



Appeal Decision

Site visit made on 21 March 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 April 2025

Appeal Ref: APP/P1133/W/24/3356006

Pumps Acre, Greenhill Lane, Denbury TQ12 6DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr N Bryan against the decision of Teignbridge District Council.
 - The application Ref is 24/00545/OUT.
 - The development proposed is outline application for the demolition of the existing holiday chalet and the construction of up to three residential dwellings, with all matters reserved except for vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the demolition of the existing holiday chalet and the construction of up to three residential dwellings, with all matters reserved except for vehicular access at Pumps Acre, Greenhill Lane, Denbury, TQ12 6DN, in accordance with the terms of the application, Ref 24/00545/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is subject of a separate decision.

Preliminary Matters

3. The appeal was made in outline form with all matters save for access reserved for future consideration. Therefore, any plans depicting a layout or the scale of the dwellings have been treated as indicative in nature.
4. The Teignbridge Local Plan 2020-2040 (eLP) was submitted for examination on 14th March 2024. The weight to be attributed to the relevant policies of the eLP is addressed below.

Main Issues

5. The main issues are whether the location of the development accords with the development plan and whether the proposal would preserve or enhance the character or appearance of the Denbury Conservation Area.

Reasons

Location of development

6. The appeal site is located to the south of Greenhill Lane, which lies to the east of the village of Denbury. The site is a part of the extensive garden of the host

dwelling, Pumps Acre, which also accommodates a garage and the existing holiday lodge which would be demolished. Extant permission exists for a further holiday lodge.

7. Much of the site is outside of the Denbury Conservation Area (CA), though the stone wall enclosing the site on its northern boundary is within the CA. To the east and south of the site is agricultural land, to the north of Greenhill Lane opposite the site are the gardens of dwellings fronting East Street.
8. The proposal is to construct three dwellings on the site. Whilst the development would extend no further east than the existing site boundary or beyond the curtilages of existing dwellings on the northern side of Greenhill Lane, under the current development plan, the *Teignbridge Local Plan 2013-2033* (adopted 2013) (Local Plan), the site is adjoining but outside of the development boundary for Denbury. As the scheme for three open market dwellings does not fall under any of the exemptions under Policies S21 or S22 of the Local Plan, it is contrary in locational terms with the current development plan.
9. Within the eLP, Denbury will be a village and at the lowest tier of the settlement hierarchy. Whilst it will still have a settlement limit within an accompanying policies map, it is proposed that it be extended in a modest way and would also include the appeal site within its limits. Emerging policy GP3 of the eLP seeks to support development within the defined settlement limits, where it is consistent with the role of the settlement in the Local Plan and other development plan policies, taking account of other material considerations.
10. Under paragraph 49 of the Framework, decision makers are invited to give weight to relevant policies in emerging plans according to (a) the stage of preparation of the emerging plan; (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and (c) the degree of consistency of the relevant policies in the emerging plan to the Framework. I return to this in the planning balance below.

Denbury Conservation Area (CA)

11. The CA derives much of its special character from the nucleated core of the small, rural village which contains the principal religious building, a manor house and tightly enclosed streets of historic dwellings that radiate out therefrom. The historic dwellings that contribute positively to this character are largely either vernacular cottages or of a Georgian style, with Devonian limestone featuring heavily as an external building material. The strongly enclosed form of the routes through the CA are also defined by the many continuous stretches of rubble limestone walls.
12. The appeal site has characteristic rubble walls at the site frontage with Greenhill Lane which, whilst in a deteriorating condition, contribute positively to the character and appearance of the CA. The proposal is to retain the wall, save for the new opening to create a new vehicular access with its attendant visibility splays. Sections of the wall would be rebuilt using reclaimed stone. This aspect would therefore have a direct effect on a part of the CA, but the introduction of new dwellings on a site on the periphery of the CA could also have an effect on its setting.

13. Given the modest incursion into the wall and the reuse of the existing materials to rebuild new sections along the visibility splay lines, the proposal would result in only a minor loss of the sense of enclosure and change little of its overall appearance. Additionally, the introduction of new dwellings on to the site would be seen in the context of other existing dwellings nearby, which have a neutral effect on the overall significance of the CA. The scale, layout and appearance of any dwellings would need consideration so as to assimilate well within this context but are not matters specifically for consideration at this stage.
14. Nonetheless, through the direct alteration of the boundary wall and introduction of new dwellings and associated domestic influences within the setting of the CA, the proposal would have a minor erosive effect on the character and appearance, and thus, the overall significance of the CA as a whole. The proposal therefore conflicts with Policy EN5 of the Local Plan which requires that developments respond positively to the character and distinctiveness of the area, important historic features, their settings and street patterns.
15. Under the terms of the National Planning Policy Framework (2024) (the Framework), the effect of the proposals on the significance of the CA, both directly and through development within its setting, would be of a less than substantial nature, and in my view, at the lower end of such a spectrum. Paragraph 215 of the Framework requires that where less than substantial harm would occur to the significance of a designated heritage asset, the harm should be weighed against the public benefits. I return to this further below.

Other Matters

16. I note that the site was excluded from a shortlist of potential allocations for Denbury for reasons including its small scale and that there is an allocation proposed for East Street¹ which is the preferred site to accommodate the planned growth of the village. Be that as it may, it does not appear that there is a bar or limit to other small scale proposals coming forward and being found acceptable depending on their relationship with the settlement limit and other relevant policies of the development plan. It does not appear that the suggested 5% increase is even strictly the limit being observed by the proposed allocation at East Street which undermines the suggestion that such would be the maximum size of intensification that could be accommodated.
17. I have considered the representations made by local residents in respect of the scheme where not addressed above.
18. I am mindful of the narrowness of Greenhill Lane and absence of footways or dedicated cycle lane. Whilst a wider, more easily navigable highway network would be preferable, this is not the nature of roads in and around Denbury. The lawful use of the site for holiday purposes has associated vehicle movements which would be replaced by a movements by future residents. Though there would be an increase in traffic, it would not be to the extent that it would be harmful or materially perpetuate an unsustainable pattern of travel given that the settlement has been identified suitable to accommodate some development.
19. I appreciate that there would be disruption to highway users during the construction phase given the nature of the local road network. This could be

¹ eLP Policy V7: East Street

minimised to an extent through the imposition of a planning condition requiring approval of and adherence to a construction phase management plan.

20. Though the proposal would include a non-mains means of foul drainage, a planning condition could secure relevant details of its location and relationship with any features of relevance, such as water sources or inhabited buildings.
21. Whilst there is suggestion that the site supports a range of species, including protected species, the features of interest and their protection are detailed in the submitted Ecology Report. I find no reason to find other than in agreement with the main parties that this aspect can be addressed by way of appropriately worded conditions.
22. Whilst concern has been raised about the proposal comprising only large buildings beyond the financial reach of local families and for which there is no need, there is no fixed detail of this nature within the scheme. Any footprints of buildings and their positions have been considered on an indicative basis and any future scheme will need to secure an appropriate relationship with neighbouring buildings, with each other and with existing features on the site.
23. I understand that the proposal may differ from another recently approved scheme within the village which had been the subject of pre-application consultation. Given the differences between the schemes, it is not a determinative factor in relation to the appeal proposal before me.
24. Lastly, I note the concerns that a precedent would be created if the appeal were allowed. My role is to determine the application on its own merits and whether or not future schemes would be allowed will depend on their scale, nature and relationship to the development plan policies at the relevant point in time.

Planning balance

25. The proposal conflicts with the current development plan in respect of its location and would generate a degree of harm to the significance of a designated heritage asset in conflict with Local Plan Policy EN5. Thus, it conflicts with the development plan when taken as a whole.
26. The public benefit of delivering 3 dwellings as a contribution to the wider housing stock capably outweighs the lower level of less than substantial harm to the significance of the CA as a designated heritage asset. Whilst there would be some economic benefit during the construction period, I attribute this only modest additional weight in favour of the scheme. The absence of other harms weighs neither for nor against the scheme.
27. In respect of the eLP, the weight that can be attributed to it relates to its stage of preparation. It is at an advanced stage. It does not appear that there are any unresolved objections to the Policy GP3 or the extension of the settlement boundary for Denbury. Additionally, the policy, and the proposal are consistent with the Framework where it seeks to support housing developments in rural areas that reflect local needs. As a small proposal for up to 3 dwellings, the proposal is appropriate in scale and function to the village of Denbury to help meet its social and economic needs whilst protecting its rural character and minimising the need to travel relative to its rural context. I do not consider that a scheme for 3 dwellings could be considered a disproportionate intensification of the village of Denbury

either individually or cumulatively with other local developments, relative its role and the availability of local services. Therefore, on the basis of the above, I consider that the emerging Policy GP3 and the related extension to the settlement boundary of Denbury attract considerable weight.

28. Taking the above factors into account, in my view, the Framework and the eLP form considerations of such materiality that together they indicate that permission should be granted other than in accordance with the current development plan.

Planning conditions

29. I have considered the suggested conditions in the context of the Framework and Planning Practice Guidance (PPG). Given the outline nature of the proposal, conditions are necessary to specify the nature of the reserved matters and timescales for their approval and subsequent implementation of the development. In the interests of proper planning, a condition is also needed to specify the approved plans relating to the site extent and formal access arrangements.
30. In the interests of preserving the character and appearance of the area, conditions are necessary in relation to the means of tree and hedge protection throughout the construction period and beyond.
31. In order to protect biodiversity interests, conditions are needed to ensure that vegetation clearance and any future lighting installation take place with due regard to the wider biodiversity interests and the submitted Ecology Report.
32. To minimise the potential for disruption during the construction phase, a condition is necessary to secure details of a construction management plan and adherence thereto during the course of construction works.
33. In the interests of environmental protection and to safeguard human health, conditions are necessary in relation to both surface water management and the foul drainage infrastructure.
34. To maximise the energy and resource efficiency of the proposed dwellings, details are needed in respect of the carbon emission reductions means proposed as part of any future scheme/s.
35. In order to maintain a safe highway network, a condition is needed to ensure that appropriate visibility splays are provided in accordance with the approved plans and are thereafter maintained free of vegetation.

Conclusion

36. For the reasons given above the appeal should be allowed.

H Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

1. Approval of the details of layout, scale, access (within the site), landscaping and appearance of the buildings, (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiry of two years from the date of final approval of the reserved matters.
4. The development hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:
 - Site Location Plan, Ref 986.01 A, dated 986.01 A
 - Proposed Site Plan (Access), Ref 986.11 A
 - Proposed Site Sections/Elevation, Ref 986.13 A
5. Prior to the commencement for the hereby approved development details of protection during construction, maintenance and management of the trees identified to be retained on Tree Retention Plan reference 163-TRP-MU (located within the Arboricultural Impact Assessment reference 1963-AIA-MU) and existing hedges on the east boundary shall be submitted to and approved in writing by the Local Planning Authority. The identified trees and hedges shall thereafter be maintained and retained for the lifetime of the development.
6. Prior to commencement of the hereby approved development, a Lighting Design Strategy and Plan shall be submitted to and approved in writing by the Local Planning Authority. The Lighting Design Strategy and Plan shall include:
 - a. A map showing "dark areas" that will be maintained on site, which shall extend at least 5m from the face of the eastern and southern hedges;
 - b. Isolux maps showing existing and predicted light levels in relation to dark areas, including vertical plane lux levels shown at the inner edge of the dark areas;
 - c. Details of how a light level no higher than 0.5 lux will be achieved within the dark areas. Details shall include consideration of sizes, height and orientation of windows; location, type and number of lighting private and public realm lighting units; vehicle headlamps, hard and soft landscaping; and other measures.

The Lighting Design Strategy shall thereafter be implemented and maintained in accordance with the approved details. The external lighting shall only produce light that is UV-free, narrow spectrum, low-intensity light output, with a warm colour temperature (2,700K or less) and a wavelength of 550nm or more. Any external lighting shall be on a timer and shall be turned off daily between 00:30am and 05:30am.

Notwithstanding Section 55(2) of the Town and Country Planning Act 1990 and/or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no lighting other than that

approved by this condition shall be installed during the lifetime of the development.

7. Prior to commencement of the development hereby approved a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 08:00 and 18:00 Mondays to Fridays inc.; 09:00 to 13:00 Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - (k) details of wheel washing facilities and obligations;
 - (l) the proposed route of all construction traffic exceeding 7.5 tonnes;
 - (m) details of the amount and location of construction worker parking;
 - (n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.
8. Prior to commencement of the hereby approved development details of the surface water management system shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include a plan of exceedance flow pathways and scheme for the ongoing management of the surface water management system. The development shall then be carried out in accordance with the approved details.
9. The submission of the first application for approval of reserved matters for the hereby approved development shall include the details of the location of the septic tank to accommodate foul water drainage.
10. Any submission of application for approval of reserved matters for the hereby approved development which would include a dwelling or dwellings shall include details of carbon emissions reduction measures for approval in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

11. The development hereby approved, including demolition and vegetation clearance, shall proceed in strict accordance with the precautions, measures and enhancements described in Section 5 of the approved Ecology Report (by South West Ecology dated 14th September 2023).
12. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with drawing 986.11 A where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25 metres in both directions.
13. No materials shall be brought onto the site, or any hereby approved development commenced, until protective fencing has been erected along the southern boundary hedge identified as H12 Tree Retention Plan reference 163-TRP-MU (located within the Arboricultural Impact Assessment reference 1963-AIA-MU). The fencing shall be in accordance with Figure 2 of BS 5837 2012. The fences shall be maintained until all development has been completed. The level of the land within the fenced areas shall not be altered, no materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by where details of this have been submitted to and approved in writing by the Local Planning Authority.

----- END OF SCHEDULE -----