



Appeal Decision

Site visit made on 3 December 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2024

Appeal Ref: APP/K1128/W/24/3346096

The Cove Guest House, Torcross TQ7 2TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mikael Armstrong against the decision of South Hams District Council.
 - The application Ref is 0602/24/VAR.
 - The application sought planning permission for renewal of extant planning application 53/0136/09/F (demolition of guest house and replacement with single dwelling) without complying with a condition attached to planning permission Ref 53/3160/11/F, dated 03 February 2012.
 - The condition in dispute is No 2 which states that: *The development hereby approved shall in all respects accord strictly with drawing number(s) 221.01, 221.02, 221.04 and Location Plan received by the Local Planning Authority on 12 December 2011.*
 - The reason given for the condition is: *To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.*
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. Planning permission for the demolition of an existing guest house and replacement with a single dwelling was renewed on 3 February 2012 (the February 2012 planning permission). The February 2012 planning permission also retrospectively permitted the demolition of the former guest house, which was completed in February 2011. The planning application the subject of this appeal sought to vary a condition imposed on the renewed planning permission.
3. It is stated in the application form that development had not commenced at the time of the submission to the Council. However, the evidence shows that the appeal site benefits from a Lawful Development Certificate for the commencement of development of works to comply with the renewed planning permission. An application to discharge all relevant pre-commencement conditions imposed on the February 2012 planning permission was approved on 20 April 2012.
4. Since then, there have been other schemes permitted under Section 73. The appellant has provided plans for the most recent permission from February 2024 under Ref: 4114/23/VAR. Additionally, the submission includes a visual

representation of a previous permitted scheme. In that context, the appellant has submitted an alternative design for the property. They consider the scheme that is the subject of this appeal would be appropriate and would not cause any greater impact on the surrounding area than previous permissions. The Council takes the opposing view.

5. I therefore consider the main issue to be the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site comprises levelled land on a dramatic coastal edge, where a property formally stood. Aside from some hardstanding areas, much of the land appeared to have returned to its naturally vegetated state. A cluster of nearby properties in the Torcross area are found on rising cliffs which includes a typically small, rendered, and pitched roof property. This shares an access and would be very close to the development. Otherwise, the surrounding environment is characterised by its largely undeveloped and impressive coastline.
7. In that context, the appeal site lies within the South Devon 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 SPT1, DEV10, DEV20, and DEV23 are supportive of proposals that conserve and enhance an areas characteristics and views that contribute to its quality, as well as delivering locally distinctive design that is well related to its surroundings. These policies are consistent with paragraph 182 of the National Planning Policy Framework (the Framework), which attaches great weight to conserving and enhancing landscape and scenic beauty.
8. Moreover, the appeal site is within the locally designated Undeveloped Coast (UC). Within the UC, JLP Policy DEV24 seeks to avoid developments that would have a detrimental effect its unspoilt character, appearance, or tranquillity. This is consistent with paragraph 180 of the Framework which, in this respect, says that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
9. The proposed alternative property would include a pitched roof, broadly reflective of the majority of buildings in the surrounding area. However, even though sensitively designed solar panels could be installed, the very large scale of the proposed roofscape with its overhanging design would be unlike any other nearby buildings. This, together with the massing created by the building's three storeys would harmfully dwarf the adjacent property. Therefore, while a pitched roof property would not necessarily be objectionable in principle, the design, mass, and bulk of this scheme would not have a preserving effect on the area.
10. Colour schemes, including white render to match the previous property could be secured using an appropriately worded condition, though this would have little overall effect as glazing would be the predominant feature. It is acknowledged that this alternatively designed scheme would provide a more inviting and useable access arrangement for its intended occupiers than

currently exists. Even so, the depth of the building and its heavily glazed gable fronted positioning close to the cliff edge would result in a particularly imposing and jarring addition to such a sensitive landscape setting. Consequently, from a number of public vantage points, including the adjoining beach, the eye would be drawn to the building as an incongruous feature in the NL.

11. For the reasons given, the proposed development would harmfully affect the character and appearance of the area. As such, there would be conflict with JLP policies SPT1, DEV10, DEV20, DEV23, DEV24, and DEV25.

Other Considerations

12. *Fallback* – It is common ground that the original permission is unlikely to be built out, though still represents a material consideration with a greater than theoretical prospect of occurring. Reference is made by both main parties in the submission to a recently approved scheme under reference 2268/23/VAR. However, I have been provided with no plans or a decision notice. Furthermore, the appellant also says this proposal was refused by the planning committee against officer recommendation. It has therefore not been convincingly shown that there is a real prospect of this coming forward and I therefore give it no weight.
13. The officer report does refer to a recent permission being a 2-storey property with a low roof that would make use of traditional materials. This is said to have included increased glazing beyond an earlier permitted scheme under reference 1411/21/VAR. Additionally, the permission under reference 53/3160/11/F showed a 2-level structure with a sweeping low roof.
14. My attention has been drawn to a further, more recent scheme under reference 4114/23/VAR that was permitted in February 2024. Plans and a decision notice have been provided, and comparisons are made between this and the appeal scheme within the submissions. Even though the appellant refers to 2268/23/VAR as the most likely fallback, the evidence shows the most recently permitted scheme dates from February 2024. Regardless of the outcome of this appeal, there is a real prospect the February 2024 scheme would be constructed. It therefore represents a material consideration that can be given significant weight. I shall refer to it as 'the fallback'.
15. The east elevation of the proposal would undoubtedly cover a much narrower overall width than that of the fallback, though its depth would be substantially increased. In that context, the evidence shows that the proposal would represent a reduction in overall volume. Be that as it may, the appeal scheme would be taller and positioned closer to the cliff edge than the fallback. This would significantly alter the perception of the building from the beach and other vantage points. While the fallback would have a double height first floor and higher eaves, the appeal scheme would nevertheless result in a more dominant, towering gable frontage. This would offer little visual respite from its overly complicated window and framing arrangements.
16. It is acknowledged that the proposal would include more concealed solar panels that would not face the nearest properties. Additionally, it would be set further away from the nearest property than the fallback, allowing for easier access for both. Nevertheless, when viewed from that property, and other angles, its increased depth would stand unusually proud. As such, it would

read as an incongruous feature on the cliff side, when compared with the more settled and narrower design of the fallback. Even though the appeal proposal would include less glazing overall, for the reasons given, the arrangement and positioning of the building would be substantially more harmful than the fallback, and previous permissions.

17. The proposed timber framed building would be sustainably constructed, making use of electric vehicle charging points, though there is little to show the fallback would be unable to deliver similar benefits. The reduced footprint would enable marginal wildlife enhancements. However, any such aforementioned benefits would not sufficiently outweigh the harm identified in the main issue above.
18. Photographs have been provided of coastal pitch roof Huf Haus schemes in Berkshire and Pembrokeshire. Both of these examples are of 2 storey design as opposed to the 3 storeys proposed with this appeal, which means they are not directly comparable. Furthermore, even though they may be in sensitive landscapes, I am not aware of the site-specific circumstances relevant to these developments. In any case, I have assessed this proposal on its merits, based on the evidence before me and my own observations.
19. It is claimed that the previous permitted schemes were only advanced to gain approval from the Council. This matter is not relevant to the determination of this appeal.
20. I have been referred to previous appeals¹ at this site for an alternative scheme for a 3-storey dwelling. However, having paid regard to it, this was of a different design. As such, any conclusions drawn in this respect its detail would not be applicable to this appeal. That being said, the Inspector dismissed the appeals, partly on the grounds that the 3 storeys would be more harmful than the 2 storey permitted schemes, sited to minimise visibility from the beach.

Conclusion

21. 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.
22. I have concluded in the main issue above that the development would harm the character and appearance of the NL, which is a matter that must be given great weight. 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

¹ Appeal A Ref: APP/K1128/W/22/3309553 and Appeal B Ref: APP/K1128/W/22/3309554