



Appeal Decision

Site visit made on 29 March 2022

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

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/K1128/W/21/3285450

Land at SX 5820 50520, Yealmpton, Devon, PL8 2HS

- 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 Mrs Lorna Talbot against the decision of South Hams District Council.
 - The application Ref 0663/21/FUL, dated 22 February 2021, was refused by notice dated 23 August 2021.
 - The development proposed is the change of use from B8 to C3 and redevelopment to a single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from B8 to C3 and redevelopment to a single dwelling at Land at SX 5820 50520, in accordance with the terms of the application, Ref: 0663/21/FUL, dated 22 February 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the interests of accuracy and consistency, I have used the address of the appeal site and the description of development in the banner heading above to reflect that as provided on the South Hams District Council (the Council) Decision Notice.

Main Issue

3. The main issue in this appeal is whether the proposal is in a suitable location for housing, with particular regard to local planning policy.

Reasons

4. The appeal site comprises land and a covered reservoir water storage tank with associated plant structures and outbuildings, located within the South Devon Area of Outstanding Natural Beauty and outside of any settlement. The location is rural in character and appearance, with the site being predominately surrounded by agricultural fields and a network of narrow lanes and, consequently, the appeal site is in the countryside for planning purposes. The appeal scheme seeks a change of use of the covered water storage tank to a dwelling.
5. Policy TTV26 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan) which concerns 'Development in the countryside' is of direct relevance to the appeal proposal for the reason given above in relation to the location of the site in a rural area outside of any settlement. The supporting text to Policy TTV26 of the Local Plan provides that that policy needs to be read

alongside other policies of the development plan, and that the delivery of new homes that are distant from existing services and amenities do not represent a sustainable solution to the need for new homes in rural areas. Nonetheless, this supporting text also includes that Policy TTV26 provides the criteria that need to be met before a development proposal can be supported in the countryside, including the provisions required for the re-use of existing buildings in the countryside.

6. The evidence before me indicates that the nearest settlement to the appeal site is at Yealmpton, where there is access to a moderate level of services and facilities that could be reasonably required on a day to day basis. As I observed on my visit, whilst the distance from the site to that settlement is not significant, access to the services and facilities contained therein is via an unlit highway which does not benefit from pedestrian footways, and which is steeply inclined in parts. Whilst it is acknowledged that there are public footpaths which provides connections to Yealmpton, those paths would be similarly unlit and would not provide suitable alternative access especially for those with reduced mobility. Consequently, it could be said that access to and from the nearest services and facilities on foot or by bicycle would not be particularly safe for all and, in my view, it is likely that most journeys to and from the site would be by private motor vehicle.
7. Notwithstanding the above, the Appellant has put it to me that a fall-back position exists with regards to the lawful use of the site for storage and distribution. Whilst I acknowledge the Council's comments regarding the likelihood of such use returning to the site, in my view there is a greater than theoretical possibility that the fallback position would be implemented in the event that this appeal was dismissed. As such, I consider that the reuse of the site for storage and distribution represents a realistic fallback position.
8. In that regard, the Appellant has provided additional information and submissions regarding the number of vehicle trips that would be likely to be generated in respect of the use of the site for residential purposes and for storage use. Whilst I note those submissions, given the constraints of the location of the site and the narrow nature of the lane providing access to the site, I find that it is likely that the fall-back position would not result in a significant increase or decrease in associated vehicle movements than that would be likely to occur in respect of residential use of the site.
9. The first section of Policy TTV26 of the Local Plan seeks to restrict 'isolated development in the countryside' unless there are exceptional circumstances, such as provision of a dwelling for a rural worker, securing the future of a significant heritage asset, securing re-use of redundant or disused buildings and brownfield sites, or be of a truly outstanding or innovative sustainability and design. These criteria are consistent with paragraph 80 of the National Planning Policy Framework (July 2021) (the Framework) which concerns isolated homes in the countryside.
10. The main parties both refer to case law with regards to their conclusions regarding whether the appeal site can be considered to be isolated. It has been established through the Braintree DC v SSCLG judgment¹ that the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

proposed new dwelling is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand. The City & Country Bramshill Limited v SSHCLG judgment² endorsed this approach.

11. As noted above, the appeal site is located outside of the nearest settlement at Yealmpton. From observations made on my visit, the site is physically and visually separated from that settlement by agricultural fields, and, in my view, the appeal scheme would represent an isolated house in the countryside.
12. Whilst I acknowledge that a great amount of thought has been put into the conversion of the water storage tank into a dwelling, the design of the appeal scheme would not be of a truly outstanding or innovative design. However, one of the examples of exceptional circumstances included within Policy TTV26 of the Local Plan is where development would secure the re-use of redundant or disused buildings and brownfield sites for an appropriate use. The evidence before me indicates that the existing building is disused and, consequently, the appeal scheme would accord with the exception provided for under the first section of Policy TTV26 of the Local Plan.
13. Policy TTV26 goes on to indicate that, where appropriate, development proposals should meet certain aims. These include re-using traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration. Whether or not the building is considered to be traditional, the policy indicates that these criteria only apply ‘where appropriate’. As such, they would not preclude the conversion of other buildings where they met the criteria in the first section of the policy setting out the types of permissible development.
14. In light of the above, I find no conflict with Policy TTV26 of the Local Plan. Whilst it is acknowledged that future residents of the appeal scheme would be reliant on private vehicles for most trips, the fallback position would, in my view, be likely to generate a similar number of vehicles movements associated with the site. Consequently, the appeal scheme would not conflict with the sustainability aims of Policy TTV26 of the Local Plan.

Other Matters

15. The appeal site is within the zone of influence of the Plymouth Sound and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area. Occupation of an additional dwelling at the appeal site could open pathways to additional recreational pressures on the European Sites and a consequential likely adverse impact on the integrity of those sites. Therefore, Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 is required.
16. The qualifying features of the Plymouth Sound and Estuaries Special Area of Conservation include sandbanks which are slightly covered by sea water all the time, estuaries, mudflats and sandflats not covered by seawater at low tide, large shallow inlets and bays, reefs, Atlantic salt meadows, Shore dock; and Allis shad. Those of the Tamar Estuaries Complex Special Protection Area are internationally important populations of Avocet and Little Egret.

² City & Country Bramshill Limited v SSHLG and others [2021] EWCA Civ 320

17. The Council has adopted the 'Recreational Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site' (the Mitigation Scheme) (November 2019) which seeks to secure developer contributions based on a scale relative to the sizes of dwellings to mitigate against the effects of additional recreational pressures.
18. The Appellant has submitted a unilateral undertaking, dated 22 October 2021, which provides a financial contribution in connection with the proposed dwelling based on its number of bedrooms. The Council have confirmed that the undertaking provides for the full payment of the contribution prior to occupation of the dwelling.
19. In their response, Natural England have confirmed to me that with the appropriate financial contributions being in place, the development would not have an adverse effect on the integrity of the above identified European Sites. Therefore, as competent authority and following Appropriate Assessment, I find that there would be no adverse effect on the European Sites.

Conditions

20. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. In the interests of biodiversity and the environment, it is reasonable to include conditions requiring that: the development be carried out in accordance with the recommendations of the submitted ecological report, remediation of potential contaminated land and that details for external lighting and low carbon measures be agreed with the Council.
21. In the interests of the character and appearance of the area, it is necessary to include conditions requiring that details of hard and soft landscaping as well as materials be agreed in writing by the Council. It is further reasonable and necessary to include conditions regarding visibility splays and parking arrangements in the interests of highway safety and the living conditions of future residents.
22. Where necessary, and also in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance. The wording of pre-commencement conditions have been agreed by the Appellant.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

Mr A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision
2. The development hereby permitted shall be carried out in accordance with the following approved plans: PA-01, PA-02, PA-03, PA-04, PA-05, PA-06, PA-07, PA-08, PA-09, PA-10, PA-11, PA-12, PA-13, PA-14, PA-15, PA-16, PA-17, PA-18, PA-19, PA-20, PA-21, PA-22, PA-23, PA-24, PA-25, PA-26, PA-27, PA-28, PA-29, PA-30 and PA-31 received by the Local Planning Authority on 26 March 2021.
3. The development shall be carried out in accordance with the recommendations and enhancement measures contained within the EcoLogic Ecological Scoping Assessment dated December 2020.
4. No part of the development hereby approved shall be commenced until the access and visibility splay have been provided and maintained in accordance with the approved drawings and retained for that purpose at all times.
5. With the exception of demolition operations, no development shall proceed until it has been demonstrated how the development will incorporate low carbon efficiency/reduction and/or renewable energy generation measures, including water efficiency and recycling measures, with such details being approved in writing by the Local Planning Authority. No further development shall take place until such details are approved and the development shall be carried out in accordance with the approved details and maintained thereafter.
6. The dwelling shall not be occupied until the vehicular parking and storage areas identified on the approved drawings have been provided, thereafter being maintained and retained for such purposes at all times.
7. Prior to first installation on the buildings hereby approved precise details of the materials, colours, and finishes to be use on the external surfaces of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The works shall proceed in accordance with the approved materials only.
8. Prior to first occupation of any dwelling on the site, full details of hard and soft landscape works for the site including Devon Bank provision, including an implementation and management plan, shall have been submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and shall include details of boundary

treatments. The hard landscape works shall include means of enclosure; built boundary and surface treatments; vehicle and pedestrian/cyclist circulation. 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.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.

10. Prior to the installation of any exterior lighting on the buildings hereby approved or elsewhere on the site full details including design, siting and illumination-type and lux level shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.