



Appeal Decision

Site visit made on 8 March 2022

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 23 March 2022

Appeal Ref: APP/K1128/W/21/3285020

Land South of Shute Park, Malborough, Devon TQ7 3SU

- 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 Graham Kerslake against the decision of South Hams District Council.
 - The application Ref 4207/20/FUL, dated 16 December 2020, was refused by notice dated 28 April 2021.
 - The development proposed is a respective application for garden shed, storage container and wooden base.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of accuracy and consistency, within the banner heading above I have used the address for the appeal site and the description of development as provided on the Council's Decision Notice.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area including the South Devon Area of Outstanding Natural Beauty (the AONB) and the undeveloped coast.

Reasons

4. The appeal site comprises a parcel of land located to the south and outside the village at Malborough, and which is accessed from a public path which continues past the eastern boundary of the site. At the time of my visit, I saw the proposed timber shed structure, the metal storage container and the wooden base, which the evidence before me indicates would be used for siting of a yurt structure, were positioned close together within the site. The planning application has been submitted retrospectively, and consequently I have dealt with the appeal on that basis.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
6. Policy TTV1 of the Plymouth and South West Devon Joint Local Plan (the JLP) provides details of the distribution of development across the area based on a hierarchy of sustainable settlements. The appeal site is located outside of any

settlement, separated from Malborough by agricultural land, and is within the countryside.

7. Policy TTV1 of the JLP provides that, in such locations, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2 of the JLP, including as provided for in Policies TTV26 and TTV27 of the JLP. Policy SPT1 of the JLP concerns sustainable development, with Policy SPT2 of the JLP providing, amongst other matters, that developments provide a positive sense of place and identity, including through the recognition of good quality design, unique character, the role of culture, and the protection and enhancement of the natural and historic environment.
8. Policy TTV26 of the JLP which concerns 'Development in the countryside' is of direct relevance to the appeal proposal for the reason given above. That policy seeks to protect the special characteristics and role of the countryside and, amongst other matters concerning isolated development within the countryside, provides that development proposal should, where appropriate, respond to a proven agricultural, forestry and other occupational need that requires a countryside location. Policy 28 of the Malborough Neighbourhood Plan (December 2018) (the Neighbourhood Plan) provides that sustainable rural business and farm diversification initiatives will be supported where these maintain or enhance the special qualities or distinctive landscape character of the AONB.
9. As observed on my visit, the appeal site is a small field which is predominately laid to grass with small areas given over for horticulture and for the keeping of chickens. The Appellant has put it to me that whilst the site is of modest size, they are doing as much agriculture as the size of the plot allows, and that the shed and container structures would be required to house machinery for the upkeep of the site.
10. However, only limited areas of the site appear to be used in relation to fruit and vegetable growing and for the keeping of a small number of chickens and, as noted above, a substantial and significant portion of the field appeared to be laid to grass which, with the structures on site such as the wooden yurt base giving the site a recreational garden character and appearance. There does not appear to be any evidence before me which indicates that the proposal relates to a farm diversification, that the agricultural use of a small part of the field would represent a sustainable rural business or that the proposed development would meet the essential needs of agriculture interests. In these respects, the appeal proposal would conflict with the requirements of Policies TTV26 and DEV15 of the JLP and would fail to accord with the provisions of Policy 28 of the Neighbourhood Plan.
11. The appeal site is within the AONB. Policy DEV25 of the JLP requires development proposals which are located within the AONB, to conserve and enhance the natural beauty of the protected landscape with particular reference to its special qualities and distinctive characteristics or valued attributes. This policy reflects the provisions of paragraph 176 of the National Planning Policy Framework (July 2021) (the Framework) which requires that great weight must be given to the conservation and enhancement of the AONB's landscape and scenic beauty.

12. The proposed wooden yurt base and the metal container would be incongruous features within the AONB and their position and layout within the site would result in a harmful encroachment into the countryside, drawing the eye from the landscape and scenic beauty of the AONB, detracting from the quality of this highly protected surrounding landscape. These structures which have a domestic appearance, would not respond positively to the rural context of the site. In these respects, the scheme would not conserve or enhance the landscape or scenic beauty of the AONB.
13. Whilst it is acknowledged that the structures, further to the provision of camouflage netting on the metal container, would not be highly prominent or visible from within the wider surrounding AONB, the Framework requires that great weight is given to conserving and enhancing the landscape and scenic beauty within the AONB in all instances, irrespective of the prominence of the appeal site. Nonetheless, at the time of my visit, I was able to observe the proposed structures from the public path that is located adjacent to the appeal site.
14. Policy DEV24 of the JLP concerns Undeveloped Coast and Heritage Coast and broadly confirms that development will not be permitted where it would have a detrimental effect on the character and appearance of these areas. This policy provides a set of criteria against which development proposals should be assessed and which, amongst other matters, requires that development protects, maintains and enhances the unique landscape and seascape character and special qualities of the area, and that it can be demonstrated that the proposal requires a coastal location.
15. For the same reasons given in relation to harm to the AONB, the appeal scheme would not protect, maintain or enhance the unique landscape character of the area. Furthermore, there does not appear to be sufficient evidence before me that demonstrates an overriding requirement that the proposed structures must be in this location within the Heritage Coast.
16. In summary of the above, it has not been demonstrated that the proposed development would respond to a proven agricultural need that requires a countryside location. Furthermore, the proposal would not maintain or enhance the special qualities or distinctive landscape character of the AONB and would have a detrimental effect on the undeveloped coast.
17. As such, the proposed development would conflict with the requirements of Policies TTV26, DEV15, DEV20, DEV23, DEV24 and DEV25 of the JLP and would be contrary to Policy 28 of the Neighbourhood Plan. Given the above findings in relation to the AONB and Heritage Coast, the proposal would not be sustainable development and would thereby fail to accord with Policies SPT1 and SPT2 of the Local Plan. For the same reasons, the proposal would conflict with paragraph 176 of the Framework.

Other Matters

18. The Appellant's submissions provide that additional planting has been provided at the site, that they have plans for more planting and that the site has been tidied of various items of domestic paraphernalia. However additional planting will take time to mature and whilst these matters are positive in nature, in my view, they would not be sufficient to overcome the harm identified in relation to the AONB and Heritage Coast and the consequent conflict with the provisions of

the development plan and the Framework to which I attach great weight in the determination of this appeal.

19. Furthermore, whilst I note the Appellant's submissions regarding nearby development of housing within Malborough and other structures within the surrounding agricultural fields, I have only limited information before me regarding those developments and no details of the policy requirements that applied at the time of their determination by the Council. Whilst the support for the development from a number of local residents is noted, it does not outweigh the conflict which I have found in relation to the development plan.
20. I also acknowledge that the Appellant's submissions indicate that the development could be amended to remove the wooden yurt base. However, Annexe M of The Procedural Guide, Planning Appeals – England clarifies that the appeal should not be used to evolve the application. Consequently, the determination of this appeal has been concluded on the basis of the application, which was made to the Local Planning Authority, and upon which the opportunity for consultations has been provided.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR