



Appeal Decision

Site visit made on 30 January 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2024

Appeal Ref: APP/K1128/W/22/3313614

Northlands, Chittleburn Close, Brixton PL8 2FL

- 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 D Bothma against the decision of South Hams District Council.
 - The application Ref 1778/22/FUL, dated 20 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is described as 'Retrospective planning permission for use of existing accommodation above the garage as a holiday let'.
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Decision

1. The appeal is allowed and planning permission is granted for the use of existing accommodation above the garage as a holiday let at Northlands, Chittleburn Close, Brixton PL8 2FL in accordance with the terms of the application, Ref 1778/22/FUL, and the plans numbered 1371-941-0003 rev A; 1371-941-0120 rev B and 1371-941-0121 rev C, subject to the conditions in the attached Schedule.

Applications for costs

2. An application for costs was made by Mr D Bothma against South Hams District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). There have been no fundamental changes relevant to the main issues in this appeal. The references in my decision to the paragraphs in the Framework relate to this new document.
4. On 7 March 2024 the Brixton Parish Neighbourhood Development Plan (as modified) was made. Insofar as is relevant to the appeal before me, the modification included revisions to Policy Env6 relating to Brixton Parish Open Gap together with modifications to Env Map 3. The policy was not referred to in the Council's reasons for refusal as the appeal site was outwith the Open Gap at the time the application was determined. The modification means that the appeal site now lies within it and I have determined the appeal accordingly.

Main Issues

5. The main issues in this appeal are:
 - Whether the appeal site is an appropriate location with regards to development plan policy;

- The effect on the character of the appeal site;
- Whether the development provides suitable living conditions for the occupiers of the holiday accommodation and neighbouring residents with regards to the size of the accommodation and noise and disturbance; and
- The effect of the proposed development on the integrity of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA).

Reasons

Policy

6. The Plymouth and South West Devon Joint Local Plan 2014-2034, adopted March 2019 (JLP) includes Policies STP1 and STP2 that provide an overriding strategy for the location of new development and the creation of sustainable rural communities. These matters are further built upon in Policies TTV1 and TTV2 of the JLP which amongst other things, make it clear that development in smaller villages, hamlets and the countryside (tier 4) will only be permitted where they can be shown to support the principles of sustainable development and sustainable communities. In particular, Policy TTV2 of the JLP indicates that the delivery of sustainable rural tourism developments that benefit rural businesses, communities and visitors and respect the character of the countryside will be supported.
7. Brixton is a tier 4 location. It has an adopted neighbourhood plan (NP)¹. The appeal site lies adjacent to but outwith the settlement boundary, in the countryside. For this reason, I do not find Dev1 of the NP relating to developments within the settlement boundary to be relevant to the proposal before me.
8. Policy TTV26 of the JLP concerns development in the countryside and seeks to protect the special characteristics and role of the countryside. The appeal site is not isolated and therefore the second part of the policy is relevant. This includes criteria for development in the countryside. The criteria listed are either not applicable to the proposed development or there is no conflict. The supporting text to Policy TTV26 sets out the need for it to be read alongside other policies of the plan, such as Policies SPT2 and TTV2 which relate to the creation of sustainable rural communities which have reasonable access to local services and are well-served by public transport, walking and cycling opportunities.
9. There are bus stops outside the appeal site and services to Plymouth, Totnes and Kingsbridge. The Parish Council say that the hourly bus service is unreliable and there is no Sunday service. The village centre is a short distance on foot along designated footways. Although the convenience store has closed, there are a range of facilities for visitors including a pub and a fish and chip shop. There are also public footpaths close to the site.
10. I have taken into account Paragraph 109 of the Framework which states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I therefore find that the appeal development is in a

¹ The Brixton Parish Neighbourhood Development Plan (as modified) March 2024

location where local services and facilities can be accessed on foot and there is reasonable public transport provision to other locations. This is consistent with the view taken by the Council in respect of other applications in the vicinity of the appeal site including that relating to the use of the annexe for holiday accommodation².

11. The appeal is accompanied by letters from two local businesses setting out the benefit of tourism accommodation in Brixton to their businesses. The Council say there is no evidence of a shortfall of such accommodation and that there are several similar uses in Brixton although no specific details have been provided. In any event, Policy DEV15 of the JLP provides support for small businesses and the reuse of suitable buildings subject to no adverse residual impacts on neighbouring uses and the environment to help build resilience in the rural economy. As will become evident, I have found that there is no harmful effect on neighbouring occupiers and therefore the proposal garners some support from Policy DEV15 of the JLP which seeks to support the rural economy and foster vitality.
12. Policy Env6 of the NP seeks to safeguard land within the Brixton Parish Open Gap to protect the rural character and appearance of the village and maintain its visual and physical separation with the new town of Sherford. The appeal proposal relates to the use of part of an existing building within a residential plot and no external changes are proposed. As such, there would be no harm to the rural character and appearance of the village and its visual and physical separation with Sherford would be maintained. Accordingly, I find no conflict with Policy Env6 of the NP.
13. Drawing this main issue together, I find no conflict with Policies SPT1, SPT2, TTV1, TTV2, TTV26 and DEV15 of the JLP which seek, amongst other things, to protect the special characteristics and role of the countryside and deliver sustainable development in locations where there is access to local services, minimising the need to travel and promoting sustainable transport choices. I also find no conflict with Policy Env6 of the NP for the reasons set out in Paragraph 12 above.

Character

14. 'Northlands' is a residential property located in a substantial plot, accessed via a private drive. Public views of the site are limited. As well as the annexe referred to above, there is an existing holiday lodge³ in the garden. The appeal building was granted planning permission⁴ as a detached double garage with ancillary accommodation over. It is understood that the use of this accommodation for holiday letting purposes has already commenced.
15. Parking is provided on the existing spacious drive which also provides parking for the host dwelling and other units of accommodation at Northlands. A small outdoor seating area has been provided to the front of the appeal building for the occupiers of the holiday accommodation, separated from the parking by a hedge. No external changes to the building are proposed so the building retains its outward appearance as a garage and there is very little to suggest that the

² LPA Ref: 3146/21/FUL Retrospective use of annexe as holiday accommodation

³ LPA Ref: 3711/16/FUL Construction of two storey holiday lodge and associated curtilage and car parking area

⁴ LPA Ref: 07/0515/15/F Householder application for construction of new detached garage with living accommodation over

accommodation is being used commercially. For these reasons, the development does not appear cramped or contrived.

16. Given that there are other units of holiday accommodation operating at the site, that the accommodation utilises an existing building and is modest in terms of the accommodation it provides, the use of the accommodation above the garage for holiday letting accommodation does not result in a change in the overall character of the host property.
17. I find no conflict with Policies DEV15 and DEV20 of the JLP, Policy Dev2 of NP or Paragraphs 135 and 139 of Framework which seek to ensure that development has regard to key design principles for high quality places.

Living conditions

18. The accommodation comprises a double bedroom, a shower room and kitchen/sitting/dining room. Outside is a small outdoor seating area with space for a washing line.
19. The Council say that the accommodation would meet with the described space standards. Occupiers of holiday accommodation are transient and stay for short periods. As a result, they tend to spend less time in their accommodation, need less space and require more basic facilities than permanent residents would. The accommodation and outdoor seating area that I saw on my site visit did not appear cramped or substandard and is of a sufficient size to adequately serve the number of guests provided for.
20. Access to the appeal development is through a gate from the drive. This also provides pedestrian access from the drive to the holiday lodge in the garden. However, the comings and goings associated with holiday accommodation would be less frequent than those associated with a permanent dwelling, as holiday makers tend to spend time away from the accommodation visiting the local area. In addition, holidaymakers do not expect or require the same level of privacy as permanent occupiers. This, together with the existing screening in place around the sitting out area of the appeal property means that conflict between the occupiers of the holiday lodge and the appeal development is unlikely to occur.
21. The outside seating area is located close to the boundary with the neighbouring property. The limited size of this area together with the limited accommodation provided by the unit and the established boundary between appeal site and neighbours, means that there would not be a harmful impact as a result of noise and disturbance to the occupiers of the neighbouring property.
22. I therefore conclude that the appeal development provides acceptable living conditions for the occupiers of the holiday accommodation and neighbouring properties and as such, no conflict with Policy DEV1 of the JLP or Paragraph 135 of the Framework which seek satisfactory levels of privacy and protection from noise to safeguard amenity.

Habitats

23. The appeal site lies within the zone of influence of Plymouth Sound and Estuaries European Marine sites (EMS) comprising the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Areas. The waters in the EMS are internationally important

for wildlife and include key marine habitats such as sandbanks, estuaries, shallow inlets and bays, reefs and saltmarshes.

24. Within the zone of influence, new residential development (including those used as holiday accommodation) would lead to increased levels of recreational activity which would be likely to have a significant effect on the designated features of the SAC and SPA either on its own or cumulatively with other similar development, without avoidance measures. The avoidance measures employed in this area include contributions towards the Recreation Mitigation and Management Scheme⁵ (EMS Scheme) of £236.62 for a 1-bedroom dwelling, as is applicable in this appeal.
25. The Unilateral Undertaking which has been submitted pursuant to Section 106⁶ relies on the payment of the contribution for the purposes of delivering the mitigation and management set out in the EMS Scheme, thereby avoiding the likely significant effects on the integrity of the SAC and SPA. I have undertaken an Appropriate Assessment under the Habitats Regulations⁷ and have consulted Natural England accordingly.
26. 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 Framework. The development can therefore proceed without harm to the integrity of the SAC and SPA, thus complying with the expectations of the Habitats Regulations and Policy DEV26 of the JLP which, amongst other things, supports the protection, conservation, enhancement and restoration of biodiversity across the Plan Area.

Other Matters

27. The submitted Sustainable Travel Plan includes measures such as providing occupiers with information about bus travel, local walking and cycle routes and accessing local services by walking, cycling and public transport. The measures also include the provision of an electric vehicle charging point, the location of which is identified on the submitted plans. This is a proportionate response to the development proposed and its implementation can be secured by condition to ensure compliance with Policy DEV15 of the JLP.
28. Although not a substantive reason for refusal, the Council have referred to the inadequacy of the submitted Carbon Reduction Statement. DEV32 of the JLP seeks to deliver low carbon development. The accommodation has already been provided, utilises an existing building and the proposed electric vehicle charging point can be secured by condition. This also seems to me to be a proportionate response to the requirements of the policy such that there would be no conflict with Policy DEV32 of the JLP.
29. The Council refer to other applications for holiday lets in tier 4 locations being refused and dismissed at appeal. However, I have not been provided with any details of these and therefore cannot draw any comparisons.

⁵ Plymouth Sound and Estuaries EMS Recreation Mitigation and Management Scheme dated November 2019

⁶ Of the Town and Country Planning Act 1990

⁷ The Conservation of Habitats and Species Regulations 2017

Conditions

30. The Council have provided a list of suggested conditions. It is not necessary for me to attach the standard time condition or a plans condition as the development has already commenced.
31. For the reasons set out above, conditions are necessary to ensure that the measures set out in the Sustainable Travel Plan are secured and that the electric vehicle charging point is provided in a reasonable timeframe so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure their implementation before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met.
32. Conditions restricting the use of the accommodation to purposes ancillary to the main dwelling or as holiday accommodation and to ensure that they are retained within the control of the occupiers of Northlands are necessary to prevent any adverse effects on the living conditions of surrounding occupiers, and the establishment of a permanent dwelling.
33. The comprehensive restriction of permitted development rights set out by the Council would not be reasonable. However, given the proximity of the building to the boundary, it is necessary to restrict alterations to the roof which could have a harmful impact on the living conditions of the neighbouring occupiers.
34. A condition requiring the provision and retention of the parking space is not necessary as there is sufficient alternative space on the driveway for the parking for vehicles.

Conclusion

35. For the reasons given above the appeal should be allowed.

Alison Fish

INSPECTOR

Schedule of conditions

- 1) With the exception of the electric vehicle charging point (EVCP) referred to in Condition 2 below, unless within two months of the date of this Decision, the measures in the Action Plan set out within the submitted Sustainable Travel Plan (Design Development Chartered Architects) shall have been implemented, the use of the holiday accommodation hereby permitted shall cease until such time as the measures in the Action Plan have been implemented. Once implemented, the measures shall be maintained thereafter for the life of the development and an annual monitoring report be made available to the local planning authority on request.
- 2) Unless within six months of the date of this decision, the electric vehicle charging point (EVCP) shall have been installed in accordance with the application drawings, the use of the holiday accommodation hereby

permitted shall cease until such time as the EVCP has been installed. Once installed the EVCP shall thereafter be retained for the lifetime of the development.

- 3) The building hereby permitted shall remain within the planning unit of 'Northlands' and shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Northlands' or for the purposes of holiday letting accommodation, which shall be managed and owned by the principal resident(s) of the main dwelling 'Northlands'.
- 4) The use of the building for the purposes of holiday letting accommodation in accordance with the above condition shall comply with the following provisions:
 - a) the unit of accommodation hereby approved shall not be occupied as a person's sole, or main place of residence; and
 - b) the owners/operators shall maintain an up-to-date register of the names of all occupiers, the duration of their stay and their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any Order revoking and re-enacting that Order with or without modification), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the local planning authority other than those expressly authorised by this permission:-
 - (a) Part 1, Class A (extensions and alterations)
 - (b) Part 1, Class AA (enlargement of a dwellinghouse by construction of additional storeys)
 - (c) Part 1, Classes B and C (roof addition or alteration)

End of Schedule