



Appeal Decision

Site visit made on 9 July 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/K1128/W/24/3340746

Land off Bantham Beach Road, Bantham TQ7 3AN

- 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 The Bantham Estate against the decision of South Hams District Council.
 - The application Ref is 0915/22/FUL.
 - The development proposed is described in the application as "erection of replacement beach shower/toilet block, replacement village sewage treatment plant, new residents/mooring holders car park and new parking, ANPR system and associated signage on the beach road and car park".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Part of the appeal site would be located within a Scheduled Ancient Monument (SAM) recognised as being the roman settlement site at Bantham Ham. The Council's historic environment team are satisfied that the development could proceed in accordance with the submitted written scheme of investigation and subject to appropriately worded conditions. I find no reason to disagree.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area; and whether there are any exceptional circumstances to permit the development.

Reasons

4. The appeal site is within the Undeveloped Coast and Heritage Coast as defined within the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP). Accordingly, Policy DEV24 of the JLP only permits development that would not have a detrimental effect on the undeveloped and unspoilt character of these areas under exceptional circumstances. Within the Undeveloped Coast, developments must be able to demonstrate that a coastal location is required and that they cannot be reasonably located outside it. The proposal's links to the coast mean that these locational tests would be met. Nevertheless, the policy notes that development will only be permitted if the unique landscape and seascape character, and its special qualities are protected, maintained, and enhanced.
5. Additionally, the appeal site is within a National Landscape (NL). In part, Policy DEV25 of the JLP gives the highest degree of protection to such areas, where

great weight is given to conserving landscape and scenic beauty. In this respect, Policy DEV23 of the JLP aims to conserve and enhance landscape and seascape character through maintaining an area's distinctive sense of place. Paragraph 182 of the National Planning Policy Framework (the Framework) says that great weight should be given to conserving and enhancing landscape and scenic beauty. 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.

6. *Residents/mooring holders car park* - The eastern part of the appeal site, where this part of the development would be located, contains an existing parking area, agricultural and partly despoiled land. A few small buildings are positioned either side of the proposed development, though its setting is very much within the countryside. It is understood some of this area has been used as a construction compound on a temporary basis, with permitted landscaping and biodiversity enhancements for the nearby estate office development.
7. The area forms part of a large agricultural field within a locally recognised open and rolling landscape setting. Expansive panoramic views of it can be appreciated from a number of vantage points, particularly from the elevated footpaths to the south. This landscape forms a key characteristic of its designation as a NL.
8. Although some hedgerow would be removed, the scheme would include landscaping mitigation in the form of a new Devon hedge bank with woody native hedgerow species. This, together with the rebuilt wall would be likely to generate lasting features. Additionally, native trees and shrubs would be planted in an around the car park, though their presence in perpetuity would be less certain. Nevertheless, even if part of this area were to remain despoiled, and in acknowledgement of the 2006 permitted parking area, a substantial area of the open and rolling field would be permanently and irrevocably eroded by the development.
9. The LVIA does not dispute the fact that the car park would not be removed from view. It adds that elevated views of it from the south means that the appeal site becomes more exposed, and that mitigation is often less effective. Furthermore, it predicts at year 10 that the landscape mitigation planting to its boundaries would help contribute to reducing the adverse effects of the development on the existing landscape character. Whilst visibility at the time of my visit was poor from the footpaths to the south, a photograph within the evidence highlights just how visible the car park would be. Therefore, although landscaping and surrounding nearby development would temper its prominence when viewed from the south, the eye would nevertheless be drawn to it. For the above reasons, a key characteristic of the NL would not be conserved and enhanced.
10. *Toilet/shower block and pay stations* – The area is largely free from development where large rolling agricultural land meets the coastal edge. The building would be positioned on the footprint of the existing toilet block to avoid ground disturbance to the SAM. Using a cantilever design, it would however be notably wider and longer. Although only marginally taller than the sloping roof of the existing, it would include a flat roof. This would increase its overall bulk. The white finish of the existing building is stark in its appearance, and the proposed materials would go some way towards softening its effects

from longer distance views. That being said, it is conceivable that the existing building could be painted a different colour or clad in a similar material to that proposed.

11. In any case, despite being located within the context of a parking area, its unusual overhanging design, together with the increased size and bulk would create a substantially more imposing man-made structure within a highly sensitive landscape. Having paid regard to the Landscape Visual Impact Assessment (LVIA), and its Technical Note, it would stand proud. The proposed pay stations would be likely to be very modest in scale, and their detailed design could be controlled. Nevertheless, these and the toilet/shower block would introduce incremental and permanent urbanisation to the area that cannot be said to have a conserving and enhancing effect.
12. *Sewage Treatment Plant* - there is no dispute between the main parties that this could be assimilated into the landscape with the use of additional landscaping. Had I been minded to allow the appeal, this could be conditioned using an appropriately worded condition.
13. *Beach access lane* - It is acknowledged that the proposed grass verge along the access road to the public car park would have some visual softening effect. However, at my visit I observed that the sandy nature of much of this verge felt synonymous with an informal beachside approach lane. When present, vehicles mask these informal pull ins, though by their nature, they are not permanent features. The grass verge and bollards, as suggested by the appellant would however create a formalised landscaping arrangement. This would be at odds with the rather informal existing layout.
14. Drawing these matters together, mitigation measures could be put in place to avoid landscape harm caused by the sewage treatment plant. However, the proposed replacement toilet/shower block and residents/mooring holders car park would be demonstrably harmful to the character and appearance of the area. The harm caused by the proposed alterations to the beach access lane would be at the lower end of the scale. Even so, there would be harm, and this reinforces my view that the scheme, as a whole, would be harmful to the NL.
15. The appellant does not rely on any exceptional circumstances as highlighted in Policy DEV24 of the JLP, as they consider there would be no harm to the character and appearance of the area. Additionally, they refer to the officer report where it identified that exceptional circumstances do not need to be demonstrated. However, this is in respect of the Framework's definition of major development in the NL, rather than the policy. In light of this and the harm identified, the scheme would be in conflict with Policy DEV24 of the JLP.
16. For the reasons given, the proposal would harm the character and appearance of the area and there are no exceptional circumstances to permit the development. As such, it would be in conflict with policies SPT12, DEV23, DEV24, and DEV25 of the JLP; policies TP1 and TP22 of the Thurlestone Parish Neighbourhood Plan 2015-2034, and the advice contained within the Council's JLP Supplementary Planning Document and South Devon AONB Management Plan. Collectively, and in this respect, these policies and guidance seek to conserve and enhance local landscape quality and distinctiveness. There would be conflict with paragraph 182 of the Framework. There would also be conflict with paragraph 88 of the Framework which says, amongst other things, that

decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.

Other Considerations

17. In this regard, the residents/mooring holders car park would provide some accessible parking spaces and an EV charging bay, which represent very small social and environmental benefits. The appellant's submission says that it would provide 28 parking spaces for the 160 mooring holders. It is however also claimed that these spaces would be for permit holders and estate staff. The evidence is contradictory. Having paid regard to the representations, whilst the car park would be likely to be more convenient for a small proportion of the intended user group, there is evidently sufficient capacity elsewhere, including within the main car park.
18. Furthermore, although with double yellow lines, and at a busy passing place for vehicles, the turning circle near the entrance to Bantham Quay provides a well-located spot for offloading equipment. As such, the proposed car park's overall benefits to public access and enjoyment of the coast would be very limited.
19. The toilet/shower block would provide a building of an appropriate welfare and hygiene standard. It would be an accessible facility with baby changing, additional toilets, and new open sided showers. Consequently, it would accord with criterion f) of paragraph 135 of the Framework. However, this paragraph also requires that decisions ensure developments are sympathetic to local character and landscape setting. In that context, it has not been demonstrated that the proposed building would be the only or optimal way to achieve such provision, particularly in respect of the proposed water sport shower facilities. As such, the amount of weight that can be given to this as a benefit is limited.
20. The STP would provide a replacement to an existing deteriorating system. Even so, this is a neutral factor. Additionally, the ANPR system would be representative of a private car parking management arrangement. As such, it is a consideration that can be afforded very limited weight as a benefit of the scheme.
21. There would be some proportionate biodiversity enhancements related to the development proposed. The appellant says that these are over and above what the application ref 0227/20/FUL permitted on some of the appeal site. Whilst that may be the case, those enhancements related to a different development. Having paid regard to the LVIA technical note, whether appropriate biodiversity enhancements for both schemes would result is something of a moot point. Even if they would, any such environmental benefits would be modest.

Other Matters

22. My attention has been drawn to a Certificate of Lawfulness application. However, this has no bearing on my decision which is based on the planning merits of the proposal.
23. I have paid regard to the officer recommendation and consultee support given to the scheme. However, in considering these recommendations, the Council refused the proposal on grounds that I have agreed with.
24. The appeal site is within an area identified as having the potential to have a likely significant effect on the Start Point to Plymouth Sound & Eddystone

Special Area of Conservation. These are statutorily protected habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended). Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites.

25. However, as the identified harm in respect of the character and appearance of the area provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision since any findings on this issue would not change the appeal outcome.
26. There are a number of listed buildings nearby. Consequently, there is a statutory duty to pay special regard to the desirability of preserving their setting. From the evidence before me it is apparent these buildings are significantly separated from the appeal site by intervening built form and vegetation. As such, noting definitions set out in the Framework, the appeal site is not within their setting. Furthermore, neither party has raised any concerns in this respect.

Conclusion

27. 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.
28. I have concluded above that the proposal conflicts with the development plan, when taken as a whole. Furthermore, even when considered cumulatively, the weight given to the other 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