



Appeal Decision

Site visit made on 25 July 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/K1128/W/24/3336427

2 Elm Cottages, Burleigh Lane, South Huish, Devon TQ7 3EF

- 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 Stephen Williams against the decision of South Hams District Council.
 - The application Ref is 2516/23/FUL.
 - The development proposed is extension to existing parking area (resubmission of 1987/22/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the banner heading above is that stated on the notice of decision and on the appeal form. I have used this description as it more succinctly describes the development proposed than that given on the application form.
3. Subsequent to the decision of the Council on the planning application, Areas of Outstanding Natural Beauty became National Landscapes. Therefore, in relation to this appeal, reference to the National Landscape refers to the Area of Outstanding Natural Beauty as referred to by the main parties.
4. The appeal is accompanied by a Preliminary Ecological Appraisal Report (6 February 2023) (the Ecological Appraisal) that the appellant advises was submitted with the original planning application. The Council state that it was not. The report relates to the second reason for refusal seeking to demonstrate a lack of harm to biodiversity. Although the details have not been subject to formal public consultation, the Council was given an opportunity to comment on the report as part of the appeal and have done so. In light of this, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of this information. Therefore, having regard to the principles of Holborn¹, acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.

Main Issues

5. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development with regard to the local development strategy and the effect

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

on the landscape and scenic beauty of the South Devon National Landscape (NL); and,

- the effect of the proposal on biodiversity.

Reasons

6. The appeal site comprises a small area of overgrown scrub amongst some ruinous stone structures. The site benefits from a small stone wall to its road frontage but is otherwise set considerably below the level of the road and an adjoining raised car parking area to its eastern boundary. The raised parking area, along with No.2 Elm Cottages on the opposite/northern side of the road, are in the ownership of the appellant.
7. The road adjacent to the site is fairly narrow and generally enclosed by hedges. Adjoining the appeal site to the south is an open field through which runs a public footpath. To the west of the site is further land associated with the ruins. This land and the appeal site are separated from the adjacent field by planting.

Whether appropriate location

8. There is no dispute between the parties that the proposal lies outside of the garden to No. 2 Elm Cottages and outside of an identified settlement boundary within the Plymouth & South West Devon Joint Local Plan 2014-2034 (March 2019) (LP) and South Huish Neighbourhood Development Plan 2019-2034 (October 2020) (SHNP). As a result, and as stated under Policy TTV1 and the supporting text at paragraph 5.5 the site lies within the countryside with development in these areas considered against LP Policy TTV26.
9. LP Policy TTV26 has two parts. The first part (TTV26 1.) relates to development in locations which are considered to be isolated. There is no dispute between the parties that the site is not isolated and in any case the proposal is not put forward as meeting, and does not meet, any of the five exceptional circumstances where such development would be permitted.
10. The second part (TTV26 2.) relates to all development in the countryside, regardless of whether or not it is considered to be isolated. This part of the policy states that development proposals should, where appropriate, comply with six listed criteria. The proposal would not affect existing public rights of way or agricultural operations/other existing viable uses and avoids Best and Most Versatile Agricultural Land. As a result, there is no conflict with criteria i, iii or v. With regard to criteria ii, the proposal does not re-use a traditional building that is structurally sound.
11. Criteria (iv) states that a proposal should respond to a proven agricultural, forestry and other occupational need that requires a countryside location. In relation to this, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 Supplementary Planning Document 2020 (SPD) provides further guidance. The SPD states that 'in order to meet this policy requirement an applicant should provide operational details of the farm business or land-based enterprise to demonstrate the requirement to live on-site.' The proposal relates to an existing dwelling and as such is not related to a farm business or land-based enterprise that justifies a countryside location.
12. I acknowledge that the car parking space would be associated with the existing dwelling with limited off-street parking available in the area. Nonetheless, I

observed at my site visit that No. 2 Elm Cottages benefits from three car parking spaces (one in a lay-by to its frontage and two on the existing raised parking area). I acknowledge that the parking spaces are narrow restricting access to vehicles, but they are usable, and provision of an additional parking space would not guarantee the provision of an additional passing place on the road. Furthermore, I note that the Highway Authority had no detailed comments to make and I have limited evidence of accidents in this location. As a result, and even if I were to find criteria iv. relevant to the proposal, I do not find an occupational or highway safety need for additional parking has been demonstrated.

13. Furthermore, while I acknowledge that Policy SH T1c) of the SHNP seeks the provision of three car parking spaces for dwellings with three or more bedrooms, there are already three spaces available at the site. Moreover, as the proposal is seeking to extend an existing parking area, with the Policy related to new residential development that creates the need for parking, I do not find this part of the policy relevant to this appeal. As a result, the proposal does not gain support from criteria iv. to LP Policy TTV26 2.
14. With regard to the final criteria (vi) to LP Policy TTV26 2, this relates to development proposals helping to enhance the immediate setting of the site. In relation to this, the site lies within the South Devon National Landscape with the National Planning Policy Framework (the Framework) stating that great weight should be given to conserving and enhancing the landscape and scenic beauty of National Landscapes. This mirrors the requirements in LP Policies SO1, SPT12, DEV23 and DEV25 to protect, conserve and enhance natural environments, the landscape and the scenic beauty of the NL. These aims are further reflected within SHNP Policies SH ENV2 and SH T1. These state that development in the NL must demonstrate how it maintains the intrinsic character of the landscapes affected and that new car parking proposals which adversely affect the setting of a development and surrounding landscape features will be discouraged.
15. The special qualities of the NL include its deeply rolling patchwork of agricultural landscape and intricate network of winding lanes. The Landscape Character Area (LCA) within which the site falls (LCT 4D: Coastal slopes and combes) states that the area is valued for its 'high levels of tranquillity due to strong naturalistic qualities and few human influences'. The LCA also notes that Forces for change include 'Further degradation of historic features such as stone walls and barns, which are characteristic of the area' and 'Loss of farmland to settlement, new leisure and recreational developments, eroding the rural character and tranquillity of the area'. Furthermore, under Landscape Guidelines, it states that the network of winding rural lanes should be protected from unsympathetic highways improvements.
16. The appeal site comprises parts of stone walls and ruins immediately adjoining and set at a lower level to the road. Whilst not natural features, such features are not unusual in rural areas, contribute to the history and interest of the NL and as such are not incongruous or visually poor features that require rationalisation or tidying up.
17. The appeal site adjoins the existing raised parking area but is visually and physically of a different character more akin to the wider patchwork of agricultural landscape due to its verdant nature and level set down from the

road and dwellings adjacent to the agricultural field. The site is visible from the road and visible from the public footpath that runs across the field to the south of the site in fairly close proximity. From the footpath, the existing raised parking area is partly screened by planting growing up its retaining walls but with the top of parked cars visible. Given the verdant nature of the site, the ruins are not highly visible and not viewed closely in association with the main dwelling. From the road, the existing raised parking area forms an uncharacteristic hardsurfaced intrusion into the open countryside and break in the roadside planting on the southern side of the road.

18. The proposal would require significant engineering works and would combine parts of the existing ruins within the new parking structure. The raised area would be retained by a stone-faced retaining wall facing out toward the public footpath. Although the use of stone would be similar to parts of the existing raised parking area and to the front boundaries of nearby dwellings, it would be more prominent from the public footpath given that the existing walls are well screened. Above the stone wall, the top of parked cars would be visible. As a result, and although its visual impact would be very localised and limited, the proposal would result in the loss of the existing ruins and replacement with a less sympathetic unnatural hard feature and related activity into the rural landscape to the south of the road when viewed from the public footpath. It would appear out of character with the wider landscape with no guarantee that over time the retaining wall or parked vehicles would become screened by planting similar to that on the existing raised parking area. This would be the case despite the appeal site being separated from the adjacent agricultural field by hedging.
19. I note that the appellant has suggested that planted gabion baskets could be used as a facing material instead of stone, but this does not form part of the plans before me and would not reflect existing boundary walls or features characteristic of the area.
20. From the road, and although very limited in its extent due to its size and the presence of existing hedge planting either side of the proposed parking area on approach, the proposal would extend the existing raised hardsurfaced area further into the countryside. While the visual impact of the proposal from the road would be limited to close views by reason of its small footprint and existing roadside planting, it would nonetheless add to the existing raised parking feature that is uncharacteristic of the area. Notwithstanding the retention of the low boundary wall to the road, by reason of extending the existing projection and parking area off the lane at road level, it would to a very small extent, further undermine the generally narrow nature of the lane.
21. I acknowledge from the above that by virtue of its position, use of natural stone materials and small scale within a wider area that would remain as natural open countryside, the proposal's visual effect and effect on the tranquillity of the wider area would be limited. However, LP Policy TTV26.2 requires development proposals to help enhance the immediate setting of the site with Policies SO1, SPT12, DEV23 and DEV25 stating that proposals should conserve and enhance the immediate setting. The proposal would fail to achieve these aims by reason of the extension of the existing unnatural built form into the rural landscape that is not characteristic of the NL, and I am required to give great weight to conserving and enhancing the landscape and scenic beauty of the NL.

22. It follows from the above that I conclude that appeal site is not an appropriate location for the proposed development with regard to the local development strategy and the effect on the landscape and scenic beauty of the South Devon National Landscape. As such, the proposal would conflict with the requirements of LP Policies SO1, SPT12, DEV23, DEV25 and TTV26, policies SH ENV2 and SH T1 of the SHNP and the Framework, the aims of which I have outlined above.

Biodiversity

23. The Ecological Appraisal states that the extent of habitat loss is small but that there may be potential impacts on birds and reptiles at the time of construction. Therefore, in order to mitigate against any impacts, the Ecological Appraisal recommends mitigation including strimming prior to construction, removal of brash and arisings, a visual inspection of the site for reptiles prior to construction with an ecologist overseeing vegetation clearance outside of winter months and translocating any reptiles found. It further recommends the provision of bird nest features and bat roost features on buildings.
24. Subject to the mitigation measures the Ecological Appraisal concludes that there would be no significant ecological impacts, and in the short to medium terms a positive outcome would be achieved for nesting birds and roosting bats. I have little evidence before me demonstrating that this would not be the case and the recommended mitigation measures could be secured by the imposition of an appropriate condition. I see no reason why the bird nest features, and bat roost features could not be provided on the adjacent raised parking area or elsewhere nearby on suitable buildings that the appellant has advised is within their ownership.
25. I acknowledge that the Ecological Appraisal is dated 6 February 2023 and states that it is reliable for 12 months and that after this period the survey should be updated in order to be sure of the potential ecological impacts and to fulfil good practice. However, given the small size of the site, and given that management of the site appears unchanged since the survey was carried out, I find the contents of the survey to be reliable in this instance despite its date.
26. I therefore conclude that the proposal would not have a harmful effect on biodiversity. As such, it would not be contrary to Policy DEV26 of the LP or Policy SH ENV3 of the SHNP. Amongst other things, these seek to protect and enhance biodiversity, and where appropriate due to the size and scale of development proposals, retain on site natural features such as stone walling. The proposal would also comply with the Framework that seeks to improve biodiversity and conserve and enhance the natural environment.

Other Matters

27. I have had regard to the proposal causing no harm to highway safety, surface water drainage or to the living conditions of nearby residents. However, as these are requirements of local planning policies and national guidance, they are neutral in my consideration.

Conclusion

28. Although I have found no harm with regard to the effect of the development on biodiversity, the proposal would not be in an appropriate location with regard to the local development strategy and effect on the landscape and scenic beauty of the NL. In my view, this is the prevailing consideration, and the

proposal should be regarded as being in conflict with the development plan, when read as a whole.

29. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR