



Appeal Decision

Site visit made on 10 October 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2023

Appeal Ref: APP/K1128/W/23/3318346

Car parking area at Weeke Hill, Dartmouth (E)288033 (N)50155

- 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 and Mrs Coker against the decision of South Hams District Council.
 - The application Ref 2824/22/FUL, dated 11 August 2022, was refused by notice dated 9 December 2022.
 - The development proposed is described as "the proposal looks to create a double garage submerged into a high level bank on an existing parking area."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the appellant's appeal form as it provides a more accurate description of the site than that given in the application form.

Main Issues

3. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the local settlement strategy; (ii) the effect of the proposal on the character and appearance of the area; and (iii) highway safety.

Reasons

Location

4. The appeal site comprises a small area of land including natural vegetation and a partly hard surfaced area that can be accessed from an adjacent property. The site is located on the edge of an urban area but outside any defined settlement boundary. The supporting text to Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014-2034, March 2019 (JLP) says that development outside built up areas will be considered in the context of Policy TTV26. Amongst other things, this policy seeks to avoid isolated development in the countryside and supports developments that are complementary to existing viable uses.
5. There is no dispute between the main parties that the appeal site is not in an isolated location. Whilst the appellant's address on the application form is not linked to any nearby property, their evidence states that they use a nearby property as a holiday home. However, I have not been provided with any substantive evidence of the location of this property or its site specific circumstances. Consequently, even though both main parties agree that a

condition could be imposed to control the use of the proposed development, this condition would still need to meet the tests set out in the National Planning Policy Framework (the Framework). On the basis of the very limited information advanced in this respect, I cannot be certain that any suggested condition would be enforceable or sufficiently precise to ensure the proposed garage would be used for incidental purposes linked to an existing property. In the absence of such a condition, there would be no control over the use of the proposed garage. Therefore, the development would not be complementary to an existing viable use, as required by Policy TTV26 of the JLP.

6. For the above reasons, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to the local settlement strategy. As such, the proposal would conflict with Policy TTV26 of the JLP.

Character and appearance

7. The appeal site is located within the South Devon Area of Outstanding Natural Beauty (AONB) where, amongst other things, Policy DEV25 and the Council's AONB Management Plan 2019-2024 (MP) give great weight to conserving its landscape and scenic beauty and support development that is appropriate and proportionate to its setting. The appeal site is also in an area defined as Undeveloped Coast and Heritage Coast where Policy DEV24 only permits development that would harm its undeveloped and unspoilt character, appearance, tranquillity or estuaries under exceptional circumstances, which is reiterated within Annex 1 of the MP.
8. The proposed garage would be on the edge of a residential area and built into an existing naturally vegetated slope that makes a positive contribution to the AONB. The garage would be immediately adjacent to an approved parking area and covered with a green roof with a wildflower meadow. However, despite these beneficial construction features and the proposed mitigation measures that would provide a betterment of tree cover across the site, the garage would require the substantial excavation of unspoilt characterful land. Furthermore, although its visual effects would be limited to the proposed timber doors, these would nevertheless introduce an unnatural landscape feature where none currently exists. For these reasons and given my conclusions on the main issue above, the natural landscape would not be conserved or enhanced by the development and it would not be appropriate or proportionate to its setting.
9. Therefore, I conclude on this main issue that the proposal would harmfully affect the character and appearance of the area. As such, the proposed development would conflict with policies DEV24 and DEV25 of the JLP and the advice contained within the Council's MP.

Highway safety

10. Unlike the previous planning permission¹, the proposal would not include a turning area within it to allow for vehicles to enter or exit the site in a forward gear from a single access point. However, the scheme includes two points of entry/exit from the highway which would be similar to the permitted arrangement. It is noted that the permitted scheme included a condition that ensured a one way system would be maintained. Even if vehicles could not turn

¹ Planning permission reference 0159/20/FUL

within the proposed parking area and garage space, there is no substantive evidence that the proposed access arrangement could not be controlled via an appropriately worded condition if I were otherwise minded to allow the appeal.

11. The proposed gate fronting the highway would be less than 8m from it, which would not prevent users stopping on the highway to open or close it if entering the site from this point. However, this gate would open inwards, and given the scheme would include two points of access it is therefore feasible that this gate could be opened prior to exiting the site without generating any highway conflict. Consequently, it would not be necessary to impose a condition relating to the operation of electric gates.
12. Therefore, I conclude on this main issue that the proposal would not be likely to pose a risk to highway safety. As such, there would be no conflict with Policy DEV29 of the JLP or paragraphs 110 or 111 of the National Planning Policy Framework (the Framework) which, together in this respect seek to ensure developments provide a safe and satisfactory vehicular access to and within the site for all users.

Other Matters

13. There are listed buildings near the site and consequently there is a statutory duty to pay special regard to the desirability of preserving their setting. Rock Cottage is a grade II listed building where its significance derives from its C1820-30 origins and is constructed of local stone rubble with brick dressings, slate hung on the street front. The proposed garage would be some distance from the listed building and well screened and landscaped. Consequently, harm to its setting and significance would be avoided. Woodlands is a grade II listed building that has a significance derived from its C1820-1830 origins and is constructed from local stone rubble with brick dressings, plastered on the front. Any harm to the setting and significance of the listed building would be avoided due to separation distances and the small scale nature of the development.

Planning Balance and Conclusion

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says planning decisions must be made in accordance with the plan unless material considerations indicate otherwise. I acknowledge that there is an extant planning permission on this site for alterations and improvements to the vehicular access to an existing parking area, where the use is tied to a property via a condition. This represents a realistic fallback that is a material consideration where it is possible weight could be attributed. In that context, I have not been provided with any substantive evidence associated with the circumstances surrounding the imposition of that condition. Even if it were enforceable, and the use of the parking area can continue regardless of the outcome of this appeal, for the reasons set out above, it would not be possible to control the use of the proposed garage.
15. Additionally, even with proposed landscaping mitigation and biodiversity enhancements, I have already concluded above that the proposed garage would harm the character and appearance of the area. As such, the proposed development would therefore be more harmful than the fallback. For these reasons, I give the fallback position very little weight.

16. Bringing together my conclusions on the main issues, I have found that the proposal would be unlikely to pose a risk to highway safety. However, this would not outweigh the harm I have found to the conflict with the development plan's settlement strategy or the harm to the AONB.
17. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR