



Appeal Decision

Site visit made on 3 June 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/K1128/W/25/3359010

Land at Waterhead Brake, Brixham Road, Kingswear TQ6 0BN

- 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 D Southwick against the decision of South Hams District Council.
 - The application Ref is 3496/24/FUL.
 - The development proposed is described in the application as “section 73A application for retention of and temporary siting of 4no shipping containers”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development set out in the banner heading above does not refer to the correct application type. The Council’s decision notice, appellant’s submissions and their appeal form all refer to the temporary siting of 4 shipping containers for a period of 12 months. I have dealt with the appeal on that basis.

Main Issues

3. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the provisions of local policy; and (ii) the effect of the development on the character and appearance of the area.

Reasons

Location

4. There is no dispute that the appeal site lies outside the settlement boundary of Kingswear as defined in the Kingswear Parish Neighbourhood Plan (NP). In such locations, development is only permitted in certain circumstances, including as provided for in Policy TTV26 of the Plymouth & South West Devon Joint Local Plan (JLP). NP Policy K1 is consistent with TTV26. In areas that are not isolated such as the appeal site, these policies, amongst other things, only support proposals that respond to a proven agricultural, forestry and other occupational need that requires a countryside location.
5. The appeal site is also located in the Undeveloped Coast where JLP Policy DEV24 expects, in part, development to demonstrate that it requires a coastal location and cannot reasonably be located outside the designation.
6. It is acknowledged that the appellant has a personal requirement to store their belongings while refurbishing a house in Kingswear. It is also conceivable that the

property being refurbished has restricted space within its grounds, and poor access availability due to the steep slopes and narrow roads. In that context, it is likely that there is limited availability of other alternative sites in Kingswear. Accordingly, the appeal site benefits from being close by.

7. The appellant agrees that storage options in Torbay, which is about 5 miles away, or Dartmouth, amount to workable alternatives. It may well be inconvenient to have to travel longer distances to access the containers, adding to unsustainable travel patterns. However, these are not unusually excessive distances to expect to travel in such a rural area, particularly over a temporary period. Additionally, it is not known how often one would be required to make use of personal stored items during a house refurbishment. In the absence of any compelling evidence to the contrary, it is therefore likely to be occasional rather than frequent. In any case, given that options for storage are likely to be available in nearby built-up areas and that benefits of the scheme are of a personal nature, a countryside location is not shown to be required. As such, the containers could reasonably be located outside the Undeveloped Coast.
8. For the reasons given, 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. There is consequently conflict with JLP policies DEV24 and TTV26, and NP Policy K1.

Character and appearance

9. The appellant asserts that historic storage of building materials and a lack of enforcement action means that the likely lawful use of the appeal site is a building materials storage area. With a continued presence of some building materials, it can, in their opinion, be partly characterised in this way. They also say that the Council is wrong to describe the appeal site as undeveloped. Having paid regard to the planning history, in these circumstances it is not appropriate for me to determine whether a use or operation is or would be lawful. This can only be formally determined by a lawful certificate application under s191 or s192 of the Town & Country Planning Act. Accordingly, I have assessed the appeal site in its present-day sense, when viewed and experience on the ground.
10. In that context, the appeal site comprises a relatively narrow and sloping strip of densely vegetated land that includes a variety of trees and shrubs. Save for a small collection of pallets, dumpy bags and the like, and unassuming telegraph poles, the appeal site is primarily a particularly attractive and informal verdant wedge of land. Despite its proximity to a settlement and properties, it has a rather pleasing wild appearance that creates a strong sense of tranquillity.
11. It is surrounded in part by narrow country lanes and is located with a National Landscape (NL) where JLP Policy DEV25 attributes the highest degree of protection, and where great weight is given to conserving landscape and scenic beauty. This policy is consistent with paragraph 189 of the National Planning Policy Framework (the Framework). Additionally, JLP policies DEV23 and DEV24 aim to conserve and enhance landscape and seascape character through maintaining an area's distinctive sense of place. Under s245 of the Levelling-Up and Regeneration Act 2023, there is a duty to seek to further the purpose of conserving and enhancing natural beauty in these protected areas.

12. While the shipping containers are green in appearance and partially screened by boundary vegetation, they are rusted in areas and eminently visible from stretches of the surrounding roads. Given their sharp edges and bulky form, they are both prominent and intrusive features that feel wholly out of place. Even though cars park on the adjoining road and the appeal site may well be used for occasional annual regatta parking, the eye is naturally drawn to their incongruity in the NL.
13. It is acknowledged that the proposal does not seek to permanently site the containers, which would reduce the overall significance of harm. However, that is not to say they seek to further the purposes of the designation. For the reasons given, quite the opposite is true. Therefore, the scheme does not comply with the submitted extract from the South Devon NL Planning Guidelines. Moreover, I have already concluded above that there is no occupational or other reason why the containers need to be located where they are. As such, even a temporary harm to the NL or undeveloped coastal setting has not been shown to be justified.
14. I therefore conclude on this main issue that the development harmfully affects the character and appearance of the area. As a consequence, it conflicts with JLP policies DEV23, DEV24 and DEV25.

Conclusion

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

J Hills

INSPECTOR