



Appeal Decision

Site visit made on 16 July 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2024

Appeal Ref: APP/K1128/W/23/3334724

Land off Castle Road, Kingswear, Dartmouth, Devon TQ6 0DX

- 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 Mr Ian Forrest-Jones, Devon Wagyu Ltd against the decision of South Hams District Council.
 - The application Ref is 1284/23/FUL.
 - The development proposed is new livestock building & associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development in the banner heading above from the application form. However as '(Resubmission of 3012/22/FUL)' is not an act of development, I have removed this element.
3. On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became "National Landscapes". The legal designation and policy status of AONBs are unchanged, but I have replaced reference to the South Devon AONB with the South Devon National Landscape (SDNL) in my decision to reflect this change.
4. Following the decision of the Council, the appellant has submitted updated information in relation to ecology. They suggest that this updated information should be considered in the appeal decision to address the Council's second reason for refusal.
5. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the degree of engagement of all parties and the interests of fairness. Noting the content of the updated information does not alter the basis of the application, the concerns of third parties in respect of the matters, and the opportunity for the parties to fully respond, I do not consider that any party will be prejudiced if I take the information into account.
6. On this basis, the Council, through its statement of case, has confirmed that it no longer seeks to defend the second reason for refusal. This has resulted in the single main issue below.

Main Issue

7. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the SDNL, and Heritage and Undeveloped Coast.

Reasons

8. The appeal site is an area of agricultural land which lies within the SDNL and Undeveloped and Heritage Coast. Section 245 of the Levelling-up and Regeneration Act 2023 replaces the duty to have regard to the purposes of conserving and enhancing the natural beauty of National Landscapes, with the duty, when exercising any functions in relation to land in a National Landscape, to seek to further the purposes of conserving and enhancing the natural beauty of the area.
9. Consistent with this statutory duty, Policy DEV25 of the Plymouth & South West Devon Joint Local Plan(2014–2034) (LP) states, amongst other matters, that the highest degree of protection will be given to the SDNL with great weight given to conserving landscape and scenic beauty in the protected landscape, with particular reference to their special qualities and distinctive characteristics.
10. The South Devon AONB Management Plan 2019-2024 (MP) identifies a list of special qualities that define the unique “natural beauty” for which the SDNL is designated as a nationally important protected landscape. These include being part of a deeply rural rolling patchwork agricultural landscape, iconic wide, unspoilt, and expansive panoramic views, ancient and intricate network of winding lanes, paths and recreational routes, and areas of high tranquillity.
11. The site is also within the Dart Estuary and the Froward Point to Berry Head Coastal Plateau Devon Landscape Character Area. Furthermore, it is within the 1B Open Coastal Plateaux and 4D Coastal Slopes and Combes South Hams Landscape Character types. I observed the appeal site exhibits key characteristics of these landscape types, notably being within an open elevated and rolling plateau landscape with sparse limited woodland cover on the plateau, descending into a combe valley and displaying a strong sense of remoteness and tranquillity.
12. The visibility of the appeal site is dictated by rolling topography as well as intervening vegetation. While there is intervisibility of the site from surrounding private viewpoints notably from the opposing valley side, public viewpoints are more restricted. Notwithstanding, I observed that given the Zone of Theoretical Visibility, the viewpoints identified within the appellants Landscape and Visual Impact Assessment Revision A March 2023 (LVIA) to be appropriate.
13. In terms of landscape effects, the LVIA considers the landscape to have a medium sensitivity. However, the appeal site is in a tranquil elevated position above the Dart Estuary near the coast, and I observed the area to be an attractive part of the national landscape which exhibits a number of the special qualities for which the SDNL was designated. Therefore, although there are some larger agricultural buildings in the wider area, the appeal site and surrounding area does not appear as a wholly functional agricultural landscape, and I find the landscape to be of medium-high sensitivity.
14. The proposal would introduce a large permanent agricultural building of utilitarian appearance into the landscape and would feature a significant

change to the landform of the site due to cut and fill levelling. Impact avoidance, mitigation and enhancement measures are proposed with all hedge banks being retained and extensive additional planting proposed.

15. Although the proposed building would be located on the hillside as it descends towards the Dart Estuary, it would nevertheless appear on the skyline from Castle Road. Given the existing steep topography, the required cut and fill would also result in an intrusive interruption of the natural and characteristic slope of the hillside.
16. Moreover, I observed that glimpses of appeal site are visible from vantage points along Kingswear Footpath 21 (LVIA viewpoint 03) and the permissive footpaths to Daymark Tower (LIVA viewpoint 4a), although at times partially screened by intervening trees or landform. Whilst the effects from these longer views across the valley would be reduced due to the site being enclosed by the undulating topography, the combination of the significant levelling works and proposed building would be noticeable.
17. I therefore find that the proposal would result in a medium scale (negative) permanent effect, to the wider area, producing a medium-low magnitude of change. In conjunction with the landscape sensitivity, I find a resulting moderate adverse effect to the immediate area, and slight adverse effect to the wider area.
18. Given that the proposed planting is all within the appellant's land holding, I see no reason why the landscaping could not be the subject of a planning condition. However, despite the landscape implementation guidelines, I have limited substantive evidence that a landscaping strategy of the scale and type proposed would successfully mature within 12-15 years given the exposed hillside location. I therefore cannot be certain that the landscape strategy would provide sufficient screening and adequately reduce residual effects of the proposal. Moreover, the screening effect of the landscaping would be reduced during winter months when trees are not in leaf given the predominant mix of broadleaf trees.
19. Additionally, given that the character of the area is partially shaped by limited woodland cover, and the appeal site is seen in conjunction with those areas featuring sparse woodland, positive benefits to the character of the area from woodland planting would be slight and would not adequately mitigate the identified adverse effect.
20. In terms of visual effects, from Castle Road (LVIA viewpoint 1a) the LVIA attributes a high-medium sensitivity to the visual amenity of receptors. Given the character of Castle Road, I have reached the same finding. Furthermore, I agree that the effects of the proposal would result in a large scale (negative) permanent effect, producing a medium magnitude of change. Whilst the appellant's Landscape Statement of Case refers to a slight-moderate adverse effect, the LVIA refers to this being moderate adverse, to which I also agree.
21. Given my previous concerns in relation to the landscaping strategy, I cannot conclude that the proposed planting would result in a slight-moderate beneficial effect to the visual amenity of a localised area of Castle Road, although I accept that planting, even if not fully successful, would be capable of reducing the effect to slight-moderate adverse.

22. As I have previously described, views of the appeal site are partially screened from Kingswear Footpath 21 (LVIA viewpoint 03) and the permissive footpaths to Daymark Tower (LVIA viewpoint 4a). However, they are well used by recreational walkers visiting the Daymark Tower. Walkers would have expectations to focus on and appreciate panoramic views of the surrounding landscape. I therefore attribute a high sensitivity to these footpaths.
23. Although the appeal site would appear agricultural in nature and would be seen in context with other agricultural buildings in the wider landscape, I have previously identified that the combination of the significant levelling works and proposed building would be noticeable from this viewpoint. Therefore, this would result in a small scale (negative) permanent effect, producing a low-negligible magnitude of change, resulting in the effect of the visual amenity from these viewpoints being slight adverse.
24. Even if the landscaping strategy were successful, the building is likely to remain visible from this viewpoint. Furthermore, the benefits to the character of the area from planting would be small, given the small area of wider planting that would be visible from this viewpoint due to undulating landform, producing a negligible magnitude of change. Overall, this would have a neutral impact on the visual amenity of the footpaths, and I note the LVIA has reached the same finding. The landscaping strategy would therefore not mitigate the slight adverse effect of the proposed building I have identified.
25. Other notable identified viewpoints include local roads to the north east (LVIA viewpoint 02a-b), and the Castle Road/Dartmouth Bridleway 7 (LVIA viewpoint 05). In relation to the former, whilst some views of the building would be available through field gates, given these roads appear little used, there would be a neutral impact on the visual amenity of the roads and the landscaping strategy would also result in a neutral impact. The LVIA also comes to similar findings.
26. With regards the latter, although I find there to be a high sensitivity given the use of the bridleway by recreational walkers who would have expectations to focus on and appreciate panoramic views of the surrounding landscape, the proposal would result in a negligible scale (negative), permanent effect, due to the minimal views I observed available. Therefore, the resulting effect would be neutral. From this viewpoint the landscaping strategy would be seen to modestly bolster existing mature planting within the wooded slopes of the combe and would provide a negligible (positive) effect.
27. Given the above, I find the proposal would result in demonstrable adverse landscape and visual effects. I appreciate that these effects may reduce through the maturing of the landscaping. Nevertheless, the introduction of a large agricultural building and changes in landform in an attractive part of the landscape which has the perception of being undeveloped and tranquil, would fail to conserve or enhance the scenic beauty of the SDNL. It would also have a detrimental effect on the appearance and tranquillity of the Heritage and Undeveloped Coast.
28. Consequently, I conclude that the proposal would result in an adverse effect on the character and appearance of the area, with particular regard to the SDNL, and Heritage and Undeveloped Coast. The proposal would conflict with LP policies SPT12, DEV23, DEV24 and DEV25 and Policy K4 of the Kingswear Neighbourhood Plan (2019-2034). These policies seek, amongst other things to

protect the distinctive characteristics of the area, and conserve and enhance the appearance and tranquillity of the Heritage and Undeveloped Coast and scenic beauty of the SDNL. There would also be conflict with MP paragraphs Lan/P1, Lan/P3 and Plan/P2, which seeks similar requirements and to strengthen landscape character. Furthermore, there would also be conflict with the provisions of the Framework which attaches great weight to conserving and enhancing landscape beauty in AONBs.

Other Matters

29. Even if the proposal is required to accommodate livestock associated with an agricultural enterprise, it is of a size commensurate with the agricultural needs, and efforts have been made by the appellant to relocate the building to minimise its effect on the surrounding area, these are ordinary requirements for this type of development, and they do not represent a positive benefit that weighs in favour of the development.
30. There would also be some proportionate biodiversity gains related to the landscape strategy. Whilst of benefit, given the scope and scale of the proposal, any such environmental gain would be modest.
31. The Grade II Daymark Tower is located nearby. From the evidence before me, the significance of this heritage asset is partly derived from its historical role as a navigational beacon. The setting of the Tower is primarily the immediately surrounding agricultural land that the tower is experienced within. Due to the separation distance between the appeal site and heritage asset, as well as intervening undulating topography and vegetation, the appeal site does not contribute to the setting, and the proposal would not harm the significance of this listed building.
32. The site is within the South Hams Special Area of Conservation (SAC) consultation area (greater horseshoe bats sustenance zone). If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposal upon the SAC in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issue above, there is no need for me to consider this matter any further.

Conclusion

33. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR