



Appeal Decision

Site visit made on 15 September 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/K1128/W/20/3252605

Barn at West Pitten, West Pitten, Plympton, Devon, PL7 5BB

- 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 A Wright against the decision of South Hams District Council.
 - The application Ref 3724/19/FUL, dated 11 November 2019, was refused by notice dated 9 April 2020.
 - The development proposed is demolition of an agricultural building and the construction of 3 detached dwellings, garages and site landscaping following approvals 0360/19/PDM and 1567/19/FUL.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are:
 - whether the location of the development accords with local policy, having regard to the accessibility of services and minimising the need to travel;
 - the effects of the proposal on the character and appearance of the area; and
 - the adequacy of the proposed means of drainage.

Reasons

Location of development

4. The application site lies in a rural position surrounded by agricultural land and in close proximity to the cluster of dwellings at West Pitten. The nearest settlements to the site are Smithaleigh, approximately 1.5 km to the north, and Yealmpton, some 2.7 km to the south. The outer reaches of Plympton are within approximately 5 km by road. In physical terms, the site is considered to be in the open countryside without pedestrian, cycle or sustainable transport facilities or routes that link to the nearest settlements.
5. The Plymouth and South West Devon Joint Local Plan 2014 – 2034 (adopted 2019) (JLP), Policies SPT1 and SPT2, provide the overall framework for the

implementation of the plan's policies to support sustainable development and create sustainable communities.

6. Policy TTV1 sets out the hierarchy of settlements within the 'Thriving Towns and Villages area' (TTVA) and the relative proportions of development that they are intended to receive over the plan period. The fourth tier settlements include the 'smaller villages, hamlets and the countryside', where development will only be permitted if it can be demonstrated to support the principles of sustainability as directed by Policies SPT1 and SPT2 and as provided for in Policies TTV26 and TTV27. The smaller villages are not identified as part of the Policy and their growth is not relied upon in order to meet the needs within the plan area over its lifetime.
7. JLP Policy TTV2 sets out its intention to support proposals in the TTVA that reinforce the sustainable settlement hierarchy and ensure, amongst other things, that housing is located where it will enhance or maintain the viability of rural communities. Policy TTV27 provides for tenure or need-specific schemes that are located adjoining or very well related to an existing settlement.
8. Due to its location outside of, and poorly related to existing settlements, and given the inaccessibility of facilities and services by foot, bicycle or public transport, development of the site for residential purposes would result in a sporadic pattern of development and heavy reliance on the private motor vehicle. These factors render the location of the proposal counter to the aims of sustainability and creating sustainable communities.
9. In view of this main issue, the location of the development would not accord with Policies SPT1, SPT2, TTV1, TTV2 or TTV27 of the JLP. For similar reasons, it would also conflict with the aims of the National Planning Policy Framework (the Framework).

Character and appearance

10. The appeal site comprises a sloping, broadly triangular piece of agricultural land located in a shallow crease in the landscape. It currently hosts a large modern agricultural building close to its access point against the eastern boundary. Hedgerows with trees largely enclose the site, with the southern edge being enclosed by a low bund and a recently planted hedge.
11. Despite the large scale of the building and the absence of tree screening on the higher, southern side at present, the building is not particularly visible in the wider landscape. It is viewed from limited viewpoints by passing motorists on the West Pitten road between Yealmpton and Smithleigh, albeit only in glimpses. It is more clearly visible from users of the private driveway. The submitted Landscape and Visual Impact Assessment (LVIA) corroborates the limited impact of the existing building on the area in character and visual terms, indicating that it is predominately screened from public view due to its setting within a crease of land within a wider treed setting.
12. The proposal involves the demolition of the existing agricultural barn and the construction of three detached, single storey dwellings with detached garages. The appellant contends that the design has been inspired by a barn-style courtyard, with vernacular materials, including stone, cob, timber and slate to help carry this theme. With generous gardens interspersed with hedgebank and

- tree planting, vehicular access and circulatory space, the proposal would take up the whole of the red line site area.
13. The barn courtyard inspiration for the scheme does not appear to have translated into the proposals before me. The dwellings appear sporadically located across the site, dictated by the location of the access, parking and circulatory space and to achieve broadly evenly proportioned gardens. The sporadic nature of the layout does not appear to me to resemble the style of converted farmsteads that are otherwise found within the receiving settled landscape. Furthermore, notwithstanding the vernacular construction materials, there is little to suggest that the scheme could have evolved from a rural farmstead conversion and would appear more like a suburban housing scheme with matching house types further undermining the assimilation of the proposal into its rural context.
 14. Though the area is not designated for landscape quality and the site's current appearance is unremarkable, with an existing functional building and enclosed area of grassland, its features and appearance are typical of the Plains Landscape Character Type (LCT 3E)¹. Whilst I accept that the proposal has been designed to be low-lying, within a low lying crease of land, the limited public visibility is not in itself a reason to justify a scheme that otherwise extends an unwelcome, incongruously suburban addition into a pleasant area of countryside.
 15. The LVIA concludes that the overall effects of the proposal would be beneficial, albeit to a minor degree. Much emphasis has been placed on the benefits that would derive from the creation of a landscaping scheme, with new hedgerows and tree planting to supplement the existing retained boundary features to 'close down' or 'further limit what are already barely identifiable views'. However, considered in the context of the limited number of visual receptors and viewpoints, and the time it would take for any landscaping to establish, in my view, given the suburban layout and character of the scheme, the harms would not be sufficiently mitigated by a dependency on the landscaping scheme.
 16. As such, in view of this main issue, the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policy DEV23 of the JLP, which, amongst other things, seeks to ensure development is located and designed to respect scenic quality and maintain an area's distinctive sense of place.

Drainage

17. The appeal site does not lie within an area at high risk of flooding and nor is it in a Critical Drainage Area. The site extent included within the appeal proposal is generous, though sloping, and I noted a drainage outflow during my visit. The evidence points to the drainage outfall being linked with a pond on neighbouring land and beyond that, into adjoining agricultural land in separate ownership. Queries were raised with the site-specific solution to understand its ability to receive and appropriately manage surface water flows which would otherwise impact on greenfield run off rates and any system downstream of the site.

¹ The South Devon AONB and South Hams District Council - Landscape Character Assessment 2012

18. Though there is an indication that information submitted has attempted to resolve the outstanding queries, the Council has suggested conditions in the event that the appeal were allowed relating to the need for both foul and surface water drainage schemes, the latter of which shall have been designed to accommodate the proposal with an allowance for climate change, following site-specific trial hole and percolation tests.
19. Subject to adherence to specific conditions relevant to the necessary drainage schemes, this outstanding matter is capable of being resolved prior to the occupation of any dwelling. On this basis, the scheme would achieve compliance with Policy DEV35 of the JLP, which seeks to ensure that development is safe without increasing flood risk and pollution.

Other Matters

European Marine Sites

20. The appeal site lies within the Zone of Influence of the Tamar European Marine Site (comprising the Plymouth South Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area) (hereafter referred to as the European Marine Sites (EMS)). Due to its nature, the proposal would be likely, either alone or in combination with other developments in the area, to have a significant effect on the EMS. Whilst this did not form a reason for refusal, it is incumbent upon me as the competent authority to consider any such effects on the EMS.
21. The parties appear to agree that the effects of the proposal on the EMS would be capable of being mitigated through the imposition of a planning condition. This would require, prior to occupation of the development, the payment of a financial contribution to Strategic Access and Management Measures, in line with a protocol developed with Natural England and others.
22. Whilst the appellant may be willing to accept such a condition, this approach is inconsistent with the Planning Practice Guidance which states that financial contributions should only be secured through the use of a negatively worded condition in exceptional circumstances, and for more complex and strategically important projects. There is no indication that the appellant would be willing to execute a legal agreement under s106 of the Town and Country Planning Act 1990 to provide the mitigation contribution, if that were indeed capable of offsetting the harm from the development.
23. Also of considerable significance is the principle set out in case law² that mitigation measures should only be taken into account in relation to designated sites, having first undertaken a project-specific Appropriate Assessment (AA). I have no evidence of an AA having been undertaken. In any event as the appeal fails on another main issue, I have not considered this matter further.

Planning balance and conclusion

24. There is an extensive planning history associated with the appeal site and building thereupon. The most recent entries are a prior approval consent which would allow for the building to become five residential units³ and a separate

² People over Wind, Peter Sweetman v Coillte Teorana Case C-323/17

³ 3716/19/PDM

- planning permission⁴ which would allow for a larger area to become domestic garden associated therewith.
25. The appellant asserts that these provide a strong fallback position and that, as established by relevant caselaw⁵, such a fallback is a material planning consideration where it is real rather than theoretical. I accept this principle.
 26. The appeal site and the area to which the fallback applies are materially different. As such, the effects of one scheme compared to the other are not an easy 'like-for-like' comparison; there are clearly arguments for and against both schemes.
 27. In this case, the fallback is for five dwellings from a converted agricultural building and associated garden covering an area of approximately half of that which is included within the application site.
 28. In basic terms, the proposal would result in fewer dwellings, albeit of a total that would be volumetrically similar to the building to be converted. The most notable benefit is that the appeal proposal could reduce the total number of households and their associated dependency on private vehicles. This is a benefit of the scheme given the aforementioned points about the site's location and conflict with the development plan.
 29. The appellant contends that the lower parts of the site which were not previously within the prior approval or change of use applications will not have a useful agricultural purpose in the future and would become 'informal domestic land'. Whilst its small scale and its separation from other agricultural land in both physical and ownership terms is likely to render those parts of the site incapable of an economic agricultural use, this does not mean that it should automatically be developed. As an area of grassland within an agricultural landscape, it would not be harmful or unsightly in this context. It could also serve another or similar role equally well, i.e. as an area of landscaping or for the grazing of small farm animals as part of a smallholding.
 30. Consequently, in terms of the coherence and comprehensiveness of the scheme compared to the 'piecemeal' approach secured by the fallback, I do not consider that there is such an impetus to achieve a site-wide solution.
 31. The other alleged benefits include the minimal visual impact and greater extent of landscaping proposed with the current scheme when compared to the fallback. For reasons already outlined, I do not find the fallback scheme to be so materially harmful when considered in context with the proposal. Though the appearance of the existing building would change, its functional design and original use as an agricultural building in an agricultural landscape would still be appreciable. A landscaping scheme is also required by a condition on the fallback planning permission⁶, which could allow for a similarly beneficial landscaping scheme to be devised in any event.
 32. Whilst it is claimed that the fallback scheme would be thermally and energy inefficient when compared to the proposed scheme, this may depend on the

⁴ 1567/19/FUL

⁵ Brentwood Borough Council v Secretary of State for the Environment and Gray (1996) 72 P. & C.R. 61, Court of Appeal VIA: Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314, R v Secretary of state for the Environment and Havering London Borough Council BC (1998 EnvLR189)

⁶ Condition 4 of 1567/19/FUL

- way in which the fallback scheme is executed, and limited evidence has been put forward to enable a comparison to be made.
33. It has also been claimed that the fallback scheme would have a significant impact on the neighbouring dwellings at West Pitten Farm. Despite some minor changes to the views of the building, which would not look unlike it does at the present time, no explanation of the alleged significant impacts has been provided.
34. Though there would be some interruption to the otherwise dark landscape through the introduction of windows at ground and first floor level from the fallback scheme, again, this would be in the context of a building that is already predominantly screened from public view and which would be unlikely to be experienced as a 'beacon' within the landscape. The appeal proposal would result in a wider dispersal of lighting effects in any event.
35. The potential impacts of the fallback scheme on the living conditions of the future occupiers has been noted as being inferior to the current proposal, due to the potential noise effects and other such 'unneighbourly' issues. The proposed dwellings would also provide future occupiers access to private outside space which has been highlighted as being more important during a pandemic. Whilst the appeal scheme could remedy these issues, it also serves to cast doubt on the likely implementation of the fallback scheme.
36. The net ecology gains have been promoted by the appellant as a considerable benefit of the scheme. I attach moderate weight to these benefits.
37. The appellant highlights that JLP Policy TTV29 is relevant in this case as it relates to replacement dwellings. Despite some logic to the argument, I am not of the view that the scheme is akin to that involving the replacement of dwellings. The five dwellings that could be built by way of the fallback do not exist at the present time and cannot be replaced.
38. The appellant also raises that there are numerous precedent appeal cases where the material considerations, including an alternative fallback scheme, have outweighed the conflict with the development plan⁷. Having reviewed these cases, the considerations are so widely varied and scheme-specific that it prevents any conclusions being drawn that add weight in favour of the scheme.
39. I have also reviewed the statistical comparison made between the scheme and the Mansell case⁸ and note that on its face, the appeal scheme would be smaller and appears to achieve less from a stronger fallback position. However, this is still a very crude assessment and I have insufficient evidence about the qualitative effects of the Mansell scheme in comparison to those that would derive from the current proposal.
40. I note that some local residents have indicated their support for the scheme on the basis that it is more desirable than the extant prior approvals and would utilise the site in a comprehensive way, avoiding the potential for future development. Having addressed the character and appearance matters above, these points are not, in my view, sufficiently compelling to justify the proposal in its current form.

⁷ APP/C1760/W/16/3154235, APP/D3830/W/16/3156030, APP/W1850/W/17/3171828, APP/M1710/W/17/3184477 and APP/M1710/W/17/3190271

⁸ Court of Appeal VIA: Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

41. Drawing together the key points, the main benefit can be summarised as, a reduction in the number of car-dependant residents occupying the site. Those residents would also benefit from a higher quality living environment. There would also be some ecological enhancements.
42. There would be economic benefits from the construction phase and from the reliance of future occupiers on local facilities and services. There would also be social benefits from the provision of three dwellings to the local housing stock. Though there may be greater temporary construction phase economic gains, the reduction in the number of dwellings compared to the fallback would reduce some of the other associated social and economic benefits.
43. The most notable aspect weighing against the scheme is the harm to the character and appearance of the area. Setting aside the locational conflict with the development plan in acknowledgement of the fallback position, my view is that this harm is of such magnitude that the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.
44. Therefore, for the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR