



Appeal Decision

Site visit made on 16 September 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Appeal Ref: APP/Q1153/W/25/3368713

Chichester Arms, Chillaton, Devon PL16 0HP

- 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 Miss Attree against the decision of West Devon Borough Council.
 - The application Ref is 0952/25/FUL.
 - The development proposed is creation of two cottages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the Tamar European Marine Site (EMS);
 - biodiversity;
 - whether the site is in a suitable location having regard to local and national policy;
 - whether the site can be adequately drained; and
 - whether the proposal would achieve low carbon design.

Reasons

Designated sites

3. The appeal property comprises a former pub with residential accommodation. The proposal is to create 2 cottages out of it, which would result in a net increase of 1 unit of accommodation.
4. The main parties agree that the appeal site lies within the zone of influence of the EMS, which comprises the Plymouth Sound and Tamar Estuaries Special Protection Area (SPA) and Special Area of Conservation. The proposal must therefore be assessed against the requirements of the Conservation of Habitats and Species Regulations 2010.
5. In order to grant permission, I must be satisfied that it can be established, beyond reasonable scientific doubt, and having regard to the manner in which the development would be carried out and any conditions or restrictions to

which it would be subject, that the proposal would not adversely affect the integrity of the European sites¹.

6. Relevant guidance is contained within the Recreation Mitigation and Management Scheme, supported by Natural England. This explains that within a 12km zone, increased pressure from new residential development is likely to have a significant effect when considered either alone or in combination, upon the interest features of the European sites. Those features include sandbanks, mudflats, inlets, bays, reefs, Atlantic Salt meadows, and Shore Dock. There are also internationally important populations of Avocet and Little Egret in the SPA.
7. Mitigation measures indicate that a financial contribution is required for each new unit of accommodation, with a sum to be agreed via a Unilateral Undertaking (UU) or as part of a s106 agreement.
8. The appellant agrees that mitigation would be required and submits that a contribution could be secured using a planning condition or UU. No such UU accompanies this appeal. Furthermore, the Planning Practice Guidance (PPG) explains that conditions should not be used for the payment of money. It would therefore not be appropriate to attempt to deal with this matter using a planning condition.
9. Amongst other things, paragraph 193 of the National Planning Policy Framework (the Framework) says that if significant harm to biodiversity cannot be mitigated or compensated for, planning permission should be refused. Accordingly, without mitigation already in place in the form of a UU, I cannot therefore conclude that the proposal would not have an adverse effect on the integrity of the European sites. For this reason alone, the appeal must fail.
10. I therefore conclude on this main issue that the proposal would harmfully affect the EMS. As such, there would be conflict with policies DEV26 and DEL1 of the Plymouth & South West Devon Joint Local Plan (JLP) which, together in this respect promote the use of planning agreements for mitigation and say that development will not be permitted unless it will not adversely affect the integrity of a European site, either alone or in combination with other development.

Biodiversity

11. The PPG says that planning permission can be refused if surveys are not up to date or do not provide enough evidence to assess the likely impact on the species and its supporting habitat. It adds that ecological surveys will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
12. In that context, the submitted ecology report highlights the presence of bats but relates to a different proposal to that which is the subject of this appeal. Moreover, it is very old. The appellant suggests that monitoring and any residual concerns can be addressed using a planning condition.
13. However, without an up-to-date survey of the relevant features, or appraisal of this appeal scheme, it is simply not known whether mitigation measures would be appropriate. There is a further question concerning the implementation of

¹ Regulations 61 and 62

any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.

14. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposed development would be contrary to LP Policy DEV26 which seeks to protect habitats and conserve biodiversity.

Location

15. The appeal site is located within the heart of the rural village of Chillaton, which has a well-used vehicle repair garage and what appeared to be an active community at the time of my visit. Its services and facilities are however limited, and it is not a defined settlement in either the JLP or the Milton Abbot, Chillaton and Kelly (MACK) Neighbourhood Plan (NP). JLP Policy TTV1 sets out the settlement hierarchy for new development where the focus is on main towns, followed by smaller towns and key villages, sustainable villages, and finally smaller villages, hamlets, and the countryside. Key villages are said to play an important role in supporting the dispersed villages.
16. In a smaller dispersed village such as Chillaton, development will only be permitted where it can be demonstrated to support the principles of sustainable development and sustainable communities. These are contained within SPT1 and SPT2 of the JLP, including as provided for in JLP policies TTV26 and TTV27. The Council says that the latter 2 policies are not applicable to this appeal, and I find no reason to disagree. In that context, NP Policy 9-4 only supports residential development outside defined settlements if it meets the requirements of JLP policies TTV26 and TTV27. There would be conflict with this NP policy.
17. That said, in this case, an effective use of land would result through optimising the reuse of a previously developed site. Furthermore, the sensitive conversion of a well-established building would maintain a strong sense of place. Amongst other aspects, this would be aligned with some of the environmental principles of JLP Policy SPT1. There would be compliance with Framework paragraph 125 which says, in part, that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes, proposals for which should be approved unless substantial harm would be caused.
18. The Council is concerned that public transport next to the appeal site is not regular enough to support access to full time education or 9-5 employment. While limited and typical of such a rural area, bus services to main towns and key villages are still available. Those not within the identified demographic, such as the elderly or part time workers, would still have reasonable and safe access to a vibrant mixed-use centre as required by JLP policies SPT2 and DEV29. In that respect, the key village of Lifton is about a 5-minute drive away. Given the large number of homes in Chillaton, it is likely that opportunities exist for current or future residents to make use of car sharing to access shops, pubs, local schools, or the community centre I drove past.
19. My attention has been drawn to a previous extant permission at this site for conversion and works to create a single larger dwelling. While overall occupancy levels may not be identical, it is very unlikely that the proposed scheme would have any meaningful additional effect on carbon emissions.

Furthermore, it is likely that the former operational pub would have generated significantly more vehicular activity than that linked to 2 properties. As such, the Council's steer towards a low carbon future set out in JLP Policy DEV32 would not be undermined by the proposal. Reference made to paragraphs 162 and 164 of the Framework are noted, though there is little to show these relate to development proposals or the effect of car usage.

20. The proposed dwellings would be provided with enough accommodation to facilitate home working. At the same time, the higher density living would not be out of place within this settlement. Noting the current property contains 5 bedrooms, the house type proposed would deliver a scale of housing that the Council says would positively address a current imbalance. This accords with paragraph 82 of the Framework where it says that in rural areas, planning decisions should be responsive to local circumstances and support housing developments that reflect local needs.
21. Drawing these matters together, while there would be conflict with NP Policy 9-4, overall, the proposal would deliver a wide range of positive benefits that would help support the vitality of this rural community, as promoted within JLP Policy TTV2. For the reasons given, it would accord with the thrust of the Council's strategy for housing in rural areas and national policy. In that respect, it is not appropriate to judge proposals against the overarching objectives of sustainable development set out in paragraph 8 of the Framework.
22. I therefore conclude on this main issue that the site is a suitable location for the proposed development having regard to local and national policy. There would consequently be no conflict with JLP policies SPT1, SPT2, TTV1, TTV2, DEV29, or DEV32.

Drainage

23. The Council is concerned that the proposed attenuation tank drainage solution does not identify the location of the public sewer, its connection point, or provide assurances that South West Water (SWW) would accept a new connection.
24. The officer report notes that SWW's consultation response was based on the understanding that surface water would be discharged via infiltration, though the appellant's drainage strategy rules this method out due to ground conditions. Even so, the appellant says that surface water will discharge into an existing system. In that context, there is little evidence that continuing with the current method of disposal would be ineffective. While there would be small additional areas of paving, even if a new connection to nearby sewers were to be required, there has not been an objection by SWW. As such, there is no firm evidence this could not be achieved.
25. In accordance with JLP Policy DEV35 and paragraph 181 of the Framework, the development would incorporate a sustainable drainage system aimed at minimising surface water run-off and there is no clear evidence this would be inappropriate. I therefore conclude on this main issue that it is likely the site could be adequately drained. There would be no conflict with JLP Policy DEV35.

Carbon reduction

26. JLP Policy DEV32 says, amongst other things, that the need to deliver a low carbon future should be considered in the design and implementation of all developments. Opportunities should be identified to minimise the use of natural resources by making use of existing buildings. My attention has been drawn to the Council's Climate Emergency Planning Statement (CEPS) which aims to amplify on the advice in the JLP in meeting the challenge of climate change. Its main objective set out in CES01 includes the prioritisation of retrofitting existing buildings and reuse of materials. While not having the force of policy, the CEPS is nevertheless a material consideration. The aforementioned policy and guidance is consistent with Framework paragraph 167, which says that significant weight should be given to energy efficiency and low carbon heating improvements to existing buildings.
27. In that context, the appellant submits that the existing building fabric will be upgraded to modern energy efficiency standards including high performance insulation, low energy lighting and an air source heat pump for renewable heating. While specific details are lacking, there is little reason why these measures would not be implemented, particularly when converting an older building such as this. Therefore, having paid regard to the Framework's support for the transition to net zero, the conversion of an existing building strongly aligns with the Council's own priorities. Moreover, consideration for the need to deliver a low carbon future has been demonstrated.
28. I therefore conclude on this main issue that the development would achieve a low carbon design. As such, it would accord with JLP Policy DEV32.

Other Matter

29. There is a listed building nearby. Consequently, there is a statutory duty to pay special regard to the desirability of preserving its setting. The appeal building is slightly separated from this building. Furthermore, the appeal proposal would include very limited and harmless alterations to the external appearance of an existing building. Despite the proximity of the grade II Sunnyside and Cottage, the scheme would have no effect on its setting. Furthermore, the Council has not raised any concerns in this respect. Accordingly, I am satisfied the proposal meets the requirements set out in s.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).

Planning Balance and Conclusion

30. Considering the main issues in the round, I have concluded that the proposal would be in a suitable location where it could be adequately drained and progressed with a low carbon design. While my findings on the location weigh heavily in favour of the scheme, this is not outweighed by the identified harm in respect of designated sites and biodiversity. These are matters of upmost importance. Furthermore, the policies identified in this respect are broadly consistent with those set out in the Framework and can therefore be given substantial weight. The proposal conflicts with the development plan as a whole.
31. It is undisputed that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, where there is a current supply of about 2.53 years.

32. Paragraph 11 d) of the Framework indicates that, where the requisite housing land supply cannot be demonstrated, permission should be granted unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. Footnote 7 states that policies in the Framework relating to habitats sites qualify as protection policies under the first limb of paragraph 11 d). As set out above, there is a strong reason for refusing the proposed development. Consequently, the tilted balance in the second limb does not apply and the proposal does not benefit from the presumption in favour of sustainable development within the Framework.
34. For the reasons given above the appeal should be dismissed.

J Hills

INSPECTOR