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# Appeal Decision

Site visit made on 10 May 2022

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

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**Appeal Ref: APP/K1128/W/21/3289096**

**The Old Bakehouse, Bow Bridge Cross to Tuckenhay Bridge Cross,  
Tuckenhay TQ9 7EQ**

- 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 I Oates, Oakgreen Limited, against the decision of South Hams District Council.
  - The application Ref 1664/21/FUL, dated 30 April 2021, was refused by notice dated 23 July 2021.
  - The development proposed is the conversion and extension of a barn into a one-bed dwellinghouse, including integral garage, parking and garden amenity space (resubmission of 1992/20/FUL).
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are i) whether the site is a suitable location for the proposed development, taking into account the accessibility of the services and facilities by means other than the private vehicle; and ii) the effect of the proposal on the Undeveloped Coast.

## Reasons

### *Suitable Location*

3. The appeal site relates to a disused, stone agricultural barn situated in the village of Tuckenhay. The existing barn fronts directly on to the main road which runs through the village, and the Bow Creek Estuary runs to the rear. The existing dwellings in Tuckenhay are loosely arranged as sporadic ribbon development arranged along the main road running through the village. The barn is situated adjacent to other dwellings, some of which are barn conversions.
4. There is very little in the way of day-to-day services within Tuckenhay, although there is a Public House. As a result, Tuckenhay is situated within the lowest tier of settlement of the Council's settlement hierarchy, the fourth tier, as set out in Policy TTV1 of the Plymouth and South West Devon Joint Local Plan (2014-2034) (JLP) (adopted March 2019). This relates to smaller villages, hamlets and the Countryside, 'where development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) including as provided for in TTV26 and TTV27'.

5. There is no footway between the site and the nearby villages of Cornworthy and Ashprington, and there is no street lighting. The distances between the site and these villages is not overly prohibitive. However, access would be via narrow, unlit rural roads which are steep in places, with high Devon banks and substantial vegetation. Both of these villages also lack day to day services and facilities, and they are both also categorised in the lowest tier of settlement. Opportunities for 'social visits and personal business' would not substitute for accessibility to day to day services and facilities without reliance on the private vehicle.
6. The National Cycle Route to Totnes, approximately 6.2km away, passes the appeal site and part of the route is traffic free. However, whilst the distance is again not totally prohibitive, part of the route would use the same narrow, unlit and steep rural roads outlined above. Whilst there is a nearby bus stop, the evidence indicates this is limited to two services on two days a week and would not represent a convenient alternative to the private vehicle, even if an electric cycle were available.
7. As a result of the COVID pandemic, there is greater home working so there may be less need to travel. However, working from home doesn't negate the need to access other services and facilities such as retail, healthcare, hospitality and leisure.
8. In view of the above, future occupants of the development would be largely reliant on the private vehicle to access day to day services and facilities. I therefore conclude that the site would be an unsuitable location for new housing in terms of the spatial strategy set out in Policies SPT1 and SPT2 of the JLP which sets out the Council's objectives in order to deliver sustainable development and sustainable rural communities. They include, amongst others, to have reasonable access to local services and where they are well served by public transport, walking and cycling opportunities. It would conflict with Policy TTV1 of the JLP which sets out the hierarchy of sustainable settlements where growth would be prioritised. It would also conflict with guidance within Chapter 2 of the Framework in regard to achieving accessible development.
9. The Council refer to Policy TTV25 of the JLP in the second reason for refusal. This policy relates specifically to development in the sustainable villages which are within the third tier of the Council's settlement hierarchy and sets out the indicative level of housing required by these sustainable villages. However, Tuckenhay is within the fourth tier of the hierarchy and has not been identified as a sustainable village. Therefore, Policy TTV25 would not be relevant for the purposes of this appeal.

#### *Undeveloped Coast*

10. Policy DEV24 of the JLP specifically relates to the Undeveloped Coast. It seeks to ensure that development which would have a detrimental effect on the undeveloped and unspoilt character, appearance, and tranquillity of the Undeveloped Coast will not be permitted except under exceptional circumstances.
11. The existing built form of the stone agricultural barn, as a result of its rural character and prominent location adjacent to both the road and estuary, contributes positively to the unspoilt character and special quality of Tuckenhay. There is also an area of undeveloped land to the south of the

appeal site, currently used as informal parking. The Tuckenhay Conservation Area Appraisal identifies that the view from the highway to the front across to the estuary to the rear, which is possible from the area of undeveloped land to the south of the appeal site, is a 'view which the undeveloped space characterises an important aspect of Tuckenhay's historic development pattern and its relationship with its landscape setting'.

12. From the evidence, I note that there was previously a corrugated metal lean to structure running off the eastern side elevation of the barn. However, at the time of my site visit, the corrugated metal structure had been removed, with just the stone dwarf wall remaining.
13. The design of the proposal would be a sensitive conversion of a former agricultural building, with a subservient extension built in reclaimed materials to the side replacing the former metal lean-to structure. However, there would be a more intensive residential use of the land immediately around the proposal which would have an urbanising effect in comparison to the disused agricultural building. The introduction of the landscaped garden area to the south would be visible from the highway and would affect the open view from the highway through to the estuary. This would harm the unspoilt character of the Undeveloped Coast, which would conflict with Policy DEV24.
14. Criteria 1 and 2 of Policy DEV24 requires development to demonstrate that it requires a coastal location and that it cannot be reasonably located outside of the Undeveloped Coast. The appellant acknowledges that the proposal would be contrary to both of these criteria. Allowing unjustified development that does not require a coastal location would mean that development that is supported in the Undeveloped Coast, as set out in Policy DEV24<sup>1</sup>, would have fewer sites available for them to be located, without causing harm. Therefore, the proposal would be in direct conflict with criteria 1 and 2 of Policy DEV24.
15. The proposal would be adjacent to other dwellings and would therefore not be an isolated home, something that paragraph 80 of the Framework seeks to avoid. I note the appellants argument that even paragraph 80 supports the re-use of redundant or disused buildings. However, even if paragraph 80 did apply, there are other considerations that would have to be taken into account, most notably that the proposal would have to enhance its immediate setting. Given the harm to the Undeveloped Coast, the proposal would not enhance its immediate setting. Therefore, in these circumstances, I can only attach the benefit of reusing the disused barn limited weight.
16. In conclusion, the proposal would harm the unspoilt character of the Undeveloped Coast and it has not been demonstrated that the proposal requires a coastal location. The proposal would be contrary to Policy DEV24 of the JLP which only permits development in the Undeveloped Coast where the development can demonstrate that: it requires a coastal location, it cannot reasonably be located outside the Undeveloped Coast, and would not have a detrimental effect on the unspoilt character of the Undeveloped Coast.

### **Other Matters**

17. The appeal site is situated within a Greater Horseshoe Bat Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) Impact Risk

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<sup>1</sup> Uses include agriculture, forestry, public access or enjoyment of the coast and estuaries

Zone. I have been provided with little information on either. Had I been minded to allow the appeal, I would have sought more information on these matters. However, given my conclusions on the main issues, it is not necessary or appropriate for me to do so as I do not need to carry out an Appropriate Assessment as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I do not need to consider the matter any further.

18. The site is situated within the Tuckenhay Conservation Area (CA) and there are a number of Grade II Listed Buildings close to the appeal site, most notably Millhouse Farmhouse and the attached Mill directly opposite. As required, I have had special regard to the desirability of preserving a listed building or its setting and preserving or enhancing the character or appearance of the CA.
19. The special interest of the CA arises predominately from its loose linear pattern, its relationship with the estuary, and the buildings, especially the use of rubble stone which dominates the historic parts of the village. Quarried locally from several sources, the variations in the stone's size, colour and shape clearly reflect the area's diverse geology and the range of building stones it furnishes close to hand. The Old Bakehouse has also been identified as a 'building with a positive impact' in the CA appraisal.
20. A number of former non-residential buildings in the village have been converted from mills, storehouses and barns to form residential units. The proposal, as a result of its proposed use and sensitive conversion, especially the use of reclaimed stone, would avoid harm to the significance of the CA and would preserve the character and appearance of the CA as a whole.
21. The appeal site is within the setting of the listed Millhouse Farmhouse and the attached Mill. Their special interest derives mostly from their former use as the Miller's house and the associated mill. The farmhouse has original 16 pane sash windows and a 6-panel door with brick segmented arches over. The mill has its large iron overshot waterwheel attached to the side. Due to the modest scale of the proposal, it would have a neutral impact on them and the settings in which they are appreciated. Other Listed Buildings are further away, and the modest scale of the proposal and intervening buildings/vegetation means the proposal would have no effect on the settings in which they are experienced.
22. The site also lies within the South Devon Area of Outstanding Natural Beauty (AONB). Due to the proposal representing a sensitive conversion of the former barn, adjacent to other dwellings in the village, the proposal would conserve the natural beauty of the landscape within the AONB.
23. Whilst the housing requirement figure set out in the JLP is an 'at least' figure, the parties agree that the Council can demonstrate in excess of five years deliverable housing land supply, and I have seen no evidence to indicate otherwise. Whilst there might be an undersupply of smaller units within the Parish, I can only afford this benefit modest weight given the limited scale of the proposal.
24. The proposal would support local services, including those in the villages of Cornworthy and Ashprington. However, as already noted, both of these villages lack most of the day to day services so I can only afford this benefit little weight.

25. The existing building could be brought back into agricultural use, which could create a number of vehicle trips. The Transport Note (prepared by Vectos) states that a possible agricultural use could 'realistically generate four vehicle trips daily, collecting and depositing materials on a daily basis. However, for the purposes of this appeal I consider that there is a clear distinction between the vehicular movements relating to an agricultural use, which requires a countryside location given the nature of its use, and the movements associated with occupancy of a dwelling, which has not been demonstrated to require a countryside location. I therefore attach this fallback position limited weight in my decision.
26. The site is within Flood Risk Zone 3a. I note the Environment Agency raise no objections, subject to a condition requiring a flood risk management condition to be imposed. The Council's Emergency Planners also raised no objection subject to a Flood Warning and Evacuation Plan. These conditions, had I been minded to allow the appeal, would have ensured that the development would be safe, without increasing flood risk and pollution elsewhere, in accordance with Policy DEV35 of the JLP.
27. Finally, the citation of the Supreme Court judgement referred to by the appellant<sup>2</sup> states that 'the relative importance of a given policy to the overall objectives of the development plan was essentially a matter for the judgment of the local planning authority [or, on appeal, for the Secretary of State]'. The conflict with the number of policies drawn to my attention lead me to conclude that there is a conflict with the overarching spatial strategy of the development plan, conflict with the principles of accessibility and a harmful effect on the Undeveloped Coast. I attach substantial weight to the importance of these policies to the overall objectives of the development plan. Therefore, the Supreme Court judgement does not alter my findings on the main issues.

### **Conclusion**

28. The conflict with development plan policies carries substantial weight. The benefits outlined above would not outweigh the harmful effects of the development and do not amount to convincing reasons to permit development. In failing to comply with Policies SPT1, SPT2, TTV1 and DEV24 of the JLP, the proposal cannot be said to comply with the development plan taken as a whole. There are insufficient material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

*Laura Cuthbert*

INSPECTOR

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<sup>2</sup> Tesco Stores Ltd v Dundee City Council ([2012] UKSC 13