

Appeal Decision

Site visit made on 9 September 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2024

Appeal Ref: APP/K1128/W/24/3336449

46 The Fairway, Newton Ferrers, Devon PL8 1DP

- 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 and Mrs P & J Pillar against the decision of South Hams District Council.
 - The application Ref is 1205/23/FUL.
 - The development proposed is change of use of garage from incidental use to multipurpose ancillary use, including as overspill family and self contained guest accommodation including for short term holiday letting.
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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 'approved under application 2929/17/VAR' and 'Air'bnb or equivalent' are not an act of development, I have removed these elements.
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.

Main Issues

4. The main issues are:
 - whether the appeal site would be a suitable location for the proposal, with specific regard to the Council's development strategy and tranquillity of the countryside and SDNL; and
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

Location

5. The appeal site contains a partially constructed detached garage within the front garden of 46 The Fairway and is within the designated Undeveloped Coast (UC), Heritage Coast (HC) and SDNL.
6. Policies SPT1 and SPT2 of The Plymouth and South West Devon Joint Local Plan 2014-2034, adopted March 2019 (LP) provide an overriding strategy for new development and the creation of sustainable rural communities. These matters are expanded upon in LP Policies TTV1 and TTV2 which amongst other things, prioritises growth through a hierarchy of sustainable settlements and 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.
7. Despite the assertion of the appellant that the appeal site should be within the settlement boundary, and although it is located adjacent to other residential properties to the periphery of Newton Ferrers, it is situated outside the settlement boundary as outlined within the Newton and Noss Neighbourhood Plan 2017-2034 (NP). As such, for the purposes of the LP it is considered to be within the countryside and a tier 4 location.
8. LP Policy TTV26 concerns development in the countryside and seeks to protect its special characteristics and role. Given the surrounding residential development, the appeal site is not isolated and therefore TTV26(2) is the relevant section of the Policy. This provides criteria, where appropriate, for development in the countryside. Due to the proposal relating to a change of use of a domestic building, I do not find that LP Policy TTV26(2) criteria i, ii, iii and v are appropriate to the proposal.
9. However, even if the proposal were to help enhance the immediate setting of the site (criteria vi), it does not respond to a proven agricultural, forestry or other occupational need that requires a countryside location as is required by criteria iv. Therefore, the proposal conflicts with LP Policy TTV26.
10. Nevertheless, the proposal would provide tourist accommodation when not in use as ancillary accommodation, in a location where local services, facilities and public transport can be easily accessed. LP Policy DEV15 provides support for the rural economy (including tourism) where proposals are in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy.
11. However, this is subject to certain provisions including that camping, caravan, chalet or similar facilities should respond to an identified local need and is not located within the UC policy area.
12. The appeal is accompanied by a letter from 'Devon Holiday Lets' setting out that their records indicate quite a significant shortfall in the area of smaller 1 bed or studio style accommodation and that they receive multiple weekly enquiries for such accommodation in this area. Even if there is a commercial demand for such units, the evidence before me, which does not include details of how a shortfall has been calculated, is not sufficient to demonstrate there is

an identified local need. Moreover, the proposal is within the designated UC, and therefore not a suitable location in principle as required by LP Policy DEV15.

13. LP Policy DEV24 says that development that would have a detrimental effect on the undeveloped and unspoiled character, appearance or tranquillity of the UC and HC is only permitted under exceptional circumstances. Despite the proposal relating to a change of use of an existing, albeit partially constructed building, it has not been demonstrated that the proposal requires a coastal location, or that it cannot reasonably be located outside the UC, therefore there is also some resultant conflict with LP Policy DEV24.
14. LP Policy DEV25 seeks to avoid potentially damaging or inappropriate development located either within the SDNL or its setting. In this case, the appeal site is adjacent other residential dwellings, and whilst to the edge of the settlement, the immediately surrounding area has a residential character reducing its tranquillity. Due to the small scale of the proposal and the character of the area, and even if it would result in an intensification of movements attracted to the appeal site, it would not result in harm to the tranquillity of the SDNL or countryside. Accordingly, I find no conflict with LP Policy DEV25.
15. The appellant refers to other applications for holiday lets in similar locations being supported. However, I have been provided with limited details of these within the evidence before me, or demonstration of their similarity to the current appeal case. I am therefore unable to ascertain the equivalence to the current proposal. Furthermore, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
16. To conclude on this main issue, the proposal would not harm the tranquillity of the countryside and SDNL. However, with specific regard to the Council's development strategy the appeal site would not be a suitable location for the proposal. Therefore, whilst I find no conflict with LP Policy DEV25, there is conflict with LP Policies SPT1, SPT2, TTV1, TTV2, TTV26, DEV15, DEV24 and NP Policy N3P-1 the aims of which I have outlined above.
17. The Council's first reason for refusal also refers to NP Policy N3P-12, which seeks to ensure that there is no increase in the number of second homes in the parish. If the appeal were to be successful, a planning condition could be imposed 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 a single planning unit with the host dwelling. This would prevent the establishment of a permanent dwelling and as such there would be no conflict with the provisions of this Policy.

Living conditions

18. The proposal is likely to increase movements to, and activity at the appeal building at times when in use as holiday accommodation. In terms of movements, comings and goings of holiday occupants would not be dissimilar or increase significantly the movements experienced within a residential area such as that surrounding the appeal site.

19. Furthermore, the proposal is in close proximity to the boundary with the neighbouring property. Nevertheless, given the planted hedge bank boundary, spatial relationship, small size limiting number of potential future occupiers, and the lack of any windows on the eastern elevation, would result in there not being a significantly harmful impact, as a result of noise and disturbance, to the occupiers of the neighbouring property.
20. I therefore conclude that the proposal would not harmfully effect the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. Consequently, there would be no conflict with LP policies DEV1 or DEV2 which seek to safeguard the living conditions of local communities.

Other Matters

21. The appeal site lies within the zone of influence of the Tamar European Marine Site (EMS) comprising the Plymouth Sound and Estuaries Special Area of Conservation 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.
22. Within the zone of influence, new accommodation would lead to increased levels of recreational activity which would be likely to have a significant effect on the designated features of the EMS either on its own or cumulatively with other similar development, without avoidance measures.
23. A Unilateral Undertaking has been submitted pursuant to Section 106 which seeks to secure a financial contribution for the purposes of delivering mitigation and management. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal.
24. Given my conclusions on the first main issue above, it is not necessary for me to consider this matter any further as the proposal would not take place and would not affect the EMS. Moreover, even if I were to find that suitable mitigation had been appropriately secured, a lack of harm would only be a neutral factor.
25. The proposal, which as well as a change of use includes other operational development such as changes and extension to the garage building, PV panels, sheds and an EV charging point, would not have a harmful impact on the tranquillity of the countryside or SDNL, or neighbouring occupiers living conditions. However, a lack of harm in these regards is also a neutral factor.
26. The proposal would also result in a potential reduction in height of the building and additional landscaping although the benefits, given the scope and scale of the proposal are limited. Furthermore, the proposal would provide an additional holiday unit within easy reach of services and facilities. There would be a resultant economic and social benefit, both short term during construction, and also longer term through future occupants spend in the local economy and use of services and facilities. However, again given the scale of the development, these benefits would be limited.

Conclusion

27. 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