



## Appeal Decision

Site visit made on 22 March 2019

**by Tobias Gethin BA (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 June 2019**

---

**Appeal Ref: APP/K1128/W/18/3218669**

**Selworthy House, Warren Road, Kingsbridge TQ7 1LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs R Balkwill (Selworthy Veterinary Practice) against the decision of South Hams District Council.
  - The application Ref 4257/17/OPA, dated 12 December 2017, was refused by notice dated 5 July 2018.
  - The development proposed is described as outline application for the demolition of existing buildings and the erection of 18 dwelling units (8 affordable) with associated highway access, parking and landscaping.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal is made in outline with all matters except access reserved for future consideration. I have therefore assessed the drawings as merely illustrative insofar as they relate to the reserved matters.
3. The National Planning Policy Framework (the Framework) was revised in 2018 and again in 2019. Appeal documents were submitted after the 2018 update and the main parties were given the opportunity to comment on the relevance of the 2019 version. I have had regard to the 2019 Framework in reaching my decision.
4. Since the Council's decision on the planning application, the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (JLP) has been adopted. For the purposes of decision making, the JLP is now the development plan. The main parties were given the opportunity to comment on this, and I have taken the comments received into account in my consideration of this appeal.
5. In the context of the previous development plan, the main parties agreed that the Council did not have a five-year housing land supply. However, with the adoption of the JLP, the Council indicates that it can now demonstrate a sufficient housing land supply. The appellants have not contested the housing land supply position following the adoption of the JLP. The government's Housing Delivery Test results also demonstrate sufficient housing delivery in the Council's area, while the recent adoption of the JLP means that the policies are not out-of-date. The tilted balance set out in paragraph 11d) of the Framework is therefore not triggered.
6. During the course of the appeal process, the Council alleged conflict with two additional development plan policies. Following adoption of the JLP, these were confirmed as Policies TTV26 and TTV27. I have had regard to these policies, as well as the additional policies, SPT2 and TTV2, subsequently referred to by the

appellants, in reaching my decision. I am satisfied that this has not prejudiced the main parties given the opportunities for them to comment on the details.

## **Main Issues**

7. The main issues are:

- the effect of the development on the character and appearance of the surrounding area, with particular regard to the South Devon AONB; and
- whether the development's housing mix would be appropriate.

## **Reasons**

### *Character and appearance*

8. The site is within the South Devon Area of Outstanding Natural Beauty (AONB) and the Undeveloped Coast. The north-west corner of the site includes several buildings and an area of hard standing, and a relatively long access road leads to there from Warren Road. Close to the existing settlement of Kingsbridge, the developed part of the site relates to the surrounding properties and the more built-up areas to the south and west, and effectively appears to form part of the town. The remainder of the site, covering the majority of it, consists of open, undeveloped fields. This part of the site marks the start of and reflects the more open and sparsely settled nature of the surrounding area to the south-east, east and north of the site. That area generally consists of fields, mature trees and some scattered development set within the rural landscape and countryside. Given the topography of the site and the area, and the site's position with far reaching views, it is visible from numerous points in the surrounding area and is experienced as contributing to the area's undeveloped character and open landscape.
9. On an unallocated site, the development would extend built form into the site's open, undeveloped surroundings. This would have an urbanising effect on the site, the AONB and Undeveloped Coast, and would extend the apparent extent of Kingsbridge into the area's rural surroundings. Consequently, the development would have a suburbanising effect on the countryside and would appear as an incongruous feature that would detract from the surrounding area's openness and be out of character with the scattered, less dense built environment in the surrounding undeveloped rural landscape.
10. Part of the site, containing the access track, existing buildings and area of hardstanding, is developed land. However, I observed on my site visit that the land immediately to the south of the existing buildings, although used for parking, consists of an open grass field containing no previous or existing structures. It is also beyond Selworthy House's clear garden boundary of hedging on a raised bank. This area and the large field to the east are therefore undeveloped land, and they cover the majority of the site. Consequently, although the development on the developed part of the site would not result in a significant change from the existing situation, the development on the remainder of the site would. This would result in a noticeable encroachment into the rural landscape, and it would be this that would cause the harm.
11. I recognise that any development on the edges of Kingsbridge may affect the AONB, and that in this instance, the replacement of the existing buildings would be with high quality dwellings that reflect local vernacular but in a less dense manner than the built form of Kingsbridge. However, this does not lead me to a different conclusion.

12. The appellants' Landscape and Visual Impact Assessment (LVIA) and its addendum indicate that the development would not be particularly visible from various points, including to the west and south-west of the site, from Kingsbridge estuary and from the road bridge to the east. It also identifies that the site is frequently viewed from within the context of residential development in the surrounding area, and that landform and mature trees screen the site from some positions. However, the LVIA identifies that the site is of high landscape value and as shown in the LVIA and from my own observations, the development would be clearly visible from a number of public vantage points, including immediately to the south and from the east and south-east.
13. The southern part of the site extends down to Embankment Road. Given the open boundary treatment here, a significant part of the site is therefore visible along the highway. I acknowledge that views of the development would be limited to a few seconds for drivers. However, the site is also visible from Kingsbridge cemetery, as per viewpoints 11 and 12 of the LVIA. The effect of the development would therefore be experienced from this area as more than simply a fleeting event, and would clearly be seen as enclosing the site and extending built environment and the denser settlement form of Kingsbridge into the countryside.
14. Further away to the east and south-east, the site is clearly visible from the public realm, including as shown in LVIA viewpoints 4-7. From here, the more densely developed areas of Kingsbridge are apparent to some extent. The site is therefore not secluded or set within an expanse of otherwise undeveloped land. Mature trees also provide some screening of the site and nearby development and the site is set within the mid topographical range. Nonetheless, the site is clearly visible from these points and is experienced as providing a distinct edge to Kingsbridge, with the denser built environment being more distant, around the corner delineated by High House Point, and stretching away from the viewer. The site therefore acts as a transition to the countryside and its less dense, scattered built form.
15. Asserting that the site has a limited visual presence in the AONB, the LVIA seeks to place views of the site and development into the panoramic context of the estuary and wider landscape. However, despite its relatively small size compared to the expansive context, I observed on my site visit that the site forms an important part of the rural landscape and that the development would be very noticeable from these areas, particularly so from viewpoints 6 and 7. Given the site's position and the development's relatively large size compared to the other nearby permitted schemes, the effect of the development would not be lessened significantly due to the expansive nature of the views in these positions. The development of the other nearby sites referred to by the appellants would be smaller than the appeal proposal and would also generally appear from the wider area as either in-fill or inconsequential extensions of the built environment. Consequently, the development would be experienced from the surrounding area as significantly extending built form beyond the existing edge of Kingsbridge, spilling it around the corner delineated by High House Point, and out of character with the less dense and more sparsely settled nature of the rural landscape.
16. I acknowledge that layout, landscaping, appearance and scale are reserved matters. Amongst other aspects, the site's layout and the provision of soft landscaping and boundary treatment could therefore be designed at reserved matters stage to reduce the development's effect on the surrounding area by for example, breaking up the site and providing green space throughout it. However, given the site's topography and position, the amount of landscaping that would be required to screen the development and maintain the site's green, undeveloped and open appearance would be significant, even with the dwellings being designed

to be split level so as to lower their roofscape into the landscape. Such extensive landscaping would, of itself and irrespective of the site's layout at reserved matters stage, also appear out of keeping with the open nature of the site and the surrounding open fields. Designing the dwellings to reflect local vernacular and to continue the established settlement pattern of Kingsbridge, and providing hedge banks, green roofed garages and grass seeded car park surfacing do not lead me to a different conclusion.

17. The main parties consider that the development does not constitute major development with respect to paragraph 173 of the Framework. Although I note that other parties disagree with this, from the evidence before me I am satisfied that the appeal proposal, taking account of its nature, scale and setting, does not constitute major development in this instance. However, this does not lead me to a different conclusion about its effect on the AONB or the character and appearance of the surrounding area and the Undeveloped Coast.
18. The JLP and the Framework seek to protect, conserve and enhance the natural environment and valued landscapes, recognise their distinctive characteristics and special qualities, and attach great weight and the highest degree of protection to conserving and enhancing the landscape and scenic beauty of AONBs. I attach significant weight to this. I am also mindful of the duty under section 85 of the Countryside and Rights of Way Act 2000 for regard to be had to the purpose of conserving and enhancing the natural beauty of the AONB.
19. For the above reasons, I conclude that the proposal would harm the character and appearance of the surrounding area, with particular regard to the South Devon AONB. I therefore find that the proposal fails to accord with Policies SPT1, SPT12, DEV23, DEV25 and TTV26 of the JLP. Amongst other aspects, these require development to: respect scenic quality and the area's distinctive sense of place and characteristics; and protect, conserve and enhance the site's setting and natural beauty of the protected landscape, with particular reference to the special qualities and distinctive characteristics of the AONB and the unique landscape of the Undeveloped Coast. These policies are broadly consistent with the Framework in so far as they relate to achieving well-designed places and conserving and enhancing the natural environment.

#### *Housing mix*

20. The development would provide 18 dwellings, including 8 as affordable rented units which would be secured through a s106 agreement. The illustrative layouts show eight semi-detached and ten detached dwellings in relatively large plots.
21. The main parties have referred to various evidence relating to housing mix need in the area. From the evidence before me, it appears that there is a need for a variety of dwelling sizes and types. Although the indicative layouts show ten large detached plots, there is a mixture of semi-detached and detached dwellings. With layout being a reserved matter, a suitably worded condition could be used to secure an appropriate mix of dwelling sizes.
22. The Council cites an appeal decision relating to housing mix for a reserved matters application as to why housing mix needs to be confirmed at outline stage. However, amongst other aspects, I note that the Inspector for that appeal found that there were no imposed planning conditions which required the agreement of an appropriate mix of housing at reserved matters stage. It was not the case that a condition could not have been used. I am therefore satisfied that a suitably worded condition could be used to ensure that development was designed to provide a compliant mix of dwelling sizes.

23. I recognise that there is a difference between the affordable housing requirements of Policies DEV8 and TTV27 of the JLP. However, given the site's location on the edge of Kingsbridge and within the AONB, I am satisfied that the development would provide housing in a rural area rather than in the Thriving Towns and Villages Policy Area, which DEV8 relates to. In this instance, it is therefore appropriate to consider the development against the market and affordable housing requirements in Policy TTV27.
24. Policy TTV27 sets out that residential development on sites adjoining or very near to an existing settlement may be permitted provided that it can be demonstrated that, amongst other aspects, it includes a mix of affordable and market housing products where necessary to be financially viable, with open market housing not representing more than 40% of the homes or 40% of the land take excluding infrastructure and services. The development would result in an uplift of 16 dwellings on the site, with the indicative layouts showing three of the total of 18 on the previously developed part of the site.
25. With eight being affordable rented units, there would be an equal split between market and affordable housing when considering the site as a whole. I recognise that the layout is indicative and the planning obligation does not stipulate the affordable units would be in the semi-detached properties. However, the number of affordable units is confirmed as eight in the planning obligation, and based on the details supplied by the appellants, the affordable units would be the semi-detached dwellings located in a relatively small part of the site, with the market homes occupying the majority of the site. The proportion of affordable and market housing would therefore not meet the policy requirement of TTV27, and I have little evidence to indicate that this alternative mix is justified.
26. This is the case even if the three dwellings indicatively located on the previously developed land section of the site were to be discounted from the affordable housing calculation. I am not satisfied that a suitably worded condition could be found that could resolve this conflict by requiring for example increased density and/or a specific number of dwellings in certain parts of the site and avoiding development in other parts. It is also not for me to decide which parts of the site should and should not be developed. Furthermore, such an approach could result in unintended and unassessed consequences such as in relation to the development's effect on the character and appearance of the surrounding area.
27. I recognise the need for affordable housing, and I attach significant weight to the benefits of providing it. Although the planning obligation would secure the provision of affordable housing at the site, in line with Policy DEV9 of the JLP, the provision would fall short of meeting local housing needs in rural areas. For the above reasons, I therefore find that the proposal would conflict with Policy TTV27.

### **Planning Balance**

28. The appellants' examples of recently permitted housing near to the appeal site are for smaller schemes than the appeal proposal and are on sites with different contexts. Other examples of appeal decisions for larger housing schemes are also cited. However, I do not have the full details of those, and they are in a different area to the appeal site. All the examples were also determined under the previous local plan. Based on the evidence before me, it therefore appears that each have different circumstances to this proposal. Consequently, I find that the examples are not directly comparable or relevant to the acceptability of the appeal proposal. I have therefore dealt with this case on its individual merits.

29. A larger area of land encompassing the appeal site was put forward as part of the Call for Sites under the South Hams Land Availability Assessment (SHLAA). I recognise that the SHLAA did not identify development constraints for that site in relation to the historic environment, flooding, drainage and water quality. The Council has not identified any such concerns for the appeal proposal, nor has not raised objections in terms of highways, land contamination or harm to neighbours. The appeal site also covers a reduced area, and the appeal proposal is smaller than some other developments in Kingsbridge. However, the evidence before me indicates that the appeal site is not a site allocated for development in the JLP, and I note that the SHLAA identified, amongst other aspects, potentially significant landscape impact from development of the greenfield site within the AONB.
30. In order to achieve the proposed quantum of housing and affordable housing, I recognise that the site needs to include undeveloped land. I acknowledge that the appellants could consider re-developing the developed part of the site and that this would be likely to deliver fewer dwellings and may not include any affordable housing. However, I have little evidence that indicates that such a scheme would proceed and, in any event, such a theoretical alternative does not indicate that harmful development over a larger area should be allowed.
31. The appellants have referred me to Policies SPT2, TTV1 and TTV2 of the JLP, highlighting that these are closely linked to SPT1. From the evidence before me, the development would not be contrary to the expectations of Policy TTV2. However, my findings on the main issues indicate that the development would be contrary to Policies SPT2 and TTV1. Amongst other aspects, the development would conflict with the requirements of Policy SPT2 relating to providing higher density living which is appropriate to the local area, including a good balance of housing types and tenures, and providing a positive sense of place which protects the natural environment. Setting out the Council's growth hierarchy, Policy TTV1 prioritises growth in the main towns and, amongst other aspects, requires developments to demonstrate support for the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27. With my findings that the proposal is contrary to Policies SPT1, TTV26 and TTV27, and given the site's rural surroundings on the edge of Kingsbridge, I am satisfied that the latter part of SPT2 is relevant, and consequently that the proposal fails to accord with this policy.
32. As set out above, the evidence before me indicates that the Council can demonstrate sufficient housing land supply following the recent adoption of the JLP. However, even if sufficient housing land supply could not be demonstrated, the harm to the AONB means that the application of Framework's policies that protect areas or assets of particular importance, including AONBs, provides a clear reason for dismissing the appeal.
33. I recognise that the appellants carried out community consultation, that Kingsbridge Town Council and the Council's Housing Team support the development, and that some other consultees have not objected. I acknowledge that the relocation of the vets on the site would allow that business to grow, reduce commercial traffic and mean that development on the site may be deliverable relatively quickly. Adjoining the settlement of Kingsbridge, the site would have also good access to services and facilities. This would reduce the need to travel and support the move to a low carbon economy. However, these aspects do not indicate that harmful development should be permitted.
34. The lack of a planning obligation was a reason for refusal, but one was provided as part of the appeal. The planning obligation would secure funding sufficient for the education and sport and recreation requirements which would stem from the

development. It would also secure a landscape and ecology management plan and open space specification and management. These aspects would equate to benefits, although they attract neutral weight as they are required in order to comply with JLP policies DEV26, DEV27 and DEV30.

35. Affordable housing is a significant benefit, and it too would be secured by the s106 agreement. However, the proposed level of affordable housing would not meet policy expectations. I therefore attach limited weight to it in this instance, and do not need to consider it further given my findings above.
36. There would be other benefits associated with the proposal. This includes: increasing the supply of housing, which is needed locally; employment opportunities, particularly during construction; and additional housing resulting in extra spend in the local area which would support the local community. Identifying that the ecological impact would be relatively low, the ecology assessment also identifies that the development's indicative landscaping details and other design measures would provide some ecological enhancements.
37. However, given the development's scale, such benefits would be relatively limited, and in any event could be achieved elsewhere where harm would not result. Such matters do not outweigh the conflict with the development plan and the significant harm that would be caused. Given the development's harm, it does also not adequately address the environmental and social aspects of sustainable development as set out in paragraph 8 of the Framework. It does not therefore constitute sustainable development or an effective use of land.

### **Conclusion**

38. For the above reasons, the appeal is dismissed.

*Tobias Gethin*

INSPECTOR