



Appeal Decision

Site visit made on 5 November 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2024

Appeal Ref: APP/K1128/W/23/3334664

Whitestone Farmhouse, Cornworthy, Totnes TQ9 7HF

- 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 Peter Sutton against the decision of South Hams District Council.
 - The application Ref is 0470/23/FUL.
 - The development proposed is part demolition of existing house and construction of replacement dwelling and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has provided a landscape assessment, photographs, and an updated carbon report that was not before the Council when it made its decision. These submissions relate to matters that are in dispute between the parties.
3. The new information would not involve alterations or make a substantial difference to the scheme. Furthermore, the Council and its landscape consultee had an opportunity to comment on this information. Therefore, in accepting the information, I am satisfied it would not cause unlawful procedural unfairness to anyone involved in the appeal.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the site is a suitable location for the proposed development having regard to the provisions of local policy; and
 - the effect of the proposed development on carbon emissions.

Reasons

Character and appearance

5. The appeal site comprises a property within extensive landscaped grounds that meet the edge of an estuary. The host property is tucked in close to a small cluster of buildings. Its more intimately connected terrace is surrounded by a

fenced and vegetated bank. This, together with its orientation that principally faces the wider grounds adds to the sense it is nestled into the local landscape. Set back from the water's edge, the property is in a particularly tranquil and attractive area that is characterised by its rounded hills and steep undulating slopes.

6. Accordingly, it is within a National Landscape (NL) where Policy DEV25 of the Plymouth & South West Devon Joint Local Plan (JLP) affords the highest degree of landscape protection. Amongst other things, the policy seeks to encourage small-scale proposals that are located and designed to conserve and enhance such protected landscapes, preventing the addition of incongruous features. In this respect, JLP Policies DEV20 and DEV23 in part support proposals that conserve and enhance views that contribute to the quality of the area and that deliver locally distinctive design. These policies are consistent with paragraph 182 of the Framework, which attaches great weight to conserving and enhancing landscape and scenic beauty.
7. The appeal site is also within the Undeveloped Coast as defined within the JLP. In such areas, JLP Policy DEV24 identifies that development will only be permitted if the unique landscape and seascape character, and its special qualities are protected, maintained, and enhanced.
8. The submitted landscape and Visual Impact Assessment (LVIA) provides an overview of the local character areas, taking into account distinctive characteristics of the NL. Notwithstanding the representations made in this respect, I have paid regard to this document.
9. In that context, photos of other buildings in the wider estuary area are noted, though bear little relevance to the immediate setting of the appeal site. There is nevertheless a variety of built form and use of external building materials found within the immediate surrounding cluster of development. Based on my observations and the submissions, there are small amounts of render and metal roofing. However, the predominant form comprises muted toned pitched roofs of slate or thatched composition over stone or timber clad walls.
10. I do not share the appellant's assertion that the existing building's fenestration is of landscape design; rather, there is mostly a square or vertical emphasis. In any case, subservient fenestration detailing tends to be a design commonality of the host and surrounding buildings. These features, along with characterful historic barns contribute towards a more traditional or *agricultural* feel to built form as described in the LVIA.
11. While a pitched roof theme would be continued with the proposal, the vast extent of metal roofing would stand out as an unusual material in comparison with the majority of other nearby buildings. However, the low pitch and tonal quality would be likely to soften its wider effects on the NL. Additionally, the proposed timber cladding would be a commonplace material choice. Be that as it may, the cumulative amount of render would stand out as an unusual material in the context of the nearby cluster of buildings. Furthermore, although overhanging roofing would reduce the extent of visible fenestration, the amount of glazing would be disproportionately high. Collectively, these features would be incongruous and inappropriate to the landscape context.
12. It is acknowledged in the LVIA that the scheme would increase the extent of development in this location and that it has been designed to maximise views.

Even if the siting of the property were to be considered curtilage, it would nevertheless be set apart from the existing close cluster of built form. Furthermore, the proposed garage and parking area with likely domestic paraphernalia and associated comings and goings of vehicles would add to the intensity of development, rather than reducing or preventing it.

13. I took the opportunity to look back at the appeal site from the estuary edge to the south east, which would not be dissimilar from riverside views. Like the submitted photos, it was evident that despite a tree lined backdrop and the proposed landscaping the development would still be likely to be particularly visible from the estuary.
14. For the reasons given, the scheme would permanently and irrevocably erode attractive, undeveloped, undulating sloped grounds in a sensitive landscape setting. Even if I were to agree with the author of the LVIA that there would be little harm to the wider character of the area, there would be harm, nonetheless. Consequently, any harm to the NL would mean a failure to conserve or enhance it. Even so, the scale of harm would be moderate, and this is a matter that must be given great weight.
15. I therefore conclude on this main issue that the proposal would harmfully affect the character and appearance of the area. As such, there would be conflict with JLP policies DEV20, DEV23, DEV24, and DEV25. There would also be conflict with paragraph 135 of the Framework which says that decisions should ensure developments add to the overall quality of the area and are sympathetic to local character and landscape setting.

Location

16. The appeal site is in the countryside and proposes a replacement dwelling. Policy TTV29 of the JLP permits such proposals, subject to certain criteria being met. Part 2 of the policy requires that the size of the new replacement dwelling will not be significantly larger than the original house volume. The volume of the new property would be similar to that of the existing. However, the massing of the existing building and its roofline comprises a number of component parts, with the tallest element covering just a small section. Consequently, even though the proposed ridge would be marginally lower than the tallest part of the existing building, the overall massing of the proposed unbroken upper floor would result in a significantly larger sized dwelling.
17. Additionally, while the proposed garage would not form primary accommodation, its presence in the proximity of the new property would further add to a sprawling sense of built form. I have already concluded above that the proposal would result in landscape harm, which would conflict with the aims of paragraphs 11.78 and 11.79 of the Council's JLP Supplementary Planning Document (SPD). For the reasons given, there would be conflict with part 2. of the policy.
18. Part 4. of JLP Policy TTV29 requires the replacement dwelling to be positioned on the footprint of the existing dwelling, unless on design, landscape, highway safety, residential amenity, or other environmental grounds a more appropriate location can be agreed. The Council's SPD adds context to the policy by noting that there may be circumstances where it is not possible or practical to do so. Furthermore, it says that in most cases the relocation of a

dwelling will not meet the requirements of the policy if not substantiated by a sound planning or engineering reason.

19. About 30% of the existing footprint would be used as a garage and the remainder of the demolished dwelling as car parking. Whilst this part of the existing site would be repurposed, the new dwelling would be on an entirely separate footprint. This does not amount to a justifiable design ground to relocate the dwelling.
20. It would undoubtedly be more convenient for the appellant to remain in their home whilst a new building could be constructed. However, the evidence shows that alternative accommodation for overnight stays could potentially be organised for a relatively short period. Even if this was not a practical solution, it is also conceivable that temporary accommodation of some sort, either on or off site could be arranged during the construction phase. Consequently, this short-term private benefit would not justify an alternative siting in the terms set out in the policy.
21. It is acknowledged that the existing slab would not be suitable for siting a replacement dwelling. Even so, the engineer's report advises that this should be grubbed up to allow appropriately sized and designed foundations to be provided. Even though there would be some modest embodied carbon savings gained by reusing the existing slab, there is no compelling engineering or other reason that demonstrates why the new dwelling could or should not be built on the existing footprint. As such, there would be conflict with part 4. of JLP Policy TTV29.
22. Therefore, I conclude on this main issue that the site is not a suitable location for the proposed development having regard to the provisions of local policy. As such, there would be conflict with JLP Policy TTV29 and the Council's JLP SPD.

Carbon emissions

23. Amongst other things, JLP Policy DEV32 says that the need to deliver a low carbon future should be considered in the design and implementation of all developments. Opportunities such as reuse or recycling to minimise the use of natural resources should be identified. The Council refers to its adopted Climate Emergency Planning Statement (CEPS) as being of particular relevance. However, there is little evidence before me to demonstrate that this is part of the development plan. Whilst it is a material consideration, it can only be afforded very limited weight.
24. Even if significant carbon savings could be achieved through additional renewable energy production and retrofitting the existing building, the evidence shows that the current lightweight concrete slab would not be suitable for any new loads. Given the extent of submitted works required to bring the current building up to recognised standards, it is likely that the reuse of materials by retrofitting would not be a practical longer-term solution.
25. The submitted Whole Life Carbon report (WLC) does not make it abundantly clear what the carbon costs would be if a replacement dwelling were to be positioned on the footprint of the existing building. It does however show that improving the existing building would be likely to produce marginally less carbon over a 60 year period than that generated by the proposal.

26. Separate to this, the corrected WLC shows that the design methods proposed would be likely to offset the carbon costs of the development in about 22 years. This would comply with M5 of the Council's CEPS. Even if I were to agree with the Council that M5 has not been met, this is not a development plan policy requirement. Nevertheless, the updated report shows that careful consideration has been paid to a low carbon future. Additionally, the scheme identifies opportunities to minimise the use of natural resources in the development over its lifetime, such as by the installation of solar PV, air source heating, and electric vehicle charging points.
27. Therefore, I conclude on this main issue that the proposed development would not have a harmful effect on carbon emissions. As such, the development would accord with Policy DEV32 of the JLP. There would also be no conflict with paragraph 162 of the Framework where it says that local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply.

Other Considerations

28. I have had due regard to the Public Sector Equality Duty set out under Section 149 of the Equality Act 2010. I am also mindful that everyone has the right to respect for their private and family life under Article (8) of the Human Rights Act. Furthermore, the United Nations Convention on the Rights of the Child provides in Article 3(1) that *'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'*.
29. It is said the appellant's enjoy providing support for their grandchildren, rather than them being their primary carers. The personal circumstances weigh in favour of the proposal. Nevertheless, in these circumstances I am satisfied that the best interests of the children would not be adversely affected if the existing dwelling were to be demolished prior to a new dwelling being built. For the reasons given, there is no compelling evidence to demonstrate the proposal would be the only or optimal way to secure the equal rights of all persons to live in the community. Whilst I take this matter seriously, it can only be given limited weight.
30. *Fallback* – It is claimed that the existing house could introduce a substantial increase in fenestration under Schedule 2, Part 1, Class A and C of the Town and Country Planning (General permitted Development) Order 2015. In these circumstances it is not appropriate for me in this appeal to decide whether the appellant might be able to rely on permitted development rights as a fallback. This can only be formally determined by a lawful certificate application.
31. Notwithstanding the above, the intention is to demolish the existing property rather than renovate it. Furthermore, the evidence shows that retrofitting the property would be likely to increase loading on it which is not supported by the appellant's engineer. For these reasons, the possibility of the fallback would be very slight, but a realistic one. In any case, the increased scale, siting and design of the proposed dwelling would be considerably more harmful to the character and appearance of the NL. I attach great weight to this harm. As such, the fallback represents a material consideration that carries little weight.

32. My attention has been drawn to a Lawful Development Certificate under application ref 3817/23/CLP for proposed construction of single storey rear extension (materials to match existing house) and two outbuildings for incidental use (Indoor swimming pool and Home office/studio). There is a realistic prospect that this could occur. The aforementioned developments would increase the presence of built form and glazing into an undeveloped area near the proposed replacement dwelling. This would be harmful. However, the proposal would introduce a substantially larger building, in a more elevated position. Its effects would be greater.
33. Furthermore, had I been minded to allow the appeal, there is little to show that the permitted rights could not be exercised before the implementation of this scheme. That being said, the fallback and proposed dwelling would be a considerably harmful collective. For the reasons given, this fallback is a material consideration that can be given very little weight.

Other Matter

34. The appellant refers to the scale of a nearby replacement dwelling. However, this has no bearing on my decision which is based on the planning merits of the proposal.

Planning Balance and Conclusion

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.
36. Bringing together my conclusions on the main issues, I have found that the proposal would not have a harmful effect on carbon emissions. However, this does not outweigh the harm identified to the conflict with housing location policies and the character and appearance of the area. As such, there would be conflict with the development plan as a whole. Furthermore, even when considered cumulatively, the weight given to the other material considerations would not outweigh the identified harm. Accordingly, other considerations do not therefore indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

J Hills

INSPECTOR