



Appeal Decision

Site visit made on 11 May 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal Ref: APP/K1128/W/21/3287577

Lowdamoor, Road from Hemerdon to Newnham Road, Hemerdon PL7 5BU

- 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 J Taylor against the decision of South Hams District Council.
 - The application Ref 1302/21/FUL, dated 29 March 2021, was refused by notice dated 13 October 2021.
 - The development proposed is erection of detached 4-bedroom two storey house together with detached single garage and parking spaces and a detached 3-bedroom bungalow with parking spaces and use of existing single garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached 4-bedroom two storey house together with detached single garage and parking spaces and a detached 3-bedroom bungalow with parking spaces and use of existing single garage at Lowdamoor, Road from Hemerdon to Newnham Road, Hemerdon, PL7 5BU, in accordance with the terms of the application, Ref 1302/21/FUL, dated 29 March 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The first reason for refusal (RfR) outlined in the decision notice refers to an absence of a commitment to reducing carbon emissions in conflict with Policy DEV32 of the Plymouth and South West Devon Joint Local Plan (2019) (JLP). Following submissions received with the appeal, the Council have highlighted that this matter has been addressed and with the imposition of planning conditions, compliance with Policy DEV32 can be achieved. As such, I have not considered this matter further.
3. The third RfR relates to the potential impacts of the residential development on the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex SAC (hereafter referred to as the Protected Sites). Unilateral undertakings (UUs) dated 4 November 2021, 20 April and 18 May 2022 were submitted in relation to this RfR and the Council have subsequently indicated that this is no longer a disputed matter. I return to this aspect below.
4. An amended plan was submitted with the appeal which removes an internal wall proposed for Plot 2. Considered in the context of *Wheatcroft*¹, I have taken account of this amended plan detailing very minor amendments as doing so does not prejudice the interests of any other party.

¹ *Wheatcroft Ltd v SSE* [1982]

Main Issue

5. The main issue in this appeal is whether the site's location accords with local policies that seek to direct residential development to sustainable locations that minimise the need to travel by private vehicle.

Reasons

6. The introductory section of the JLP indicates that its spatial strategy operates at three different levels, (a) the Plymouth Housing Market Area, (b) the Plymouth Policy Area (PPA) which includes the Plymouth administrative area plus its urban fringe; and (c) rural South Hams and West Devon, which is otherwise known as the Thriving Towns and Villages Policy Area (TTVPA). The PPA and TTVPA are divided for the purposes of specific JLP planning policies.
7. Strategic Objective SO1 of the JLP sets out the intention to focus growth in Plymouth in the first instance, then also direct growth to the six main towns of the TTVPA, then subsequently, to provide levels of development in other towns and larger rural villages that will enable them to continue serving as important local service centres. Policy SPT1 sets out the means to achieve the objectives outlined in SO1, such as through ensuring communities have a mix of local services, assets and accessible greenspace that meet the needs of residents.
8. Policy SPT2 sets out that development in the Plan Area should, inter alia, support the overall spatial strategy by ensuring development has reasonable access to a vibrant mixed use centre and is well served by public transport, walking and cycling opportunities. Related Figure 3.2 sets out a list of aspirations for development to be located within specified proximity of certain facilities, i.e. a shop or school, albeit acknowledging these are not to be applied in a 'tick-box' fashion and are not applicable to the sustainable villages of the TTVPA given their more remote rural context.
9. The Policies Map of the JLP splits the settlement of Hemerdon into two. The southern side, including the appeal site, is within the Plymouth Urban Fringe to which PPA Policy PLY61 applies. The northern part falls within the TTVPA.
10. Whilst the Plan recognises the inter-relationships between the PPA, TTVPA and urban fringe, reading the Plan as it is worded and compartmentalised by the Policies Map leads me to conclude that the TTVA policies cannot be applied to the Plymouth Urban Fringe area. Though this arrangement means that the northern part of Hemerdon should be assessed differently under the TTVPA policies, development proposals for the southern part of the settlement, including the appeal site, should be assessed in the context of Policy PLY61.
11. Policy PLY61, amongst other things, aims to protect the special character and role of the fringe countryside, seeking to permit development only where it would be of an acceptable form, scale and design, would not harm its open character or contribute to the coalescence of separate settlements.
12. The appeal proposal to site two dwellings in the generously-proportioned front garden of an existing dwelling on the edge of the settlement would not harm the open character of areas of countryside, being contained within a residential curtilage, and nor would it contribute to the coalescence of separate settlements. The form, scale and design of the dwellings is not in dispute between the parties and it can therefore be concluded that the proposal complies with this part of the Policy at least.

13. Whilst it is asserted that the site's location within the Plymouth Urban Fringe does not make development acceptable in principle, I do not see that the Policy specifically precludes residential development and, in this context, Hemerdon appears relatively unique. Whilst many other areas of the Fringe are rural, with only scattered farmsteads and very limited development where Policy PLY61 will likely prevent development occurring to protect its characteristics, Hemerdon is, at least in part, an area where an established settlement exists and where an intensification within this site would not conflict with the aims of Policy PLY61 to maintain openness and protect its character.
14. In terms of how development would accord with the aspirational criteria set out in Figure 3.2, it is accepted that the site performs relatively poorly, with the closest bus stop being around 500m rather than the preferred 400m and other facilities and services more distant still. However, its close proximity to the urban area of Plymouth around 1km away with its wealth of facilities would more likely reduce the need to travel long distances on a regular basis.
15. In view of the above, development of the site for the proposal outlined is not precluded by Policy PLY61 and I consider that it is suitably well located for such purposes in the context of the aims of the JLP to prioritise development in and around Plymouth. The site's location therefore accords with, in particular, SPT1, SPT2 and PLY61, that, amongst other things, seek to direct residential development to sustainable locations that minimise the need to travel by private vehicle and protect the openness and character of the Urban Fringe.
16. Whilst I acknowledge that the Council can demonstrate a 5 year housing land supply, this does not alter my view of the proposal in relation to the most applicable JLP policies, as outlined above. Similarly, reference to former development plan policies in decisions of some vintage have not had a bearing on the conclusions I have reached in this regard.

Other Matters

17. A number of comments have been received in connection with the proposal which I have taken into consideration. The location and connectivity of the site is addressed above. The scale and density of the scheme is not a matter in dispute between the parties.
18. Whilst I accept that there will be an increase in both vehicular and pedestrian traffic on the rural village road, this would be relatively limited given the small scale of the development proposed. Additionally, there is no objection in terms of the number of proposed parking spaces in the context of the adopted policy requirements.
19. In terms of potential effects on biodiversity, I have noted the content of the submitted Wildlife Survey (Butler Ecology, March 2021) and the agreement on this matter between the parties.
20. To ensure that the construction phase does not adversely affect the free flow of traffic on the highway and minimise disruption to neighbours, a condition requiring a construction management plan has been suggested. In recognition of the constrained access to the site and proximity to neighbours, this is considered relevant and the appellant has agreed to the imposition of such.
21. In terms of the potential impacts on the natural spring, I have had regard to the submitted Flood Risk Assessment (FRA) (Horizon Consulting Engineers,

March 2021) which incorporates a drainage strategy for both foul and surface water drainage. I am satisfied, given the lack of objection from the Council on the use of the measures outlined in the FRA, that there would not be any adverse effect on the water quality of the spring.

Conditions

22. In addition to the statutory time limit for commencement, a condition stipulating the approved plans is necessary in the interests of certainty.
23. For reasons outlined above, the construction phase shall be carried out in accordance with a construction management plan to be approved prior to commencement thereof, albeit that a full dust impact assessment is considered overly onerous relative to the scale of development proposed. The condition needs to be addressed prior to works commencing for obvious reasons and written agreement has been sought from the appellant in this regard.
24. In the interests of the character and appearance of the area, a scheme seeking details of external construction materials is necessary.
25. In order to achieve compliance with JLP Policy DEV32, a condition is necessary to ensure that works proceed in accordance with the Low Carbon Statement.
26. In the interests of maintaining the biodiversity value of the site and area, conditions are necessary to ensure the development proceeds in accordance with the submitted survey and to prevent the installation of external lighting.

S106 Planning Obligation

27. The qualifying features of the Protected Sites, designated under the Habitats Regs², include a range of sandbanks, estuaries, mudflats and sandflats not covered by seawater at low tide, large shallow inlets and bays, reefs, Atlantic salt meadows, Shore dock; Allis shad and bird species of Avocet and Little Egret. There is an agreed 'Zone of Influence' up to 12km from the Protected Sites, within which new housing development would be likely, either on its own or cumulatively with other similar development, to have a significant effect due to the risk of increased recreational pressures from new residents.
28. The appeal site falls within the Zone of Influence for the Protected Sites and therefore, consequential significant adverse effects are likely without avoidance measures. The avoidance measures employed in this area include contributions towards the Recreation Mitigation and Management Scheme, of £467.91 for a 3-bedroom dwelling and £507.05 for a 4+ bedroom dwelling, as is applicable in this appeal.
29. The UU dated 18 May 2022, which largely addresses deficiencies in the earlier versions, relies on the payment of the contributions to avoid the likely significant effects on the integrity of the Protected Sites. I have undertaken an Appropriate Assessment under the Habitats Regs, taking account of the necessary mitigation, and have consulted Natural England with my findings.
30. On the basis that the planning obligation is necessary, relevant to the development proposed and necessary in scale and kind, the obligation meets the tests of the Community Infrastructure Levy Regulations (2010), as amended, and the National Planning Policy Framework. The development can

² The Conservation of Habitats and Species Regulations, 2017, as amended

therefore proceed without harm to the integrity of the Protected Sites, thus complying with the expectations of the Habitats Regs and Policy DEV26 of the JLP which, amongst other things, supports the protection, conservation, enhancement and restoration of biodiversity across the Plan Area.

Conclusion

31. For the reasons outlined above, the proposal complies with the development plan when read as a whole. There are no considerations that indicate that a decision should be taken other than in accordance therewith.
32. Consequently, the appeal is allowed.

Hollie Nicholls

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:
 - Site Location Plan 1:1250
 - Foul and Surface Water Drainage Strategy, Ref 0735.101, dated 11.03.21
 - Proposed Site Location, Ref 1080/01, dated Dec 20
 - Plot 1 Proposed Floor Plans, ref 1080/02, dated Dec 20
 - Plot 1 Elevations, Ref 1080/03, dated Dec 20
 - Plot 1 Proposed Garage, Ref 1080/04, dated Dec 20
 - Plot 2 Ground Floor, Ref 1080/05, dated Dec 20
 - Plot 2 Proposed Elevations, Ref 1080/06, dated Dec 20
- 3) No development shall take place, including any works of demolition, until a Construction Method Plan has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the timetable of the works and daily hours of construction;
 - ii) any road closure;
 - iii) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 0800 and 1800 Mondays to Fridays and 0900 to 1300 Saturdays, and no such vehicular movements taking place on Sundays or Bank Holidays;
 - iv) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - v) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - vi) 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;
 - vii) details of location and amount of construction worker parking and proposals to promote car sharing amongst construction staff in order to limit parking off site;
 - viii) details of wheel washing facilities and obligations;
 - ix) the proposed route of all construction traffic exceeding 7.5 tonnes;
 - x) photographic evidence of the condition of the public highway prior to commencement of any work;
 - xi) details of potential noise impacts and control measures; and
 - xii) measures to control the emission of dust and dirt during construction.

The approved Construction Method Plan shall be adhered to throughout the construction period for the development.

- 4) No development shall proceed above slab level until a schedule of the design, material, types, colour, and finish of all materials to be used in the external facing and roofing finishes of the dwelling, including windows, doors, and rainwater goods, has been submitted to and approved in writing by the Local Planning Authority.
The development shall be carried out in accordance with the approved details.
- 5) The development shall be carried out and occupied in accordance with the submitted Document 18 – Low Carbon Statement / Energy Statement for Policy DEV32 Compliance.
- 6) Development shall be carried out in accordance with the recommendations and biodiversity enhancement measures set out within the submitted Wildlife Survey (Butler Ecology, March 2021).
- 7) No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority.