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# Appeal Decision

Site visit made on 9 July 2024

**by J Hills MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 July 2024**

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**Appeal Ref: APP/K1128/W/23/3334409**

**71 Yealm Road, Newton Ferrers PL8 1BN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by STUDIO AGORA against the decision of South Hams District Council.
  - The application Ref is 2928/22/FUL.
  - The development proposed is boatshed and reinstatement of landing.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have taken the address from the Council's decision notice as that provided in the application form is incomplete.
3. Notwithstanding the description of development set out above, it is clear from the plans that the proposal also includes a stone wall and steps. In that context, I note that the steps have already been built and that the application has, in part, been dealt with retrospectively. I have determined the appeal on that basis and the plans before me.

## Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

## Reasons

5. The appeal site comprises a steep, attractive, and mostly vegetated bank of land abutting a tidal estuary. It is within part of the riverside where landings and some small-scale outbuildings, that are mostly set back from the water's edge, are not uncommon between punctuated vegetation. The opposite side of the estuary is naturally vegetated. Based on my observations, these landing areas tend to be associated with the residential properties that are positioned at a higher level beyond an intervening public footpath.
6. There is dispute between the main parties as to whether the appeal site is within or outside the Undeveloped Coast (UC) as defined within the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP). Mapping supplied by the Council shows that a part of the scheme would be within this designation. Amongst other things, Policy DEV24 of the JLP only permits development in the UC where it requires a coastal location and cannot be reasonably located outside of it. The nature of the proposal means that these tests would be met.

7. Notwithstanding the above, the policy also seeks to avoid detrimental effects on the unspoilt character, appearance or tranquillity of the UC, estuaries and Heritage Coast (HC). This is consistent with Policy N3P-2 of the Newton and Noss Neighbourhood Plan 2017-2034 (NDP) which says, in part, that development shall conserve the character of the banks of the river. It is common ground that the appeal site lies within the HC and National Landscape (NL). In such areas, paragraph 182 of the National Planning Policy Framework (the Framework) says that great weight should be given to conserving and enhancing landscape and scenic beauty.
8. The proposed stone wall would be of a suitable scale, making use of robust and sympathetic materials. At my visit, I saw that there were remnants of stonework near the water's edge. For these reasons, the walling alone would not create an unusual or prominent quayside arrangement for this side of the estuary. However, the proposed boatshed would be positioned immediately above the stone wall. Despite the change in materials and the rising verdant backdrop, this collective bulk would result in a notably large façade that would project over the estuary edge. With so many contrasting material finishes and features, the design arrangement of the boatshed would further exacerbate this incongruity. Its separation from other built form would avoid a visual coalescence of buildings. However, the immediate and surrounding natural setting would mean that the eye would be drawn to this unnatural feature.
9. More distant public views of the boatshed's prominence would be tempered by development on rising topography behind. Additionally, the green roof would go some way towards softening the building's prominence, when viewed from above. It would however still be visible from the estuary, Doctors Steps, and the public footpath. For the reasons given, the scheme would irrevocably and harmfully erode a tranquil landscape setting. Consequently, this incremental and permanent urbanisation of the NL would fail to conserve and enhance its landscape and scenic beauty. This is a consideration that must be given great weight.
10. Although not advanced by the Council in its reason for refusal, given the findings above, there is little to show that the proposal would accord with policies DEV23 or DEV25 of the JLP and N3P-9 of the NDP, as suggested by the appellant.
11. For the above reasons, the proposal would harm the character and appearance of the area. As such, it would be in conflict with Policy DEV24 of the JLP and Policy N3P-2a) of the NDP. There would also be conflict with paragraph 182 of the Framework.

### **Other Matters**

12. The Council does not raise issue with a number of other matters and policies that have been referred to by the appellant. These include, but are not limited to living conditions, highways, energy efficiency, and stability. Based on the evidence before me, had I been minded to allow the appeal, some of these matters could have been dealt with using appropriately worded conditions. This is a neutral factor in the overall assessment of the scheme.
13. There is a grade II listed building nearby. Consequently, there is a statutory duty to pay special regard to the desirability of preserving its setting. The grade II listed Kiln Quay or The Boathouse's significance derives from its 1880-

1890 origins as a former estate boathouse and lodge to the Revelstoke estate. The proposal would be set apart from this building by some 50m. It would be slightly tucked in behind a small protruding headland and within the context of other nearby quays. Harm to the setting and significance of the listed building would be avoided.

14. The common ground relating to intertidal habitats and lack of objection from the AONB Estuaries Partnership is acknowledged. However, the appeal site is within an area identified by Natural England as having the potential to significantly affect the Plymouth Sound and Estuaries Special Area of Conservation. These are statutorily protected habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended). Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites.
15. However, as the identified harm in respect of the character and appearance of the area provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision since any findings on this issue would not change the appeal outcome.
16. My attention has been drawn to an appeal at 11 Yealm View Road<sup>1</sup>. The appellant asserts that a precedent is set in respect of the acceptability of a boatshed on the estuary edge. However, that scheme was not in the same location, as it is said to overlook the village of Noss Mayo on the opposite bank. Additionally, I have not been provided with any detailed plans. The effect both schemes would have on the character and appearance of the area rests on their site-specific circumstances. As such, these schemes are not comparable.
17. The appellant's comments in respect of the officer support for the application are noted. However, the refusal was a decision of the Council and ultimately one that I have agreed with.

## **Conclusion**

18. 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

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<sup>1</sup> Appeal Ref: APP/K1128/W/20/3245187