



Appeal Decision

Site visit made on 24 September 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

Appeal Ref: APP/K1128/W/24/3342419

**Dream Hill Garage, A379 Fishley to Ashford Cross, Modbury, Devon
PL21 0SX**

- 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 T Doidge against the decision of South Hams District Council.
 - The application Ref is 4089/23/FUL.
 - The development proposed is Resubmission of application 1657/23/FUL for proposed change of use from motor garage and MOT testing centre to mixed live work use comprising Class E commercial, business and service use (Class E) and x 1 dwellinghouse (Class C3) with associated parking and turning together with outside amenity, installation of solar panels, air source heat pump and new sewage treatment plant and landscaping; removal of hot food consumption (former class A5), demolition of office (former class B1), removal of mobile home and septic tank including associated site clearance works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, having regard to the adopted spatial strategy and local policies;
 - the effect of the proposed development on sustainable travel;
 - the effect of the proposed development on landscape character;
 - whether the proposal makes adequate provision for surface water drainage; and
 - whether the proposal would achieve low carbon design.

Reasons

3. The appeal site has previously been used for commercial purposes as a motor garage and MOT testing centre. It also contained a catering van, canopy / seating area and mobile caravan, all of which I am told were removed in 2022. A metal shipping container remains on the site. Now vacant, the proposal seeks a change of use to a mixed live/work use which would include a dwellinghouse and commercial, business and service use under Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Suitable location

4. The Plymouth and South West Devon Joint Local Plan 2014-2034 adopted 2019 (the JLP) sets the spatial strategy for delivering sustainable development in the area. It seeks to guide development to accessible locations for communities, services and facilities, well served by public transport, with opportunities for walking and cycling. The JLP establishes a hierarchy of settlements under Policy TTV1 which sets out the Council's development strategy across the Thriving Towns and Villages Policy Area.
5. The appeal site does not fall within any of the settlements identified within the settlement hierarchy. It is some 3 kilometres (km) to the south of Modbury and 2.2 km to the north of Aveton Gifford. The site fronts the A379 with open fields surrounding it on all sides. With the nearest development being limited to a farm and a few dispersed houses along the A379, the appeal site is both physically and visually separate from the nearest settlements. It is therefore both within the open countryside and in an isolated position.
6. Policy TTV1 only permits development in the open countryside if it can be demonstrated to support the principles of sustainable development and sustainable communities. Policy TTV26 of the JLP provides criteria for assessing development in the countryside. The aim of the policy is to protect its special characteristics and role. It specifies that isolated development in the countryside will be avoided and only permitted in exceptional circumstances.
7. The proposed commercial element is currently undefined and there is no evidence to suggest that this needs to be in a countryside location. Therefore, there is nothing to indicate that the proposed house would accommodate a rural worker with an essential need to live permanently at or near their place of work. This exception under Part 1)i) of Policy TTV26 is not therefore met.
8. The site is previously-developed land (PDL). Policy TTV26 allows for development where it would secure the re-use of redundant or disused buildings and brownfield sites for an appropriate use. Policy SPT1 of the JLP supports making effective use of land through optimising reuse of PDL, thereby reducing the need for greenfield development. It also encourages opportunities for business growth. The National Planning Policy Framework (the Framework) supports the alternative uses of such land where this would help to meet identified development needs. The use of employment land for homes in areas of high housing demand is supported, subject to the proposal being compatible with other policies within the Framework.
9. As PDL that has been used for commercial purposes, the continued use of the site as such could be an appropriate use. However, in combination with the dwelling, which I have already established that there is no evidenced need for in this location, it would not be. Furthermore, as I shall come on to later in my decision, the location is not accessible by sustainable transport. In this regard and amongst other things, it would not be compatible with other policies within the Framework. Therefore, the proposed use would not be appropriate in this location. The scheme would also not meet the exceptional circumstance in respect of PDL under Policy TTV26,
10. The appellant submits that local estates agents have advised the offer of a residential unit alongside retention of the commercial use on the site as a financially viable, realistic and attractive market offer. Whilst this may be the

case, robust evidence in respect of these matters has not been submitted in support of the proposal. I therefore attribute this limited weight in support of the scheme.

11. I appreciate that a small development on its own, such as proposed here, would not undermine the policy approach towards the formation of sustainable rural communities under Policy SPT2 of the JLP. However, it would not support the creation of a sustainable community due to its isolated location and would therefore not accord with the aims of the policy.
12. The appeal site would not be a suitable location for the proposed development, having regard to the spatial strategy for the area. It would therefore conflict with Policies SPT1, SPT2, TTV1 and TTV26 of the JLP as referred to above. It would also not accord with Policies DEV8 and DEV15 of the JLP and Policy AG1 of the Aveton Gifford Neighbourhood Plan (AGNP). Together these policies seek to deliver housing to meet local needs, support proposals in suitable locations that support the rural economy and only permit development in a countryside location where there is a proven local need that cannot be accommodated inside village settlement boundaries.

Accessibility

13. The A379 is a rural road. It has no footpath or streetlighting, which in combination with the distance from the nearest settlements, makes access to the site by foot and bicycle an unattractive and unrealistic option for most people. The appellant has submitted a Sustainable Transport Plan which states that a public transport service passes the site several times daily. However, I have been provided with limited information about the frequency of the service. Furthermore, the Council indicates that the nearest bus stop would be around 1 mile from the site. In view of this, it seems that occupants or visitors to the site would need to walk along the road, which I have already found would not be suitable. Consequently, future occupants of the proposed dwelling as well as staff and customers of the proposed commercial operation would be reliant on private motorised transport for access which would not be a sustainable form of transport.
14. The appeal site previously operated as a commercial motor garage and MoT testing station. Other activities also took place on the site, including a mobile café and the sale of solid fuel and LPG. These uses have all ceased. Collectively, these uses would have generated a number of daily trips to and from the site. The appellant has indicated that he would have been willing to provide data using the TRICS database about vehicular trip rates associated with the now ceased uses. However, no such information was provided.
15. The proposed dwelling would generate some daily movements. The appellant has stated that the office/workshop use of the site would be by the occupants of the dwelling and would be no more than 2 full time employees. No deliveries or export of items would be expected. Whilst this is the anticipated use for the site, this is unconfirmed and there is nothing to ensure that this would be the extent of the commercial use. Due to the limited details about the proposed commercial operation, it is unclear the extent of vehicle activity the commercial use would generate. In the absence of which, it is not possible to reach a firm conclusion as to its traffic impacts and whether this would be more or less in terms of volume or frequency than previously occurred at the site.

16. In any event, the proposed development would be in a location some distance from nearby settlements. Both the dwelling and the commercial operation would generate trips that would rely on unsustainable transport.
17. The local highway authority did not object to the scheme although requested a condition in relation to the provision of on-site car parking. This, however, does not mean that the scheme is acceptable in terms of its location and access by sustainable transport.
18. In view of the above, I conclude that the proposal would not provide options for sustainable travel due to reliance on private cars and motorised vehicles for access. It would therefore conflict with Policies SPT2 and DEV15 of the JLP, Policy AG4 of the AGNP and the Framework. Together and amongst other things, these policies require development proposals to avoid increased trips by private car and to facilitate the use of sustainable transport.
19. Paragraph 128 of the Framework is referenced in the Council's decision notice. However, this relates to design matters and is not relevant to this main issue.

Landscape character

20. The appeal site is physically in two parts. One part of the site fronts the A379. It is hard surfaced, used for vehicle parking with a former MOT office and temporary storage container. The rear part of the site is lower, comprising an extensive hard surfaced area which is currently occupied by a large vacant flat roofed building. It is proposed to retain this building for flexible Class E commercial, business and service use in association with the proposed dwelling.
21. The site lies within an undulating rural landscape, characterised by open fields, pockets of woodland and limited development. The site is readily visible in views from the A379 due to its open frontage and large area of hard surfacing and appears as an incongruous feature within this verdant and largely undeveloped landscape. The existing buildings are however modest in size, with the small office building visible from the public highway and the more substantial development that would be retained, located within the lower part of the site where it would not be seen from the road.
22. The proposal would significantly increase the amount of built development on the elevated part of the site. Whilst only a bungalow, the limited size of this part of the site would result in it being positioned close to the road where it would be clearly apparent and prominent in views from the public highway. A landscaping scheme is proposed which would introduce a number of trees and hedges along the site boundaries. This would soften the appearance of the development from some viewpoints.
23. A low natural stone wall topped by a timber fence would enclose the proposed dwelling. It would be separated from the highway by an area of grass which would need to be kept free of any substantial planting due to a visibility splay being maintained. Consequently, whilst the site is already somewhat urban and anomalous within this location, there would be a significant uplift in urbanising features. This would be harmful to the landscape character of the area.
24. Existing views into the site provide visibility to the hills and fields beyond. The introduction of a more substantial built form would significantly reduce this, adding further to the harm.

25. I appreciate that the removal of some of the redundant structures and vehicles may have tidied up and improved the appearance of the site. This does not however, justify the introduction of a sizeable domestic building in this rural location.
26. The appellant has selected materials to be in keeping with the character of dwellings within the locality. However, few dwellings are visible within the vicinity of the site. In any event, this would not overcome the harm arising from the extent of built form on this prominent part of the site. This does not therefore lead me to a different conclusion.
27. I find that the proposal would cause significant harm to landscape character. It would therefore conflict with Policies DEV20 and DEV23 of the JLP, Policies AG2 and AG8 of the AGNP and the Framework. Together these require development to contribute positively to and conserve and enhance the characteristics of the landscape.
28. Paragraph 135 of the Framework is referenced in the Council's decision notice. However, this relates to changes between approved schemes and their implementation and is not relevant to this main issue.

Drainage

29. The site is not within a high-risk area in terms of flooding. The existing elevated section of the site is substantially hard-surfaced. Due to the sloping nature of the site and the difference in levels there is a risk that surface water will not drain away effectively so as to not give rise to flooding.
30. The submitted details suggest that a new surface water strategy will be implemented and designed as part of any forthcoming planning application this will include any new soakaways and / or attenuation for the proposed development. Permeable surfaces are proposed for the parking and turning areas. However, taking into account the nature and characteristics of the site and the limited information in respect of how surface water draining from the site would be dealt with, it is not therefore possible to conclude that surface water could be satisfactorily dealt with in order to not give rise to flooding elsewhere.
31. Whilst in some circumstances, it may be appropriate to leave such matters to a suitably worded planning condition. In this case, it is not possible to ascertain whether a satisfactory solution could be achieved on the land available or whether land outside of the appellant's control would be needed.
32. Other drainage and management of water on the site would be dealt with through a package treatment plant which would replace the existing septic tank on the site. However, this does not impact upon the management of surface water.
33. Consequently, I cannot be certain that the proposed development would make adequate provision for surface water management. It therefore would not accord with Policy DEV35 of the JLP and Policy AG2(g) of the AGNP which together require new development to incorporate measures to minimise flood risk and assure satisfactory surface water drainage.

Carbon reduction

34. The Council has adopted a Climate Emergency Planning Statement, adopted November 2022 (CEPS). This has the status of an interim policy statement and guidance which must be taken into account when determining a planning application. M5 of the CEPS together with Policy DEV32 of the JLP promote low carbon development, favouring the retrofitting of existing buildings as an alternative to demolition.
35. The existing office on the elevated part of the site would be demolished, the proposed dwelling would be the replacement building. It would incorporate solar PV panels, utilise an air source heat pump and be constructed in materials selected for their low carbon costs. The design has also taken account of solar gain. However, this would not be sufficient in terms of the detailed analysis of carbon costs of demolition and how these would be offset within 25 years through carbon savings achieved by the operational use of the replacement building, as required by M5 of the CEPS. The proposal would therefore not accord with this or Policy DEV32 of the JLP as referred to above.

Other Matter

36. The appellant asserts that the Council could have requested further details during the application stage, including in respect of trips generation, drainage design and carbon reduction. However, the appellant would have been aware of the Council's concerns as set out in the officer report and decision notice and could have provided the additional detail as part of his appeal submissions.

Conclusion

37. For the reasons given above the appeal should be dismissed.

Rachael Pipkin

INSPECTOR