



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: 15 June 2022

Appeal Ref: APP/K1128/W/21/3281986

Rose Cottage, Bickleigh, Plymouth PL6 7AL

- 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 & Mrs C & R Hattersley against the decision of South Hams District Council.
 - The application Ref 3624/20/FUL, dated 5 November 2020, was refused by notice dated 21 April 2021.
 - The development proposed is described as the siting of a chalet/mobile home for holiday let accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning history for the site confirms that an outline application with all matters reserved except for access for a single detached dwelling with double garage was dismissed at appeal¹ (the First Appeal Decision) in August 2018. A further planning application for the subdivision of Rose Cottage into two dwellings was refused on appeal² (the Second Appeal Decision) in March 2020. A lawful development certificate for the siting of a mobile home within the curtilage of Rose Cottage for ancillary use was approved by South Hams Council (the Council) in April 2020.
3. Annex M of The Procedural Guide, Planning Appeals – England confirms that the appeal should not be used to evolve the application and where amendments are proposed during the appeals process the Inspector will take account of the Wheatcroft Principles when deciding if the proposals can be formally amended.
4. In the 'Wheatcroft' judgment³, the High Court considered the issue of amendments and established that "the main, but not the only, criterion on which... judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation".

¹ Appeal Reference: APP/K1128/W/18/3204251

² Appeal Reference: APP/K1128/W/19/3237609

³ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Main Issues

5. Although the Council has given six reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify five main issues.
6. The main issues in this appeal are:
 - Whether adequate information has been provided in respect of design, ecology, drainage and carbon reduction measures,
 - The effect of the proposed development on highway safety,
 - The effect of the proposed development on protected habitats,
 - Whether the location of the development would accord with local policies that seek to restrict tourism development in the countryside to minimise the need to travel unless an identifiable local need has been adequately demonstrated; and,
 - The effect of horse related development on the character and appearance of the surrounding area.

Reasons

Design, Ecology, Drainage and Carbon Reduction

7. The reason for refusal given on the Council's decision notice contains a number of elements and I shall consider each in turn. During the appeal, I sought additional information from the Council in respect of these matters and the Appellants were provided with an opportunity to respond.
8. In terms of design, it has been put to me by the Council that they received no detailed information or drawings in support of the planning application regarding the design and appearance of the proposed structure. The Appellants, during the appeal, provided a copy of a document which it is maintained was submitted in support of the planning application but that does not appear to have been uploaded to the Council's website. The Appellants have put it to me that they wish me to consider an alternative design for the proposed structure, being described as a mobile home sized lodge, or that I consider a further alternative of allowing one or two shepherds' huts.
9. The initial plans before me show a structure which has the outward character and appearance of a chalet, with a number of openings being shown on each of the elevations of the structure and sleeping accommodation at first floor level. However, there is insufficient detail given on those drawings, for example in terms of orientation, to enable a full assessment of how such a structure would integrate within its surroundings and whether or not such a structure would result in any harm to character and appearance of the host building or to the surrounding area.
10. In terms of the additional alternatives suggested by the Appellants during the appeal process, I have been provided with a drawing showing a mobile unit of accommodation. However, that drawing is again lacking in sufficient detail such as orientation and position, so as to allow for proper assessment of the effect of such a structure on the character and appearance of the surrounding area. I have not been provided with any drawing or information regarding the potential

siting of shepherds' huts at the site and, consequently, have not considered further that suggested alternative. This was a full planning application and as such it would not be appropriate to impose a planning condition requiring that design be approved by the Council at a later date.

11. For the above reasons regarding the lack of sufficient detail and information in support of the design of the proposed structure, I conclude that the proposed development would conflict with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan) which provides that developments are required to meet good standards of design, contributing positively to both townscape and landscape, and protect and improve the quality of the built environment. The appeal proposal would also fail to accord with the National Planning Policy Framework (the Framework) with regards achieving well designed places.
12. A wildlife trigger table was submitted in support of the planning application which indicated no impacts from the proposed development. However, concerns have been raised that insufficient information has been provided in terms of ecological impact and in respect of potential light spill. Whilst I acknowledge that the Appellants have, during the appeal, provided a copy of an ecological report, that report was from 2017 and concerned a different form of development. As such, and given the above conclusions in respect of design, I cannot be sure that the findings of the earlier ecological report would still apply to this scheme, and it would not be appropriate to impose a planning condition that required further reports be provided and approved by the Council.
13. In light of the above, I cannot be sure that the proposed development would not result in harm to ecology or that any impacts could be adequately mitigated or compensated for. Consequently, the proposed development would conflict with policy DEV26 of the Local Plan which concerns protecting and enhancing biodiversity and would fail to accord with paragraph 180 of the Framework.
14. Amongst other matters, Policy DEV32 of the Local Plan provides that developments should reduce the energy load of the development by good layout, orientation and design to maximise natural heating, cooling and lighting, and reduce the heat loss area.
15. No details of carbon reduction measures appear to have been submitted in support of the planning application. The Appellants have put it to me that the energy supplier for the proposed development uses renewable sources of energy and the structure would be insulated to a high standard. However, no specific details or evidence has been provided in those respects and given the above concerns regarding the lack of sufficient design detail, it cannot be determined whether the proposal would meet the local policy requirements. As such, the proposal would conflict with Policy DEV32 of the Local Plan and would fail to accord with paragraph 154 of the Framework.
16. Notwithstanding the above and the identified conflict with local and national planning policies, it is proposed that drainage is to be managed via a soakaway and biodisc treatment plant. During the appeal, the Appellants have provided a copy of a drainage strategy from 2017 which, as above in relation to ecological matters, concerned an earlier different form of development. However, whilst the information supplied in support of the planning application appears to be

brief, further details of the proposed drainage from the site could be secured via a pre-commencement planning condition. Consequently, and subject to such a planning condition, I conclude that the proposed development would not conflict with Policy DEV35 of the Local Plan nor fail to accord with paragraph 167 of the Framework.

Highway Safety

17. Policy DEV29 of the Local Plan confirms that development should provide safe and satisfactory traffic movement and vehicular access to and within the site. The County Council's Highways Officer objected to the appeal scheme on the basis of the access and lack of acceptable visibility for emerging vehicles.
18. Safety in respect of access onto the highway from the site was considered under the First Appeal Decision, where it was concluded that by reason of the restricted and constrained nature of the road network close to the site and due to the lack of suitable levels of visibility, that proposal for a separate new dwelling would have had an unacceptable impact on highway safety. Whilst the number of vehicle trips generated from holiday use of the site would likely be less than those numbers of movements generated by permanent residential use of the site, I again find that visibility for vehicles emerging from the existing access would be significantly restricted by vegetation and, consequently, the appeal scheme would have a detrimental effect on highway safety.
19. Whilst it is acknowledged that the Second Appeal Decision did not specifically refer to concerns regarding highway safety, it is apparent that that decision does not amount to a confirmation that no highway safety matters arise from the appeal proposal. I have therefore, in any event, determined this matter on its own merits and based on the evidence and submissions before me.
20. Nonetheless, during the appeal the Appellants provided further information and a new plan which, it is maintained, would be in accordance with the recommendations put forward by the Highways Officer that acceptable visibility splays be provided. In that regard, the new plan submitted during the appeal appears to be a copy of the block plan with an additional handwritten line in red showing a possible realignment of the hedge which currently restricts visibility to the north of the access point.
21. The Appellants have confirmed that the new plan was not provided to the Council during assessment of the proposal. In my view, such a significant alteration to the alignment of the hedge would result in a development so changed in terms of character and appearance that interested parties and statutory consultees should have been provided with the opportunity to consult on the proposed changes. I have not, therefore, further considered the new plan submitted during the appeal in the determination of this matter.
22. Given that the proposal would be likely to increase numbers of vehicle movements and that visibility for vehicles emerging from the site would be significantly restricted by vegetation and the narrow nature of the highway, I conclude that the appeal scheme would have an unacceptable impact on highway safety. Consequently, the proposal would conflict with Policy DEV29 of the Local Plan and would fail to accord with the Framework in respect of achieving safe and suitable access for all users.

Protected Habitats

23. The site falls within the zone of influence of the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area). The proposed scheme would be likely, in combination with other plans and projects, to have a significant effect on the internationally important interest features of these areas due to additional recreational pressure.
24. The Council's officer report confirms that a scheme to mitigate the adverse effects on these protected sites can be secured by Unilateral Undertaking (UU), but that at the time of the Council's assessment of the proposed development, no such planning obligation had been received. Nonetheless, it is noted that several versions of a UU were submitted during the appeal which, it is maintained by the Appellants, would provide the necessary financial contribution to overcome the Council's reason for refusal regarding adverse effects on the integrity of the Tamar European Marine Site.
25. However, amongst other matters the initial and second UU submitted with the Appellants' statements of case were incomplete, referred to a different site and was made to a different Local Planning Authority. After the final comments stage, in responding to my request for clarification on other matters raised within this appeal, the Appellants provided additional details with regards to the required UU, with a copy of a two page document which was dated 6th May 2022. Whilst that document appears to have correctly identified the applicable Local Planning Authority, it is incomplete in terms of the obligations to be met and there is no confirmation that the new document was correctly signed and witnessed. Consequently, I am not satisfied that the Appellants' submitted documents would secure the required financial contribution towards mitigating against adverse effects on the integrity of the Tamar European Marine Site.
26. The proposal would therefore conflict with Policy DEV26 of the Local Plan which concerns protecting and enhancing biodiversity and geological conservation, including European Sites to which the highest level of protection is given. For the same reasons, the scheme would also fail to accord with those parts of the Framework which concern habitats and biodiversity.

Location of Development

27. Rose Cottage is a two storey dwelling set within generous grounds. The site is situated within a small cluster of similarly scaled dwellings, located on a single track lane outside the core of the settlement at Bickleigh. The appeal scheme proposes tourism accommodation to be located within the grounds to Rose Cottage.
28. Policy TTV1 of the Local Plan provides details of the distribution of development across the area based on a hierarchy of sustainable settlements. The appeal site would fall within category four - smaller villages, hamlets and the countryside, where Policy TTV1 of the Local Plan provides that 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 Local Plan, including as provided for in Policy TTV26 of the Local Plan.

29. Policy SPT1 of the Local Plan identifies a range of principles of sustainable development. Policy SPT2 of the Local Plan details a number of principles of sustainable linked neighbourhoods and sustainable rural communities. Policy TTV26 of the Local Plan concerns 'Development in the countryside' and seeks to protect the special characteristics and role of the countryside, resisting development that would be isolated.
30. It was concluded within the Second Appeal Decision that the appeal site is in an isolated location within the terms of Policy TTV26 of the Local Plan. The Inspector in the Second Appeal Decision found that the subdivision of Rose Cottage would accord with the provisions of the Framework which concerns isolated homes in the countryside and therefore would be in a suitable location having regard to the accessibility of services and reliance on private motor vehicles.
31. However, the appeal scheme before me is for a different form of development which does not accord with any of the exceptions for isolated development in the countryside as provided for under Policy TTV26 of the Local Plan or in respect of paragraph 80 of the Framework. Consistent with the Second Appeal Decision, future users of the proposed tourism accommodation would likely use private motor vehicles for most trips in respect of access to services and facilities. Consequently, the appeal proposal would appear to fail to accord with the sustainability provisions of Policy SPT1 of the Local Plan.
32. Nonetheless, Policy DEV15 of the Local Plan provides that support will be given to proposals in suitable locations which seek to improve the balance of jobs within rural areas and diversify the rural economy. The proposal is for tourism accommodation and criterion 7 of Policy DEV15 sets out that camping, caravan, chalet or similar facilities that respond to an identified local need will be supported. However, that policy also confirms that that support would be subject to such accommodation being compatible with and providing safe access to the rural road network, avoids a significant increase in the number of trips requiring the private car, demonstrates a positive relationship with existing buildings, and has no adverse environmental impact.
33. The need in terms of access to services and facilities would likely differ between tourism uses and permanent residential occupation and, given that it is unlikely that the proposal would result in a significant increase in number of trips by private vehicle, the appeal scheme would appear to comply with criterion 8(ii) of Policy DEV15.
34. I note the above compliance with criterion 8(ii) of Policy DEV15 and acknowledge the substantial levels of information with regards to local tourism accommodation and investment, as well as details of supply and demand of such accommodation, provided by the Appellants and which it is maintained shows that there is a need for such accommodation within the area. However, given the above conclusions with regards to impact on protected habitats, impact on highway safety and the insufficient level of details regarding design, the appeal scheme would not accord with criteria 7, 8(i) and 8(iii) of Policy DEV15 of the Local Plan and thereby would conflict with that policy when taken as a whole.
35. For the above reasons, I conclude that the appeal proposal would conflict with Policies TTV1, SPT1, SPT2, TTV26 and DEV15 of the Local Plan.

Horse Related Development

36. The planning application, which is the subject of this appeal, also proposed the introduction of a stable building to be located on land to the northeast of, and away from, Rose Cottage. However, during the appeal the Appellants have confirmed to me and the Council that they wish to withdraw this element of the proposed scheme.
37. Given that this element of the scheme was not included within the original description of development and has been withdrawn, I have not considered further the potential effects of the originally proposed stable building on the character and appearance of the area or in respect of Policy TTV28 of the Local Plan which concerns horse related development.

Other Matters

38. Interested parties have raised concerns regarding the impact of the proposed development on security. I have considered all of the submissions before me. However, given my findings in relation to the main issues above, this is not a matter that has been critical to my overall decision.
39. Whilst I have considerable sympathy with the Appellants in respect of issues encountered in the electronic submission of documents to the Council, I have carefully considered all the information provided in this appeal and have determined this appeal based on its own merits and on the evidence before me.

Conclusion

40. I acknowledge that the appeal proposal could provide economic benefits in terms of employment opportunities for servicing the proposed holiday accommodation and through the spend of future users within local businesses. Those benefits would be limited by reason of the scale of development. However, I do not find that the potential benefits of the scheme would outweigh the identified harm and conflict with the policies of the development plan as described above, and to which I attach significant weight in the determination of this appeal.
41. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR