



Appeal Decision

Hearing held on 6 August 2024

Site visit made on 6 August 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/K1128/W/23/3327837

South Barton Farm, Veasy Park, Wembury, Devon PL9 0ES

- 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 Barry Stephens against the decision of South Hams District Council.
 - The application Ref is 1251/23/FUL.
 - The development proposed is described as: 'Proposed single storey, timber-built farm dwelling to enable existing farm to continue operation'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons for refusal reference the South Devon Area of Outstanding Natural Beauty (AONB). In November 2023, Areas of Outstanding Natural Beauty were redesignated as National Landscapes. My decision will therefore refer to the South Devon National Landscape in place of the South Devon AONB.
3. Whilst the Council identified that the appeal site was within the area designated as Heritage Coast, it was not referenced in its reasons for refusal, despite finding harm to the South Devon National Landscape and the Undeveloped Coast. The Council acknowledge that this was an error and that its position was that there was harm, as evidenced by the conclusions in relation to the National Landscape and the Undeveloped Coast. The appellant confirmed at the hearing that he was satisfied that I consider the effect on the Heritage Coast as part of my assessment.
4. The access to the appeal site from Veasy Park was the subject of an ownership dispute in 2016. This led to a third party successfully registering a claim of ownership of the land. The appellant then paid the third party for a grant of easement over the land in order to continue using the access. The third party is not resident at Veasy Park.
5. The Council raised a concern at appeal that, from the submitted deed of easement, it was clear that the appellant was not the owner of the whole of the appeal site and had thus completed the wrong ownership certificate on the planning application form. Whilst the occupiers of neighbouring properties were notified in writing and a site notice was posted at the site, it is not certain that the third party was aware of the planning application. However, I can see no reason why permission would negate or supersede any private legal rights

relating to land ownership. Ownership issues are a private matter between the relevant parties and not within my jurisdiction. Planning permission would not override any legal rights of access. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of the planning issues in this appeal.

Background

6. In order to fund the purchase of the easement, the appellant sold his existing bungalow on the farm which is now in separate ownership and not available to the agricultural enterprise. The appellant has been residing in a static caravan amongst the farm buildings since selling his property over two years ago. The appeal proposal is for a permanent dwelling at the farm.

Main Issues

7. The main issues are:
 - whether the appeal site is in an appropriate location for housing having regard to the requirements of development plan policies, including; whether there is an essential need for a new dwelling to accommodate a rural worker; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Essential Need

8. Policies SPT1 and SPT2 of the Plymouth and South West Devon Joint Local Plan (2019) (the JLP) are strategic level policies that amongst other things, seek to encourage business growth and deliver development in locations that protect the natural environment and are accessible to sustainable transport options.
9. Policy TTV1 sets out a hierarchy of settlements to which development will be directed. Wembury lies within the lowest tier of the settlement hierarchy, identified as '*Smaller Villages, Hamlets and the Countryside*'. The JLP does not define settlement boundaries but notes that development outside '*built up areas*' will be considered in the context of Policy TTV26 which relates to development in the countryside.
10. Although the appeal site lies close to the built up area of Wembury, it is common ground between the parties that the appeal site lies outside the built up area, and is within the countryside for the purposes of the JLP. Nonetheless, owing to this proximity, both parties are in agreement that the appeal site is not isolated and thus part 1 of Policy TTV26 is not relevant to this appeal. Part 2 of Policy TTV26 limits development within the countryside and sets out a number of exceptions including at iv., '*those that respond to a proven agricultural, forestry and other occupational need that requires a countryside location*'.
11. The appeal site lies within the Undeveloped Coast and Heritage Coast as defined in the JLP. Policy DEV24 only permits development in these areas where, amongst other things, it can be demonstrated that it requires a coastal location and cannot reasonably be located outside the Undeveloped Coast.

12. The agricultural enterprise that exists on site relates to arable and livestock production and comprises of over 150 acres of land. It has operated for a considerable time with the appellant the third generation of his family to farm the land. Nonetheless, I have extremely limited written evidence with regard to the agricultural enterprise as it operates at present.
13. In that regard, I have not been provided with any detailed evidence of the extent of the appellant's land holdings such as maps, plans or descriptions. There was reference to rented land at the hearing but no details of this have been provided. Therefore, whilst I accept that the farmstead itself is located within this area, I cannot be certain that the proposed development requires a coastal location nor that it could not be reasonably located outside of the Undeveloped Coast.
14. Both parties were in agreement that the assessment as to whether there is an essential need comprises both a functional and financial test. I see no reason to disagree.
15. The appellant has set out that the essential need for a 24 hour presence on site arises solely from the livestock side of the enterprise, namely, the need to care for young calves which are kept in buildings on site and sold on for fattening as beef cattle. The appellant confirmed at the hearing that these require feeding twice a day and monitoring for signs of disease. The appellant also cited security and concerns over insurance as reasons a permanent on-site presence is required.
16. He stated that the calves require less care as they get older, although he regularly buys more calves to replace those that are sold on. I saw on the site visit that there were around 20 young calves in the buildings at the site, whilst there were older animals in a nearby field. The farmstead comprises of a cluster of different-sized buildings, some of which were in use at the time of my visit, others which were not.
17. Given the lack of written evidence, it is unclear if the numbers present on site were typical of the enterprise or not. It is also unclear as to the number of hours per week that the appellant would typically spend caring for the calves and whether any essential need related to a full time or part time worker. The overall labour requirements of the enterprise and the appellant's future aspirations for the business are also unclear from the evidence that has been put to me.
18. I do not doubt the presence of an established agricultural enterprise at the appeal site. However, due to the lack of evidence in the above regard, I cannot be certain that there is currently a functional need for a new dwelling to house an agricultural worker at the appeal site.
19. In support of the financial test, the appellant submitted a letter from an accountant with the appeal. This is a short letter which sets out that, in the opinion of the accountant, the farm should be considered viable as an ongoing business. Nonetheless, this evidence does not include any accounts detailing any income/expenditure and profit/loss in recent years and there is no business plan forecasting future performance. It is therefore unclear whether the enterprise provides a reasonable living wage or whether it would continue to be profitable in the coming years.

20. The appellant argued at the hearing that the business was profitable with a modest income, owing in part to its 'closed-loop' operation. Nonetheless, I am mindful of the level of scrutiny that is necessary for new dwellings within the countryside, a location where planning permission would not normally be granted. Therefore, on the basis of the evidence before me, it has not been adequately demonstrated that the enterprise is viable and will remain so for the foreseeable future.
21. For the above reasons, having regard to the limited evidence before me, I am therefore unable to conclude that the appeal site is an appropriate location for housing having regard to the requirements of development plan policies. For the same reasons I cannot conclude that there is an essential need for a new dwelling to accommodate a rural worker. On that basis there would be conflict with Policies TTV26, DEV24, SPT1, SPT2 and TTV1 of the JLP, described above.

Character and Appearance

22. The appeal site is a grassed paddock located between the farm buildings and the banked hedgerow that forms the boundary between the appellant's land and the public right of way that runs to the rear of the residential properties on Veasy Park. The farm buildings comprise of open frontages and predominantly solid, corrugated sheet walls and roofs. Some walls are clad with vertically boarded timber.
23. Beyond the appeal site, to the south, lies open countryside, designated as National Landscape, Heritage Coast and lying within the Undeveloped Coast as designated by Policy DEV24 of the JLP. The countryside comprises of an open agricultural landscape of mixed arable fields and pasture, bounded by hedgerows and gently sloping in the direction of the sea. The reasonably dense banked hedgerow running along the public right of way provides a clear dividing line between the open landscape and the edge of the twentieth century suburban housing that makes up Veasy Park. As such, as an undeveloped field, the appeal site is more related to the surrounding countryside than the nearby suburban development and reinforces the area's open, agricultural character.
24. Dwellings in the general vicinity of the appeal site comprise of predominantly bungalows, although there are some two storey houses. The majority of dwellings have a simple rectangular plan form with a degree of symmetry to front elevations. The properties are mostly brick-faced, although several are rendered, and some include horizontally arranged cladding to the exterior. All dwellings typically have reasonably steeply pitched roofs that are finished with tiles or slate.
25. The appeal building would have a considerable length (20 metres) and a narrow gable which would contribute to an overtly linear form. The roof would have a shallow pitch and low eaves and would be finished with corrugated sheeting. Windows and doors would exhibit a variety of different sizes and would have a reasonably haphazard arrangement, set within the timber clad walls which would appear to be delineated by individual panels. Overall, this would contribute to a building with a somewhat temporary appearance that would be more reflective of a chalet or static caravan. This would not be of the high quality design that is sought by Policies DEV20 and DEV23 of the JLP and would conflict with the form, design and materials of the buildings located within the general vicinity.

26. Whilst the appeal site is relatively well screened from the public right of way by the hedgerow, I was nonetheless able to glimpse the site along sections of the route. I am in no doubt that this visibility would likely increase in the winter months when the trees are not in leaf. In such views, for the above reasons, the proposed dwelling would be seen as an incongruous addition to the countryside, that would relate poorly to its open agricultural setting and fail to reflect the character of nearby development.
27. Policy DEV25 sets out that development within the National Landscape should be designed to prevent the addition of incongruous features, and where appropriate take the opportunity to remove or ameliorate existing incongruous features and be located and designed to respect scenic quality and maintain an area's distinctive sense of place or reinforce local distinctiveness. For the above reasons, the proposal would result in the encroachment into the open countryside of an incongruous form of development that would fail to reinforce local distinctiveness. This would result in an erosion of the scenic quality of the South Devon National Landscape and a detrimental effect on the undeveloped and unspoilt character and appearance of the Undeveloped Coast and the Heritage Coast.
28. I have had regard to the appellant's suggestion of a condition to require the provision of vertical timber boarding to match the nearby agricultural buildings. However, this would not overcome my concerns with regard to the form and design of the structure.
29. For these reasons the proposal would be harmful to the character and appearance of the area. The proposal would therefore be contrary to Policies DEV20, DEV23, DEV24 and DEV25 of the JLP which together, in summary and amongst other things, seek to ensure new development is of a high quality design that, reinforces local distinctiveness and preserves the scenic quality, undeveloped and unspoilt character of the countryside, including the Undeveloped Coast, the Heritage Coast and the South Devon National Landscape.

Other Matters

30. The Council's third reason for refusal relates to the recreational impact of the proposed dwelling and the effect on the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA) which together form the Plymouth Sound and Estuaries European Marine Site (EMS). The appellant has supplied a completed Unilateral Undertaking (UU) providing mitigation in the form of a financial contribution. Both parties are in agreement that such a UU would address the third reason for refusal, and I see no reason to disagree.
31. Nonetheless, as I am dismissing the appeal for other reasons, there is no requirement for me to undertake further assessment.

Planning Balance and Conclusion

32. The proposal would provide clear benefits through the provision of more suitable accommodation for the appellant, having regard to the identified health concerns arising from residing in temporary accommodation.
33. Nonetheless, it is not clear that the appeal proposal would be the only means of achieving those benefits or that the proposed accommodation needs to take

the form before me. As such, whilst these considerations carry moderate weight in favour of the appeal, they do not clearly outweigh the conflict with the development plan I have identified above.

34. For the reasons given above, there are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR

APPEARANCES

Appellant:

Barry Keith Stephens
Iolyn Jeffers
Peter Timbrell

Retired Town Planner, agent

Council:

Adrian Noon

Principal Planning Officer