter of substantial weight and this harm would not be outweighed by the benefits of the scheme. It is such that the proposal would conflict with the development plan when considered as a whole. There are no other considerations which outweigh this conflict and therefore I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR