



Appeal Decision

Site Visit made on 31 August 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/K1128/W/21/3273733

Land at SX 875 510, Jawbones Hill, Dartmouth TQ6 9RN

- 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 O'Connell of Libra Investments Ltd against the decision of South Hams District Council.
 - The application Ref 3680/20/FUL, dated 10 November 2020, was refused by notice dated 4 February 2021.
 - The development proposed is the creation of a 14 bay car park and associated landscaping works.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a 14 bay car park and associated landscaping works at land at SX 875 510, Jawbones Hill, Dartmouth TQ6 9RN in accordance with the terms of the application, Ref 3680/20/FUL, dated 10 November 2020, and subject to the conditions in the attached schedule.

Main Issue

2. The main issues are:
 - the effect of the development on the character and appearance of the area, having regard to the location within the South Devon Area of Outstanding Natural Beauty (the AONB), and
 - whether or not the development plan would support the proposed car park in this location, having regard to the location within the countryside and Undeveloped Coast.

Reasons

Character and appearance

3. In this area, Jawbones Hill is a road that generally marks the edge of the built form of Dartmouth from the open areas of countryside beyond. It is a steep road with residential development on one side and mainly trees and other landscaping on the land to the other side. In this general area of the valley side, the properties of the town step up the steep slope and many face out towards the estuary.
4. There are also extensive and open views of the town from areas including from along its frontage, from Kingswear and other locations looking back towards Dartmouth where the built form is framed by the surrounding countryside including the open and undeveloped land to the west of Jawbones Hill.

5. The appeal site and the surrounding area, including the settlement area of Dartmouth, lies within the AONB. In terms of landscape character the site is identified¹ as Landscape Character Type (LCT) 3G River Valley Slopes and Combes. The wider appeal site includes sections of the hillside further up the slope and has grassed areas, with hedged boundaries and some treed sections. The appeal site as a whole exhibits some of the identified valued attributes of the LCT.
6. At my site visit I noted the line of parked vehicles on the western side of Jawbones Hill. While a snap shot in time I have no reason to believe that this was not broadly typical of other occasions. These vehicles parked in a long stretch up the side of the road visually influences the transition from the edge of the settlement to the adjoining countryside. The parked vehicles extend up the road to the entrance of the recently constructed car park.
7. This car park provides parking for 14 vehicles and the use is limited to local residents living in the adjoining streets. It was granted permission by the Council in 2015. The car park is fairly prominent from the adjoining part of the road and is located within the countryside for planning purposes. Nevertheless, the stone entrance walls and the surrounding landscaping help to assimilate the appearance of the car park into the area, although the stone gabions appear at the present time as quite an engineered element of the overall design.
8. The permitted car parking scheme has effectively opened up a section of the hillside and changed the character of that area to one that now has some visual association with the road and the surrounding housing.
9. The appeal proposal would create a second vehicular access adjoining the existing end of the stone wall. This access would lead to a curving, reasonably narrow vehicular drive that would extend up the slope to an excavated, rectangular shaped car parking area. The banks of the excavated drive and parking area would be faced by a vegetated bag retaining wall system which the evidence indicates would in time allow vegetation to grow and have a planted appearance. Another section of stone wall would be constructed to the side of the proposed access which would match the existing walling.
10. The proposed scheme has been sensitively designed including with the walling both in stone by the road and the vegetated banks further back into the site. The proposal includes a comprehensive landscaping scheme which would allow the retention of a large sycamore. Importantly, the proposed entrance works and associated excavations to create the drive would be experienced in the context of the car park, the road with parked vehicles, the turning head and the adjoining dwellings. The proposed parking area and the associated vehicles further up the slope would be largely screened from these road side views, especially after the proposed landscaping had matured. While some of the vegetation on the slope would be lost, and this would change the appearance of this immediate section of the land, the works when seen from the road would not be harmful or look out of place alongside the permitted car parking area and general surroundings.
11. I have especially taken into account that Jawbones Hill, leading to the green lane, is also a popular route for walkers. The new entrance would be open to

¹ Landscape Character Assessment for South Hams and West Devon by LUC (June 2018).

public view along this route. However, the changes in character would be reasonably minor in the context of the surroundings and the scheme has been sensitively designed. Once the landscaping has matured I am satisfied that those works visible from the road would not look out of place or harm the character of this end of Jawbones Hill.

12. In wider views of Dartmouth, the proposed works and car parking area would comprise a small element of change within an open vista. This section of the hillside has established trees to the broadly north of the proposed car park which would largely screen the site from the broadly northerly direction. There is also some fairly well established scrub with some trees to the broadly south which again would help to largely screen the development from that direction. This established vegetation would restrict some of the mid distance views of this section of the hillside which would mainly be from a very broadly easterly direction towards the site.
13. In some of these mid-distance views, the alterations to the hillside would be framed by the existing vegetation, and the car parking area and access would be positioned just above the line of the fairly substantial dwellings in Jawbones Hill. The more open land further across the hillside that contributes very positively to the setting to the built form would not be affected by the scheme. The parked vehicles would be set down on an excavated section of the land and, in all likelihood, would be barely, if at all, visible once the landscaping scheme had matured. Some of the walls of the vegetated bag banks, including the curve of the access drive may be visible in some views but again once the bagged walls had greened up and the landscaping scheme matured, any changes that would be perceptible in the wider landscape would be minor and not draw the eye. As a result, I am satisfied that the proposal would not be harmful to landscape character or affect the valued attributes of the LCT.
14. In assessing the overall impact, I have had regard to all the evidence and information submitted, including the Landscape and Visual Impact Assessment (October 2020) and the detailed comments of the Council's Specialist Landscape Officer. I am also conscious of the National Planning Policy Framework (the Framework) policy requirement that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.
15. The appeal decisions for a residential development on the land adjoining the site have been brought to my attention. However, these proposals would have introduced an above ground built form positioned and visible above the line of other dwellings on the hillside and which, in all likelihood, would have also had associated domestic paraphernalia. These were different types of proposal, which would have had a different visual impact on this hillside, compared with the effect of the present appeal scheme. I am not, therefore, satisfied that the analysis and conclusions in respect of the residential schemes on the adjoining site are particularly instructive when analysing the impact of the present proposal. I therefore attach these other decisions limited weight in my considerations.
16. Drawing all these matters together, the change in the character of the landscape would be predominantly localised and mainly limited to the areas adjoining this section of Jawbones Hill. In this area, the development would result in visual change but would be seen in the context of the surroundings

and with the sensitive design and landscaping the scheme would integrate satisfactorily. In this way, the scheme in this location would not cause harm to the character and appearance of the area and the AONB. In mid and longer distance views, the impact would be minor and once the landscaping had matured the effect would not be especially noticeable or harmful in the context of the surroundings to the site and the adjoining built form.

17. Accordingly, I conclude that the proposal would not cause harm to the character and appearance of the area, having regard to the location within the AONB. In this respect there would be no conflict with Policies DEV23, DEV24, DEV25 and TTV26 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Joint Local Plan) which seek, amongst other things, that development should conserve and enhance the characteristics and views of the area along with valued attributes and existing site features such as trees, hedgerows and watercourses.

Whether or not the development plan would support the proposed car park in this location, having regard to the location within the countryside and Undeveloped Coast

18. Policy DEV24 of the Joint Local Plan details the policy approach to development within the Undeveloped Coast and Heritage Coast. The appeal site lies within both these designations. I have considered the policy requirements in terms of landscape impact under the first main issue and found the scheme policy compliant in this respect. Policy DEV24 also includes criteria in terms of the principle of development within the Undeveloped Coast. In relation to this issue, the key criteria in this case include whether it can be demonstrated that the development requires a coastal location and whether it cannot reasonably be located outside the Undeveloped Coast.
19. The Council explain in the Planning Report the concerns that the need for the proposed parking area has not been justified and that there is a lack of evidence to support the case, such as parking stress surveys. Furthermore, it is said that it has not been demonstrated that there are not sites outside the Undeveloped Coast that could provide the car parking spaces.
20. While I have noted the evidence, including from local residents, that there are usually spaces available, the information from the appellant is that the existing car park is fully rented and there is a waiting list from local residents for the spaces. The case is made that given the nature of the surrounding area there is insufficient car parking for residents and that there is a demonstrable need for the proposed spaces.
21. The properties in Jawbones Hill are mainly detached dwellings and have some on-site car parking. However, some of the adjoining roads, such as Crowther's Hill and Above Town, consist of mainly terrace cottages which seem only rarely to have off-road car parking spaces. There are quite a number of such properties which appear to have no car parking and no potential for such parking to be provided. Furthermore, these properties usually face narrow roads, often with double yellow lines, that provide little or no ability for on-road car parking.
22. Notwithstanding the concerns of the Council on the extent of evidence on car parking issues, I can fully appreciate that such a location, with its narrow streets and terrace properties, has insufficient close and convenient parking for

some residents. There is also support for the proposal from some local residents who highlight the parking problems locally and say that the provision of the spaces would be beneficial to the area.

23. Taking all the information into account, I am satisfied that the case has been made sufficiently that there is a need for the car park as proposed, providing it is restricted to parking for local residents. In many respects this is the same case that the Council accepted when it approved the original car park in 2015.
24. In terms of location, the site immediately adjoins the built up area of Dartmouth and therefore is in a position to assist with the parking needs of local residents who live in the surrounding roads, albeit its location towards the top of the slope may not be easily accessible for all. It is argued that a strategic approach should be taken and potential car park sites investigated across the town. However, this is a modest proposal and I am not aware that any other site has been put forward that could provide as realistic, deliverable and convenient option to serve this part of the town. As a consequence, I am satisfied that the car park, for which there is a demonstrable local need, is required to be in this position, thereby requires a coastal location and it could not be reasonably located outside the Undeveloped Coast. Consequently, the location of the car park complies with the approach set out in Policy DEV24 of the Joint Local Plan.
25. As I have found that the scheme would not be harmful to the landscape character of the area, I am satisfied that the scheme would protect the special characteristics and role of the countryside in the circumstances of this case. The scheme is therefore compatible with the relevant policy tests set out in Policy TTV26 of the Joint Local Plan in relation to this main issue.
26. In the light of the above analysis, I conclude that the scheme would be supported by the development plan in terms of the acceptability of the proposal within the countryside and Undeveloped Coast. Accordingly, the proposal would comply or not conflict with Policies DEV24 and TTV26 of the Joint Local Plan which seek, in this respect, that development can demonstrate it requires a coastal location.

Other Matters

27. I have carefully considered the representations both for and against the proposal. In terms of analysing some of the objections to the scheme, including from the Dartmouth Town Council and the Dartmouth and Kingswear Society, I have examined the effect of the proposal on the character and appearance of the area above.
28. I understand that local residents are concerned with increased traffic movements from the proposal. However, the proposed spaces would be rented to individual local residents who would have an allocated space. These drivers would therefore not be driving around looking for spaces generally by the road side and therefore, in a modest way, could reduce traffic movements and demands on the other spaces in the area.
29. The Highway Authority did not raise objections on highway safety grounds to the proposal and given my findings at the site visit I have found no reason to disagree.

30. Concerns have been raised with the run-off from the present car park and I have noted all the comments regarding that situation. However, issues in respect of that car park are not before me. The drainage requirements of the appeal proposal have been considered as part of the submissions and include a drainage scheme. I have no substantive reason to believe they would not be effective in this case. The detailed technical drainage requirements can be made the subject of a condition in any approval so that implementation of a suitable and effective drainage scheme could be incorporated into the works for the proposed car park.
31. I have carefully considered the range of other objections, including the cost of car parking charges, the need for resident's only parking streets, the works necessary to construct the car park and possible inconvenience to residents and land stability concerns. I have no detailed evidence on these and other matters that demonstrate they should be attributed such weight that they should lead me to a different overall conclusion on the merits of the scheme.
32. In terms of the general accessibility of the car park, it would be located towards the top of the slope and would not be an easy walk for all to access. However, the car park would be a privately rented facility which, because of the number of spaces, most local residents would not be able to or be required to use. In these circumstances, I consider that permitting the additional spaces would be a proportionate response to help to meet the parking needs of some residents while not changing the situation for others who would not be able to use or access the car park.

Conditions

33. The Council, on a without prejudice basis, has suggested a number of conditions which I have considered taking account of advice in the Framework and the comments from the appellant. Accordingly, I have amended some of the conditions for clarity and reasonableness.
34. In addition to the statutory time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty. A condition is necessary to ensure the details of sustainable drainage proposals are investigated, submitted and thereafter implemented in accordance with best practice in the interests of preventing flooding and any highway safety issue.
35. Conditions regarding a Reptile Mitigation Strategy and the implementation of the recommendations of the Wildlife Survey are necessary in the interests of protected species and the biodiversity on the site. This part of the hillside has some trees to the surroundings and while only some small trees may be removed as a direct result of the scheme, those trees would have matured in time. A condition requiring the submission of details of replacement tree planting should therefore be a necessary component of the landscaping scheme.
36. In addition to the conditions recommended by the Council, it is necessary in the interests of the visual amenities of the area, that conditions require the implementation of the submitted landscaping scheme and that details of the planting and seeding to the vegetated bags be agreed and then implemented.

37. A condition is necessary in the interests of the visual amenities of the area to ensure that the retained trees are protected during the works. No lighting is proposed as part of the scheme and a condition is necessary in the interests of certainty and to protect the dark night sky to ensure that if any lighting were to be proposed in the future it could be controlled and agreed, if appropriate, by the Local Planning Authority.
38. A condition which requires the submission of details and implementation of a Construction Management Plan is necessary given the slope of the site, road access and nearby residential properties. A condition to ensure that the car park is available only for local residents, in the specified adjoining roads, is necessary to accord with the terms of the application and help address local car parking issues.
39. Conditions in respect of the Reptile Mitigation Strategy and the Construction Management Plan are required to be pre-commencement conditions because these matters need to be agreed and in place from the outset of any works on site.

Conclusion

40. In the light of the above analysis and conclusions, the scheme would have an acceptable impact on the character and appearance of the area, including the AONB, and would accord with the policies of the development plan when considered as a whole. There are no material considerations that indicate a decision should be made otherwise. I therefore conclude that, subject to the specified conditions, the appeal should be allowed.

David Wyborn

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 plans: Location Plan Drawing 3795-01 Rev A, Block Plan Drawing 3795-02, Site Plan Drawing 3795-20 Rev C, Section A-A Drawing 3795-21 Rev A, Proposed North East Elevation Drawing 3795-22 Rev A, Section BB and CC Drawing 3795-23, Section DD Drawing 3795-24 , Section EE Drawing 3795-25, Topo Drawing no. 3795-03 Rev A, Landscape Plan Drawing CD/BBH/618-01, Tree Protection Plan Drawing 05424.TPP 28.8.20 and the Wildlife Survey prepared by Butler Ecology dated 9th November 2020.
- 3) Notwithstanding the submitted information, the car park shall not be brought into use until full details of the most sustainable drainage option has been submitted to and approved in writing by the Local Planning Authority. Design steps as below:
 - Soakaway testing to DG 365 to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in the report.
 - If infiltration is suitable then the soakaway should be designed for a 1:100 year return period plus an allowance for climate change (currently 40%).
 - If infiltration is not suitable then an offsite discharge can be considered. Attenuation should be designed for a 1:100 year return period plus an allowance for climate change (currently 40%).
 - The offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods. Full details of the flow control device will be required.
 - The drainage details of the car park and access will be required. If it is proposed to be permeable then it should be designed in accordance with CIRIA C753. Full design details and sectional drawing showing the specification and make up will be required.
 - A scaled plan showing full drainage scheme, including design dimensions and invert/cover levels of the soakaways/attenuation features, within the private ownership. The soakaways should be sited 5m away from all buildings and highways to accord with Building Regulations and 2.5m from all other site boundaries for best practice.

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.
- 4) Prior to the commencement of development, a Reptile Mitigation Strategy shall be prepared and submitted to the Local Planning Authority for approval. This document shall detail measures proposed to ensure that reptiles are not killed or injured as a consequence of the approved development. Once

approved works shall proceed only in accordance with the measures approved in the Reptile Mitigation Strategy.

- 5) The recommendations and safeguarding measures given in the Wildlife Survey prepared by Butler Ecology dated 9th November 2020 shall be followed, including precautions to prevent threat of harm during construction works.
- 6) Notwithstanding condition 2 above and the landscape details provided, prior to first use of the car park hereby approved, details of standard trees in addition to the landscaping proposed to provide compensatory tree planting for the trees to be removed as part of this development shall be submitted to and approved in writing by the Local Planning Authority. This detail shall include number of replacement trees, noting species and size and proposed location on site and shall be accompanied by an implementation and management plan. Once approved all works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shown on Landscape Plan CC/BBH/618-01 shall be carried out in the first planting and seeding seasons following the first use of the car park; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Prior to the first use of the car park hereby permitted, details of the method and species mixes to be used to establish appropriate vegetation on the surface of the vegetated bags shall be submitted to and be approved in writing by the Local Planning Authority. All planting and seeding in these approved details shall be carried out in the first planting and seeding season following the first use of the car park and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The tree protective fencing as shown on Tree Protection Plan Drawing 05424.TPP 28.8.20 shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and the fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area.
- 10) Details of any artificial lighting shall be submitted to and approved in writing by the Local Planning Authority before the erection of any such lighting. Development shall be carried out in accordance with the approved details.
- 11) Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;

- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inclusive; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the excavation and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works;
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
- (k) details of wheel washing facilities and obligations;
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes,
- (m) Details of the amount and location of construction worker parking;
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (o) Details of the proposed location of any removed spoil from the site, method of transportation and photographic evidence of the condition of the proposed route from the site.

The works shall take place in accordance with the approved CMP.

- 12) The car park hereby approved shall only be used as ancillary parking for properties in Jawbones Hill, Waterpool Road, Crowther's Hill and Above Town. The car park shall not be operated as a pay and display car park. The owner/operator of the site shall maintain a register of vehicles with permits to use the car park (including addresses of the owners) and shall make this register available to the Local Planning Authority upon request.

End of Schedule