



Appeal Decision

Site visit made on 31 August 2022

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th September 2022.

Appeal Ref: APP/K1128/W/21/3287119

Land adjacent to Higher Gabberwell House, Kingston, Devon, TQ7 4PS

- 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 Pearson against the decision of South Hams District Council.
 - The application Ref 1944/18/FUL, received by the Council on 5 June 2018, was refused by notice dated 19 May 2021.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the address in the heading above from the Decision Notice rather than the Application Form as it gives a more complete description of where the appeal site is situated.

Main Issues

3. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the South Devon Area of Outstanding Natural Beauty (the AONB).
 - whether the site provides a suitable location for the proposed development, having particular regard to planning policies which seek to control new housing in the countryside.

Reasons

Character and appearance

4. The appeal concerns an open field which is situated just outside the small village of Kingston. Although there is some dispersed development in the area, the surrounding landscape is mainly agricultural in nature. As such, the countryside in this location is distinctly open and rural, being mainly dominated by fields and vegetation. This is a particularly attractive coastal landscape which is part of the South Devon AONB.
5. The proposed dwelling would have a contemporary design and would be partially dug into the ground, enabling it to maintain a relatively low profile. This would help to reduce the extent to which it would be seen from distant

- vantage points, particularly as many of the surrounding lanes have high hedgerows on each side which obscure views into the site.
6. However, the dwelling would be somewhat more conspicuous at close quarters. While the dwelling would be mainly obscured by landscaping and planting along the part of the public footpath which is inside the site, the route would cross the proposed access drive and vehicle turning area near the road. At present, this access point is consistent with the agricultural nature of the surroundings and blends into the rural lane it serves. In contrast, the proposed entrance would maintain a more residential character. While the plans show additional planting here, with a partly grassed driveway, the area would inevitably contain evidence of domestic activity, such as bins left out for collection or signage for the proposed dwelling. The access would also have a more formalised appearance than it does at present. Those walking the footpath route would be in little doubt that they were at the entrance of a private dwelling.
 7. When approaching in a north-east to south-west direction along the public footpath outside the site, parts of the driveway and roof of the dwelling would be seen due to the openness of the land and the local topography. Despite the low profile of the building and the proposed landscaping and planting, it would be read as residential development rather than being part of the agricultural landscape. This would make the public footpath route appear noticeably less rural than it does at present.
 8. I recognise that a good deal of care has been taken in designing the dwelling, including seeking the advice of a local design panel. Yet while the dwelling would be a relatively small feature against the wider landscape, it would nonetheless represent an incremental expansion of residential development into a previously undeveloped part of the AONB. The effect would be to diminish the agricultural characterises of the landscape in an area that is mainly distinguished by its openness and lack of built form. As such, the proposal would erode the qualities of the AONB in this location.
 9. In reaching this decision, I am particularly mindful of paragraph 176 of the Framework¹. This says that 'great weight' should be given to conserving and enhancing landscape and scenic beauty within AONB designated landscapes, which have the highest status of protection in relation to these issues. The location of the site relatively near the coast and the presence of public footpaths makes this a visually sensitive area.
 10. I therefore conclude on this issue that the proposal would erode the character and appearance of the AONB. The development would be in conflict with Policies DEV23, DEV24 and DEV25 of the Local Plan² as well as Policies KNP2 and KNP7 of the Neighbourhood Plan³. Together, these policies aim to protect the characteristics of the local landscape.

Location

11. The appeal site is situated in the countryside where Local Plan Policy TTV1 only permits new housing if it can be demonstrated to support the principles of sustainable development and sustainable communities. The policy defines this as compliance with Policies SPT1, SPT2, TTV26 and TTV27.

¹ National Planning policy Framework, July 2021.

² Plymouth and South West Devon Joint Local Plan 2014-2034 (adopted March 2019).

³ Kingston Neighbourhood Plan 2019-2034 (May 2021).

12. The main focus of the appellant's case is that the proposal would comply with paragraph 1(iv) of Policy TTV26. This states that isolated development in the countryside will only be permitted in exceptional circumstances, such as *where it would secure a development of truly outstanding or innovative sustainability and design, which helps to raise standards of design more generally in the rural area, significantly enhances its immediate setting and is sensitive to the defining characteristics of the local area*.
13. Even if I were to accept the appellant's argument that the site is isolated in terms of the Braintree judgement⁴, compliance with Policy TTV26 still requires a form of development that significantly enhances its immediate setting and is sensitive to the defining characteristics of the local area. These are also requirements of paragraph 80(e) of the Framework, which is worded in a similar way to this part of Policy TTV26.
14. In this case, I have already concluded that the proposal would erode the character and appearance of the AONB. Whatever the architectural merits of the proposed development, I am unable to determine that it would significantly enhance its immediate setting or be sensitive to the defining characteristics of the area when it would harm a designated landscape of national significance. As such, the proposal would not be in accordance with either paragraph 1(iv) of Policy TTV26 or paragraph 80(e) of the Framework.
15. There is little before me to indicate that the dwelling can be directly justified by the other policies referenced in the appeal, including Policies SPT1, SPT2, TTV1, TTV2 or TTV26 of the Local Plan, or Policy KNP1 of the Neighbourhood Plan. In various ways, these aim to guide the location of new development in the area. I therefore conclude on this issue that the site does not provide a suitable location for the proposed development.

Other considerations

16. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. With that in mind, I am conscious that the overall purpose of the planning system is to achieve sustainable development. In this case, the dwelling has been designed with energy efficiency in mind and would promote new planting and the reinstatement of field boundaries. It would also help the local economy during the construction process and would make a positive contribution to the local housing supply. However, as the proposal is for a single dwelling, such benefits would be relatively modest in scale. Protection of scenic beauty within the AONB carries 'great weight' in the decision making process and the combined benefits of the proposal do not outweigh the harm to character and appearance that has been identified.

Conclusion

17. For the reasons given above, the appeal is therefore dismissed.

C Cresswell

INSPECTOR

⁴ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.