



Appeal Decision

Site visit made on 5 November 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2025

Appeal Ref: APP/Q1153/W/24/3338983

The Boat Shed, Pilgrim Drive, Bere Alston, Devon PL20 7DB

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mrs P Bazan against West Devon Borough Council.
 - The application Ref is 2657/23/FUL.
 - The development proposed is change of use to the property known as the 'Boat Shed' into a domestic dwelling with an extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council did not determine the application. However, it has indicated that had it been able to issue a decision it would have refused permission on the grounds that the proposed development would result in harm to the character and appearance of the area, and it has not been demonstrated that the proposal includes sufficient carbon reduction measures. Additionally, the Council raised that there was no legal obligation that secures a scheme of mitigation in relation to the Plymouth Sound and Estuaries European Marine Site (comprising the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA)).
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, including the Tamar Valley National Landscape (TVNL);
 - the effect of the proposal on the Plymouth Sound and Estuaries European Marine Site (comprising the Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA); and
 - whether the proposal would include appropriate measures to meet carbon reduction objectives.

Reasons

Character and appearance

5. The appeal site is within the TVNL. The Management Plan for the TVNL (2019 – 2024) sets out that this area of the TVNL is predominantly a plateau, dissected by steep valleys and rivers, most rising on the adjoining Dartmoor National Park. This area of the landscape has an open and exposed character, with long views from higher elevations which include the picturesque Tamar Valley, and a distinctive sparse pattern of dispersed hamlets and isolated farms in an otherwise undeveloped landscape, with a few historic settlements and several crossroad settlements.
6. The appeal site is located in Bere Alston and includes a single storey building that is positioned within a long and narrow plot that runs from Pilgrim Drive to Bedford Street. Bordering one side of the site are residential properties and on the opposite side is an access lane that serves garages associated with further residential properties. The area around the site is a 20th Century housing estate that has groups of uniformed plot layouts and sizes occupied by bungalows nearest the site and two storey dwellings to the west of the site that all have simple forms. These characteristics make up the prevailing character of the street scene around the site.
7. The proposal involves the conversion of the existing building and the enlargement of the building through the erection of an extension. The roof of the extension would have a gable on the elevation facing towards Bedford Street and then the shallow pitched roof would culminate in a hipped roof facing on to the gable end of the existing building. A porch would also be attached to the building.
8. The retention of the single storey form on site would be in keeping with the bungalows closest to the appeal site and the loss of a short section of hedgerow would have a minimal impact on the area when having regard to the amount of natural vegetation that would be retained. However, the use of the narrow and linear plot for residential purposes and the position of the building within the site would be at odds with the prevailing plot layout and sizes of the surrounding residential properties. Furthermore, the roof of the extension would have an awkward relationship with the existing building that would detract from the simple form and character of the existing building and in turn, result in an overall development that would be incongruent with the character and appearance of the area.
9. For these reasons, I conclude that the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies DEV10, DEV20 and DEV23 of the Plymouth and South West Joint Local Plan 2019 – 2034 (JLP) and Policy H6 of the Bere Peninsula Neighbourhood Plan to 2034 (NP), which collectively seek, in part, that development meets good standards of design, contributes positively to townscape, and protects and improves the quality of the built environment.
10. Whilst I have identified harm to the character and appearance of the area, as the site is located amongst existing residential development within the settlement and would not result in the settlement plan of Bere Alston being compromised, the impact would be localised and the proposal would not result in material harm to the

landscape and scenic beauty of the TVNL and would instead conserve the character and appearance of the protected landscape. The proposal would therefore not conflict with Policy DEV25 of the JLP, which seeks to conserve and enhance the landscape and scenic beauty of protected landscapes.

Plymouth Sound and Estuaries European Marine Site

11. The appeal site is within the Zone of Influence for the Plymouth Sound and Estuaries European Marine Site. This includes the habitats sites known as the Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA. The SAC's qualifying features are the sandbanks which are slightly covered by sea water all the time; estuaries; large shallow inlets and bays; reefs; and Atlantic salt meadows. The site also hosts mudflats and sandflats not covered by seawater at low tide. The site further supports shore dock and allis shad. The SPA supports overwintering and on passage little egret and the overwintering avocet.
12. Section DEV26.1 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 Supplementary Planning Document 2020 (SPD) explains that the Habitats Regulation Assessment of the JLP concluded that the recreational impacts on designated sites arising from planned residential development, either alone or in combination with other plans or projects needs to be addressed, and appropriate mitigation measures will need to be in place to ensure that the proposed development will not result in an adverse impact on the integrity of the designated European sites.
13. The evidence indicates that a threat to the conservation status of the qualifying features of the SAC and SPA arises from increased recreational pressure associated with new residential development within the Zone of Influence. Such recreational pressures include disturbance of the SPA's wildlife and damage to the SAC's qualifying features by people, emissions from recreational water transport and recreational angling.
14. Given that an additional dwelling is proposed on the appeal site, there is a credible impact pathway between the proposed development and the qualifying features of the SAC and SPA resulting from increased recreational pressure. Therefore, and given that a precautionary approach must be adopted in respect of habitat sites, without mitigation, and in combination with other plans or projects, a likely significant effect on the SAC and SPA would arise from the development.
15. The SPD confirms that recreational mitigation will be delivered through the Recreation, Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site, and that residential development within a 12.3km Zone of Influence will need to contribute towards offsetting the increased estuary management costs caused by the rise in population.
16. From the evidence, I have no reason to doubt that appropriate mitigation may be possible. However, I have no legal obligation before me that secures the financial contribution. The Planning Practice Guidance (PPG) makes clear that a positively worded condition cannot be imposed requiring the payment of money. The PPG also advises that negatively worded conditions limiting the development that can take place until a planning obligation or other agreement has been entered into are unlikely to be appropriate in the majority of cases, and that such conditions should only be used in exceptional circumstances. No exceptional circumstances have

been demonstrated in this case. As such, there is no reason to depart from the approach set out within the mitigation strategy, which requires that contributions be provided via a planning obligation.

17. In the absence of a suitable mechanism to secure these contributions, there is no certainty that the mitigation would be provided. That being the case, adverse effects on the integrities of the SAC and SPA cannot be ruled out. Moreover, no alternative solutions have been identified that would have a lesser effect or avoid an adverse effect entirely.
18. For these reasons, I conclude that there is insufficient evidence to provide the certainty needed to rule out adverse effects on the integrities of the SAC and SPA. Consequently, the proposal would conflict with Policies SPT12, SPT14 and DEV26 of the JLP, which collectively seek, in part, to protect sites of European significance for biodiversity and conservation, and Policy DEL1 of the JLP, which sets out that planning obligations can be used to mitigate the impact of development on infrastructure, including its cumulative impact, through direct provision or a financial infrastructure contribution, including on natural infrastructure and European sites. Additionally, the proposal would conflict with the SPD, insofar as it expands on the aim of the development plan to mitigate against harm to European sites from recreational pressures.

Carbon reduction

19. Policy DEV32 of the JLP identifies a need to deliver a low carbon future for the plan area and identifies several measures and provisions that should be included within new developments.
20. The appellant's planning application documents do not include details about the carbon reduction measures that would be incorporated into the proposed development. As such, it has not been demonstrated that the appellant has accepted the principle of meeting the low carbon requirements, where applicable, of Policy DEV32. A planning condition requiring renewable energy and energy efficiency details to be agreed with the Council would not be suitable as there is no assurance that such measures can, in principle, be incorporated into the scheme.
21. For these reasons, I conclude that it has not been demonstrated that appropriate measures to meet carbon reduction objectives can be achieved as part of the proposed development. Consequently, the proposal would conflict with Policies SPT1.2 and DEV32 and Strategic Objective SO11.6 of the JLP and Policies H6 and E3 of the NP, which collectively seek, in part, for development to respond positively to the challenges of climate change and reduce carbon emissions. Additionally, the proposal would conflict with the Plymouth and South West Devon Climate Emergency Planning Statement (November 2022), insofar as it expands on the aim of the development plan to achieve climate change mitigation, adaptation and resilience. The proposal would also conflict with the Framework, insofar as it supports the transition to a low carbon future in a changing climate.

Other Matters

22. The appellant asserts that should permission not be granted then the site will deteriorate and become invested with rats. However, there is nothing before me to indicate that an alternative scheme could not be achieved that would not harm the character and appearance of the area.

23. It is also stated by the appellant that the drainage and building regulations authorities are satisfied with elements of the scheme. However, they use different legislation to the legislation used to determine planning applications and appeals. Therefore, those authorities being satisfied with elements of the proposal does not alter my judgement on the appeal.
24. My attention has been drawn to Bere Ferres Parish Council resolving to support the application for permanent residential use. Nevertheless, I have considered the development on its merits based on all the evidence before me.
25. There appears to be a dispute between the appellant and an interested party over the ownership of parts of the appeal site. However, this is not a material planning consideration and is a matter for those parties. As such, this matter is not determinative in my consideration of the appeal.

Planning Balance

26. The Council accepts it cannot demonstrate a five year housing land supply. In these circumstances, Paragraph 11(d)(i) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, having regard to Footnote 7. This includes areas designated as habitats sites, including SACs and SPAs.
27. The harm to the habitats sites, for which there is no suitable mechanism to secure financial contributions for the mitigation of recreational impacts contributed to by the proposed development, means that the habitats and biodiversity policies in the Framework provide a strong reason for refusing the development proposed. Paragraph 11(d)(ii) is not therefore engaged.
28. The proposal would repurpose an existing building to provide one dwelling. Whilst the evidence indicates that there is a shortfall in housing delivery in the district, and the Framework supports boosting the delivery of housing, the proposal would make a limited contribution to the district's housing supply and therefore attracts moderate weight. There would also be associated social and economic benefits, including during the construction phase, through future residents paying into the local economy. Although these types of benefits are supported by the Framework, given the relatively small scale of the proposal, they are given limited weight in the planning balance.
29. Weighing against the benefits is the conclusion that the proposed development would result in unacceptable harm to the character and appearance of the area and would conflict with the provisions of Policies DEV10, DEV20 and DEV23 of the JLP and Policy H6 of the NP. Furthermore, there is insufficient evidence to provide the certainty needed to rule out adverse effects on the integrities of the SAC and SPA and the proposal would therefore also conflict with Policies SPT12, SPT14 and DEV26 of the JLP. Lastly, it has not been demonstrated that appropriate measures to meet carbon reduction objectives can be achieved as part of the proposed development and the proposal would therefore also conflict with Policies SPT1.2 and DEV32 and Strategic Objective SO11.6 of the JLP and Policy E3 of the NP. The proposal may comply with certain policies contained in the JLP and NP, but given the harm that I have identified, the proposal would conflict with the development plan when taken as a whole.

30. According to the Framework the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning development process should achieve. It also requires development to be sympathetic to local character, including the built environment, and add to the overall quality of the area. The Framework also promotes the conservation, restoration and enhancement of priority habitats and states that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts. Given that the policies that I have identified are consistent with the Framework, I apportion significant weight to the policy conflicts and associated harm that would be caused by the proposed development. Consequently, the benefits identified above would not outweigh the conflict with the development plan and the associated harm that would result from the proposed development.

Conclusion

31. For the reasons given above, the proposal would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves

INSPECTOR