



Appeal Decision

Site visit made on 26 October 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2020

Appeal Ref: APP/K1128/W/20/3256040

Land south of Woodlands House, Station Road, Tamerton Foliot, Devon, PL5 4LD.

- 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 R Miles against the decision of South Hams District Council.
 - The application Ref. 2616/19.FUL, dated 13/8/19, was refused by notice dated 21/4/20.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The two main issues are: firstly, the effect upon the character and appearance of the area which forms part of the Tamar Valley Area of Outstanding Natural Beauty (AONB)¹ and; secondly, the likely impact upon bats and wading birds.

Reasons

Planning Policy

3. The development plan includes the Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP) and the Bickleigh Parish Neighbourhood Plan 2016-2034 (NP). The most relevant policies to the determination of this appeal are JLP policies TTV29 (replacement dwellings), DEV2 (light pollution), DEV23 (landscape character), DEV24 (undeveloped coast), DEV25 (AONB), DEV26 (biodiversity) and NP policy Bick07 (local character).
4. Whilst not part of the development plan, my attention has also been drawn to the Tamar Valley AONB Management Plan 2019-2024 (MP). The most relevant policy to the determination of this appeal is 10.5.8. This encourages sustainable development that respects, conserves and enhances the AONB's special qualities, distinctive features and heritage. The special qualities of the AONB include an unspoiled valley and water landscape, a landscape of high visual quality and a landscape that sustains a diversity of wildlife habitats. The MP can be given moderate weight in determining this appeal.

Character and Appearance

5. This 0.25 ha appeal site lies on the southern side of Station Road. It forms part of the wooded lower slopes on the hillside along the northern side of

¹ The provisions of section 85 of the Countryside and Rights of Way Act 2000 are engaged.

Tamerton Lake tidal creek². As I noted during my visit, this area of woodland is a very attractive landscape feature. Together with its tranquil character, it comprises an important part of this largely unspoiled valley³ and water landscape. The appeal site is visible from Station Road and Ernesettle on the opposite side of the creek. It contributes to the special qualities of the AONB.

6. The proposed single storey, four bedroom dwelling would be set back from Station Road at the end of a new driveway. This new building would comprise three linked blocks on stilts with mono-pitched roofs and large areas of glazing on the south and south western elevations. It would be finished in horizontal cedar planks and standing seam zinc. There would be a separate detached garage clad in horizontal cedar planks. The appellant's architect has explained that this house would be designed to reflect the structural form of a tree, with the mass of the form (canopy) supported on structural columns (trunk). This 'floating' concept is intended to blend in with the woodland setting.
7. The appellant's architect has given thoughtful consideration to designing a building for this woodland setting. The modern design and proposed external materials would be to a high standard and as set out within the appellant's tree report, important trees growing within the site would be retained. However, the proposal would introduce a sizeable new building and residential development into the wooded lower slopes on the southern side of Station Road. This would be readily apparent from this rural lane, as well from Ernesettle on the opposite side of the creek.
8. Seeing a development does not in itself amount to harm. However, the proposed house and garage, including inevitable domestic paraphernalia and light spill, would intrude into this most pleasant woodland scene and detract from the largely unspoilt valley and water landscape. This would be exacerbated by the associated residential activity in close proximity to the waterside, which would erode the tranquil character of the area. The proposal would have an adverse effect upon the character and appearance of the area.
9. The development if approved, could also result in future pressure to remove trees that would continue to grow alongside this new house and/or undertake pruning or lopping works in order to maintain or enhance estuary views. This would further erode the character and appearance of the area. In addition, the "*more managed parkland setting*" would give a 'planned' appearance to this section of woodland and be at odds⁴ with the more naturalised qualities of the landscape. The new garage, driveway and visibility splays would also be very apparent from Station Road and would contrast awkwardly with the unspoilt woodland scene on the southern side of the road.
10. The proposal would detract from the special qualities of the AONB and would fail to conserve and enhance the natural beauty of the area. It would conflict with the provisions of JLP policies DEV23, DEV24 and DEV25, as well as NP policy Bick07 and MP policy 10.5.8.
11. The proposed dwelling would be a replacement for Woodlands House, which burnt down in 2009, on the opposite side of Station Road. Permission in

² The creek is part of the Tamar - Tavy Valley Estuary Site of Special Scientific Interest (SSSI). This SSSI is immediately to the south of the appeal site. It is of international importance as a wintering site for wildfowl and waders and of national significance for its marine biological interest.

³ There is a sizeable solar farm on the upper slopes at Warleigh Barton and a row of electricity pylons.

⁴ The removal of bramble from within the site would not have any adverse landscape or visual impact.

principle to reconstruct a two storey house on the site of Woodlands House has been granted (ref. 1515/20/PIP). I note the appellant's arguments that the appeal scheme would be sited further away from the electricity pylon and overhead lines and would be lower down the hillside.

12. JLP policy TTV29 permits replacement dwellings in the countryside where, amongst other things, it is positioned on the footprint of the existing dwelling, unless on design, landscape, highway safety, residential amenity or other environmental grounds a more appropriate location can be agreed. With this in mind, as with the appeal scheme, a replacement dwelling on the 'footprint' of Woodlands House could also be designed to a high standard⁵.
13. However, unlike the appeal scheme, a replacement dwelling on the 'footprint' of the former house would be on an established residential plot⁶ and would not intrude into or disrupt the woodland on the southern side of Station Road. It is very far from certain that the appeal scheme would be less intrusive within the AONB or that a replacement dwelling on the site of Woodlands House would create an unsafe/unhealthy environment for residents. The appeal site is not a more appropriate location for a replacement dwelling. The development that is the subject of this appeal conflicts with the provisions of JLP policy TTV29.
14. I note that the appellant would be willing to enter into a legal agreement to ensure that if the appeal scheme was approved there would be no prospect of the replacement dwelling being built on the 'footprint' of Woodlands House. Whilst my decision does not turn on this matter, a completed planning obligation, under the provisions of section 106 of the Town and Country Planning Act 1990, would be required to prevent both developments from going ahead. There is no such obligation before me. As such, had I found in the appellant's favour on this issue, there is no mechanism in place to ensure that there would be no net increase in the number of dwellings within this sensitive landscape or a means of securing the appellant's claimed benefits.
15. I conclude on the first main issue that the proposal would adversely affect the character and appearance of this part of the AONB. This harm to a nationally important landscape weighs very heavily against granting planning permission.

Likely Impact Upon Bats and Wading Birds

16. The appellant's Preliminary Ecological Appraisal Report found that low numbers of Lesser Horseshoe Bats had roosted in the dilapidated caravan on the site of Woodlands House. This Report also found that some of the adjacent trees could be in use as bat roosts. Further survey work was recommended to assess the level of bat use so as to inform suitable mitigation and a potential licence application. I have not been provided with details of any such survey work. Bats are also likely to be using the woodland along the southern side of Station Road for roosting and/or foraging and/or commuting.
17. The appeal site lies within the Zone of Influence for the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA). It is also near to Warleigh Point Nature Reserve. I note that Natural England is concerned that development could have indirect impacts, such as noise and lighting from construction and/or the operation of development, on Avocets and Little Egrets. However, provided impact

⁵ Both national and local planning policies require a high standard of design.

⁶ Albeit, somewhat overgrown.

avoidance or mitigation measures are proposed there is unlikely to be the potential for an adverse effect on the SAC or SPA.

18. The appellant has volunteered a condition to accept a "*Eurobat License*" before any construction works commence. In effect, this would require the developer to obtain a licence not less than 12 months before the commencement of works. However, Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System' advises, amongst other things, that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.
19. On the basis of the information before me, there is a reasonable likelihood that protected species may be present and could be affected by the proposed development. There are no exceptional circumstances to justify not undertaking ecological surveys until after a planning permission had been granted. I therefore concur with the Council that in the absence of survey work to assess the level of bat use of the appeal site and the site of the former Woodlands House, it is not possible to find that the proposal would not have an adverse impact on bats. There is also no cogent evidence to demonstrate that the proposal would not disturb wading birds within the SAC or SPA, or that mitigation would be in place to offset any harmful impact. The proposed development conflicts with the provisions of JLP policies DEV2(4) and DEV26.
20. I conclude on the second main issue that the proposal would be likely to have an adverse effect upon local populations of bats and wading birds.

Overall Conclusion

21. Given my findings above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector