



Appeal Decision

Site visit made on 28 June 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Appeal Ref: APP/K1128/W/21/3287234

Lantern Lodge Hotel, Grand View Road, Hope Cove TQ7 3HE

- 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 Trinity Square Developments against the decision of South Hams District Council.
 - The application Ref 4277/20/FUL, dated 18 December 2020, was refused by notice dated 21 October 2021.
 - The development proposed is described as, 'Amendment to previously approved 2101/19/FUL. Additional installation of 2 no. concealed gas tanks below lawn due to updated onsite energy strategy'.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 2 no. concealed gas tanks below lawn at Lantern Lodge Hotel, Grand View Road, Hope Cove TQ7 3HE in accordance with the terms of the application, Ref 4277/20/FUL, dated 24 December 2020, subject to the following 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 Drawing Number 00; Landscaping Plan Drawing Number cd/c/553 – 02 rev D and Tank Installation Details Drawing Number 21392 Issue A dated 26 January 2018.
 - 3) Prior to the first use of the gas tanks hereby approved, details of a scheme for the erection of signs to warn members of the public of the presence of the concealed gas tanks below the lawn, including a plan detailing the location of the signs on site and means of fixing, shall be submitted to and approved in writing by the local planning authority. Once approved, the scheme shall be implemented in full prior to first use of the gas tanks and thereafter shall only be removed from the site in the event that the gas tanks are removed.
 - 4) Prior to the first use of the gas tanks hereby approved, details of a scheme for the erection of bollards or other means of enclosure to prevent users of the car park driving onto the lawn where the concealed gas tanks hereby approved would be located, shall be submitted to and approved in writing by the local planning authority. Once approved, the scheme shall be implemented in full prior to first use of the gas tanks and thereafter shall only be removed from the site in the event that the gas tanks are removed.

5) The gas tanks hereby permitted shall not be first brought into first use until the measures set out in the DEV 32 Summary Statement, received by the Local Planning Authority on 14 May 2021, have been fully completed.

Preliminary Matters

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the accompanying details that this is a stand-alone proposal for gas tanks used in connection with approved development at the site. Accordingly, I have amended the wording in my formal decision to reflect this.

Background and Main Issue

3. Planning permission has been granted for the demolition of an existing hotel and the construction of holiday lets, managers accommodation and residential apartments in its place. At the time of my visit, the development was under construction.
4. The approved scheme incorporated the use of air source heat pumps (ASHPs) and photovoltaics (PVs). Subsequently the appellant made a stand-alone planning application for the installation of gas tanks to facilitate the provision of energy for the development in place of the ASHPs, and it is that proposal which is now the subject of this appeal.
5. The application was accompanied by an Energy and Sustainability Statement dated February 2021 which proposed a scheme using the gas tanks and PV's. Subsequently, the appellant submitted an undated 'DEV32 Summary Statement' which the Council and appellant agree was received by the Council on 14 May 2021. This included an option to install 3 ASHP's in addition to the gas tanks and PV's. It is clear from the submissions that it is this later statement which falls to be considered within this appeal and I have proceeded on that basis.
6. The main issue in respect of this appeal therefore is the effect of the proposed gas tanks would have on carbon emissions, having regard to relevant policy.

Reasons

7. The approved scheme for the redevelopment of the site incorporated PVs on the roof and fifteen ASHPs to provide electric heating. The appellant advises that there was a lack of capacity within the local electrical network to provide an upgraded service for the proposal. Increasing the electricity supply capacity to the site was required to serve the ASHPs. Information provided by the appellant indicates that this would require wayleaves to run cables along third part land outside the control of the appellant. The information provided also indicates that as a result, the Statutory Provider could not guarantee a timescale for the works or indeed that the works required could be carried out for this reason.
8. I understand that the appellant has secured an agreement from the Statutory Provider to increase supply capacity, without the requirement for wayleaves or disturbance to the highway. This would not allow the installation of the fifteen ASHP's in the approved scheme but would permit a scheme for three ASHPs, twelve LPG (gas) boilers, PV panels and reduced capacity electrical vehicle charging points. Evidence submitted with the appeal indicates that 152.17

Amps would be required to power the revised scheme and that 160 Amps could be guaranteed by the Statutory Provider.

9. Substantive evidence is not before me that demonstrates that I should not rely on the submissions before me in this respect. Whether the required space could be found on the site for a required sub-station is not clear but I understand that this would not negate the need for the required wayleaves in any event.
10. Submissions refer, amongst other things, to the Council's Climate Change Action Plan and the Council declaring a Climate Emergency but I have not been advised of any specific legal or policy implications for the determination of this appeal. However, the development plan policies clearly indicate a clear direction of travel towards promoting a low carbon economy with policies SPT1 and DEV32 of the Plymouth & South West Devon Joint Local Plan 2014-2034 adopted March 2019 (JLP) seeking to halve 2005 levels of carbon emissions by 2034 through reduced energy demand, increase opportunities for the use of renewable energy and require that major development proposals incorporate low carbon or renewable energy generation to achieve regulated carbon emission levels of 20 per cent less than that required to comply with Building Regulations Part L.
11. Similarly, the National Planning Policy Framework (the Framework), in seeking to achieve sustainable development, sets out environmental objectives which include using natural resources prudently and moving to a low carbon economy. It is clear that the government is seeking to increase the use and supply of renewable and low carbon energy but the Framework does not expressly prevent the use of fossil fuels.
12. Whilst the Council consider that the current scheme is a retrograde step in terms of its reliance on fossil fuel and that it would not positively contribute to reducing carbon emissions, this is not borne out in the evidence submitted. The submitted evidence indicates that the proposed scheme would result in 74% reduction in carbon emissions compared to the previous hotel on the site, it would produce twenty per cent less carbon dioxide than the previous approved scheme and it would result in a 26.95% reduction in annual carbon emissions over the Building Regulations Part L requirement. This evidence has not been contested by the Council.
13. I accept that one cannot be certain that the required wayleaves and agreements could not be reached to enable the original scheme to go ahead nor that sufficient land could not be made available on-site for the required substation. That option is still available to the appellant to pursue. However, I am satisfied from the information put to me that the appeal proposal complies with Policies SPT1 and DEV32 of the JLP, insofar as they seek to promote a low carbon economy, increased opportunities for the use of renewable energy and require that major development proposals incorporate low carbon or renewable energy generation to achieve regulated carbon emission levels of 20 per cent less than that required to comply with Building Regulations Part L.

Other Matters

14. The Council and interested parties have referred to the impact that excavating for the underground tanks could have on the stability of the cliffs. I have no information before me which indicates that the cliffs are unstable nor that the development would impact on its stability. In any event, Paragraph 184 of the

Framework states that responsibility for securing a safe development, with regards to land stability issues, rests with the developer and/or landowner.

15. The Council refer to the 'green credentials' of the previous application being a material consideration which weighed in favour of the earlier proposal. However, I have no information before me regarding the weight that was attributed to the provision of the fifteen ASHPs in the granting of that consent or that it was a determinative point.
16. The Council refer to the future cost of replacing an obsolete form of energy. However, evidence submitted by the appellant indicates that the use of BioLPG is compatible with existing LPG equipment and infrastructure and is identical in use and performance to LPG but can reduce carbon emissions by up to 80%. As such, I give the Council's concerns very limited weight.
17. Section 85 of the Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of the South Devon Area of Outstanding Natural Beauty. In this regard, the gas tanks would be buried under the ground with only the surface cover being visible within the lawn, such that the natural beauty of the AONB would be conserved.
18. The reason for refusal refers to Policy DEV33 of the JLP and my attention has also been drawn to Policy Env6 of the South Huish Neighbourhood Plan 2019-2034. Both policies relate to proposals for renewable energy generation. Therefore, whilst I note that both policies support and encourage renewable energy and low carbon development, neither prevent the use of non-renewable energy and as such they carry limited weight in the determination of this appeal.

Conditions

19. The Council has not provided a list of suggested conditions but I note that conditions form part of the submitted Officer Report and I have proceeded on the basis that these are the Council's suggested conditions.
20. In addition to the standard time limit, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
21. In the interest of health and safety, it is necessary to attach a condition which requires warning signs to be erected on site to alert visitors to the presence of underground gas tanks. For the same reason and given the proximity of the overflow parking area to the tanks, it is necessary to attach a condition requiring the erection of bollards to prevent vehicles driving onto the area.
22. Finally, the Council suggested a condition which prevented the occupation of the residential units approved under the previous scheme from being occupied until the commitments in the DEV32 Summary Statement had been implemented. However, it would be unreasonable to restrict an earlier permission in this way. Instead it is necessary to secure the commitments by preventing the first use of the tanks until they are delivered. In addition, given my findings above in respect of the overall reduction in carbon emission demonstrated in the DEV32 Summary Statement, I am satisfied that there is no need for further details to be submitted to the Council for consideration. Therefore, I have amended the condition to ensure that the use of the tanks is

not permitted until those commitments have been implemented to ensure that the required carbon emissions levels are realised.

Conclusion

23. The proposed development would adhere to the development plan and there are no material considerations that outweigh this finding. Accordingly, the appeal is allowed.

Alison Fish

INSPECTOR