



Appeal Decision

Site visit made on 23 November 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/K1128/W/20/3256923

Old Stone Barn with land at SX778426, Frogmore

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Grigg against the decision of South Hams District Council.
 - The application Ref 1115/20/FUL, dated 9 April 2020, was refused by notice dated 9 June 2020.
 - The development proposed is associated operational development to allow for conversion of stone barn to flexible use (cafe) as consented under prior approval 0189/19/PAU, including change of use of land to provide extended curtilage and associated access, parking, turning and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr C Grigg against South Hams District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effects of the development on the landscape character and appearance of the South Devon Area of Outstanding Natural Beauty (AONB);
 - whether the development would be at risk of flooding, and whether it would increase flood risk elsewhere;
 - whether the location of the development accords with local policies which seek to restrict development in rural areas;
 - Whether the proposal would accord with the local policy in relation to the rural economy, avoidance of adverse effects and minimisation of the need to travel by private vehicle.

Background

4. The change of use of the building to a flexible use, in this case a café, is permitted by Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (the GDPO). The Council confirmed, under application reference 0189/19/PAU, that prior approval for the change of use was not required.

5. The current proposal involves operational development to the building which goes beyond the permitted development outlined in 0189/19/PAU. The operational development includes an extension and increase in height of the building, new access road, provision of a car park and associated landscaping. The extent of operational development has been reduced from an earlier proposal which was refused and subsequently dismissed on appeal¹.
6. Separately, an agricultural building with a concrete apron was also determined under a prior approval application. The Council confirmed that prior approval was not required for this building (reference 4104/18/AGR) or a connecting section of track (Ref 4105/18/AGR). These would be located close to the café.
7. An agricultural access onto the A379 which once had the benefit of planning permission (Ref 2445/17/FUL), lapsed during my consideration of the appeal, on the 3 January 2021. The appellant confirmed that the pre-commencement condition had not been discharged nor the permission implemented in any way.

Reasons

Character and appearance

8. In respect of the works to the barn, including the lean-to extension and raising of the roof with the glazed strip, my colleague found that they would allow for its original form to be discerned and would have limited impact on the wider landscape. The overall conclusion on works specifically to the building was that they would not harm its contribution to the area's landscape character and I have independently reached the same conclusion.
9. The new access from the A379 would create a wide opening in the roadside hedge with replacement hedge set behind the visibility splays. Substantial engineering works within the undeveloped field would provide a curved track that would run across the contours. The extent of hedgerow removal and rebuilding behind the visibility splays would be marginally greater than the previously dismissed scheme. Overall, these works would have a considerable impact on the rural character currently displayed by the appeal site.
10. My colleague found the meandering form of access to the agricultural barn to be a more sympathetic means of access than the previously permitted route. However, that conclusion was based on the permitted route being extant at that time and there being an absence of evidence to suggest that it, along with the connecting section of track and agricultural building, would not otherwise be implemented. The evidence before me in this case is markedly different. The agricultural access is no longer extant and this leaves doubt about whether the agricultural building could, or would, be built in any event. Whilst it is suggested that the proposed access would serve a dual purpose for both the café and the barn, the lapse of time and now lapsed permission indicate that the agricultural elements may not come forward in the manner suggested. The materiality of these considerations has therefore reduced significantly.
11. I am mindful that the spread of development, including the car park and manoeuvring space would be much reduced from the previously dismissed scheme and that the reduction in the café courtyard space to its stone-walled enclosure would minimise the degree of visual clutter from furniture and other paraphernalia. However, the proposal would still represent a significant

¹ APP/K1128/W/19/3235270 dated 7 February 2020

- intervention in a small-scale landscape that would jar with its existing natural qualities.
12. Whilst the submitted 'Visual Impact Assessment' details that the proposed development would allow the site to retain its rural and agricultural appearance in the landscape from the selected vantage points, these conclusions rely heavily on the introduction and establishment of substantial amounts of landscaping. The submitted photomontages attempt to visualise the completed scheme with a heavily treed and landscaped setting. However, there is some uncertainty about the success of such a landscaping scheme and the photomontages appear to downplay how the scheme would realistically appear once completed and operational, through lack of any associated paraphernalia (e.g. signage, furniture) and lack of street presence that would be likely to be needed to attract passers-by to the site. As such, there is some doubt in my mind that the completed scheme would appear as subtle and green as is depicted, also because much reliance is placed on the association with the extant agricultural building to justify the scheme which has been omitted from the visualisations entirely.
 13. The previous appeal considered the access, parking and associated works as an alternative to a fallback position for which there was a realistic likelihood of implementation. The likelihood of such a fallback being implemented is now in doubt, given the lapse of the permission for the access onto the A379. The proposal would no longer represent an improved alternative and proportionate addition to those developments, but appears to have become the primary driver behind such a scalable and deliberately engineered intervention to the landscape. The scale of impact on the natural qualities of the landscape and surrounding AONB would exceed the modest scale of the barn and irretrievably and harmfully alter its agricultural setting.
 14. For these reasons, the proposal would harm the landscape character and appearance of the AONB and, thus, conflicts with, in particular, Policies DEV23 and DEV25 of the Plymouth and South West Devon Joint Local Plan 2014 – 2034 (adopted 2019) (Local Plan). Amongst other things, these Policies seek to give the highest degree of protection to AONBs and ensure that development is of high quality architectural and landscape design, appropriate to its landscape context. For similar reasons the proposal would also conflict with paragraph 172 of the National Planning Policy Framework (the Framework).

Flood risks

15. In contrast to the previous scheme, other than a minor element on the lower part of the access road, some of the landscaping and the footpath to Mill Lane, the scheme has been devised to avoid as much of flood zones 2 and 3 as reasonably and logically as possible. The submitted Flood Risk Assessment and associated addendum demonstrate that the proposal has been assessed in the context of the Framework and the relevant sequential and exceptions tests.
16. The element of the access track that would overlap with the higher risk flood zone is little different to that which would have served the agricultural building under the connecting part of the track for which the prior approval is still extant. Given that that section of track was intended to connect to an access which has now lapsed, there is now some degree of doubt about the likelihood of its implementation.

17. In applying the sequential test, the Council indicates that a café use could be located in a sequentially preferable location elsewhere. Theoretically, a café use could be located in a sequentially preferable position. However, the building itself would obviously remain in a fixed position in an area of minimal flooding risk with the extant change of use approval. Thus, the proposal could not simply be relocated to a sequentially preferable location.
18. The pedestrian footpath linking the café with Mill Lane would be entirely within flood zones 2 and 3. In the event of a flood, the footpath would be at risk of flooding. The alternative route along the A379 is busy with fast-moving traffic and absent of streetlighting and footways. As such, walkers would be unlikely to use the A379 route and could end up stranded in the event of a flood on the footpath to Mill Lane.
19. The GPDO rights that facilitate the change of use of agricultural buildings does not typically result in businesses being located where they are capable of being accessed on foot. Though the pedestrian access to the proposed café would be within a high risk flood zone, in respect of the exceptions test, that the café could be accessed on foot by local residents would actually be a positive sustainability benefit. In the event of a flood, users of the café would be safe waiting inside until any flood event subsided, car users could continue to utilise the flood-free areas of the access road and/or pedestrians could be collected by other car users or by taxi to avoid walking along the A379.
20. In terms of site-specific water management, whilst concerns have been raised about the potential effects on the behaviour of surface water run-off from opening up and surfacing an area from the A379, this could be addressed by way of a detailed surface water drainage scheme with an allowance for climate change. A separate non-mains foul drainage solution could also be designed and installed. Therefore, the proposal could be designed to avoid increasing flooding risks or polluting the water environment.
21. Drawing together this issue, I am mindful that the exceptions test requires that the overall sustainability benefits of the development should outweigh the flood risks. Given my findings above in respect of the character and appearance of the AONB, I return to this matter later in my decision.

Location of development

22. In respect of the location of the development. The Council indicate that it is not 'isolated'. Whilst visually standing alone and some approximate 100 metres away, it is geographically close and easily walkable from the nearby village of Frogmore and seen in context with other buildings on approach to the village. Consequently, part (1) of Local Plan Policy TTV26 does not apply.
23. The remainder of Policy TTV26 relevant to the proposal requires that the development shall re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration (ii). The alterations specifically proposed to the building have been found acceptable. It also requires that development shall be complementary to, and not prejudice any viable agricultural operations on a farm (iii). In this regard, there would be a need to consider the logistical arrangements to avoid conflicts between the movement of vehicles, people, goods and livestock between the café, car parking, agricultural building and surrounding land. These uses and the nature of their adjacent relationship would not be an obviously logical fit. However, as

it is claimed that the access would serve a dual purpose, there is limited evidence to suggest that the proposal would prejudice the existing or future agricultural use.

24. Part iv) of the Policy sets out that developments shall respond to an agricultural, forestry or other occupational need that requires a countryside location. However, as with all requirements of Policy TTV26 (2), it should only do this '*where appropriate*'. The specific countryside location of the proposal is fixed by the position of the building that is to be reused utilising GPDO rights and in doing so would accord with another element of the Policy (TTV26 (2) (ii)). In this sense, whilst the change of use prior approval remains extant, it is not appropriate to seek demonstration of the need for the location.
25. In view of this issue, the proposal does not conflict with Local Plan Policy TTV26.

Rural economy and sustainable travel

26. Policy DEV15 sets out that support will be given to proposals in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy, provided they meet a number of specific criteria. The development of small businesses in rural areas will generally be supported under the Policy, subject to there being no adverse impacts on the environment. Clearly, an adverse impact on the landscape qualities as set out in the first main issue raises conflict with this Policy.
27. The other specifically relevant part of the Policy (8)(ii) is that developments must avoid a significant increase in the number of private car trips and facilitate the use of sustainable transport, including walking and cycling.
28. The Policy is based on the rural economy and rural businesses. There is some degree of acknowledgment that such businesses are likely to result in a greater degree of car dependency than businesses based in the Main Towns or other villages higher up the settlement hierarchy (Policies SPT1, SPT2 and TTV1). The Policy also goes on to suggest that development should promote sustainable transport, again, '*where appropriate*'.
29. The proposal would be located relatively close to an existing small-scale settlement. Its customer base would be likely to be local residents and passing tourists. Given its modest scale and use, it is unlikely to become a popular destination that would specifically draw additional vehicular movements. The modest number of café seats and associated car spaces further supports my view that the number of trips would be far from significant. In addition, there would be a means of pedestrian access to the site, also capable of being used by cyclists. The proposal would therefore also promote sustainable transport through the footpath. Furthermore, a detailed Sustainable Travel Plan, including consideration of the full range of vehicular movements (deliveries etc.), could also be sought by a planning condition.
30. Insofar as it would be located so as to minimise car dependency and maximise the use of sustainable modes of transport, to the extent appropriate to its location, it does not conflict with Local Plan Policy DEV15. However, overall compliance with the Policy is premised on the totality of the considerations and avoidance of harm; a point to which I return below.

Other Matters

31. I note that the appellant's evidence emphasises my colleague's assessment of the former scheme and has largely based the current proposal on inferences from his decision on ways in which the harm could be minimised. Whilst his decision is a material consideration, I am not bound by it and it appears that his conclusions were reached in light of factors relevant at that particular time. For reasons already outlined, the circumstances have shifted to an extent that I can no longer attribute them the same degree of weight.
32. I note the reference to the ability to limit external lighting in order to protect the dark skies in accordance with Local Plan Policy DEV25 (8)(iv). The avoidance of further harm attracts neutral weight in the overall balance.
33. I also note the emphasis on the proposed café utilising and serving local produce. As this is not an aspect that could be conditioned, perhaps other than through more tenuous means captured within a Sustainable Travel Plan, it is not a matter to which I can attribute weight.

Planning balance and conclusion

34. Given the AONB status of the area, great weight should be applied to the conservation and enhancement of the landscape and scenic beauty. There is now some doubt about the likelihood of implementation of related developments to which some of the anticipated landscape harm could have been apportioned. The amount of harm that would derive specifically from the appeal proposal is therefore now much increased. In my view, the scale and extent of change to the designated landscape would be harmful and out of scale with the proposal. Consequently, the proposal conflicts with the development plan, read as a whole.
35. In terms of the benefits of the proposal, it would facilitate the reuse of a building identified as a non-designated heritage asset (NDHA), which may otherwise be at risk of further decay. Both Local Plan Policy DEV21 and the Framework promote the conservation of the historic environment. For NDHAs, the weight to be applied to any change should be relative to its significance.
36. Whilst an attractive specimen, the barn is a characteristic feature of the wider agricultural landscape and similar surviving examples are likely to exist. I have not been directed to any evidence to suggest that the building is of any greater importance which indicates that its significance as an NDHA is moderate. Nor is there any suggestion that the changes to its setting, which I have found would be harmful to the landscape's character and appearance, would be so compatible so as to ensure the preservation of its heritage significance in any case. Consequently, this matter attracts only modest weight.
37. There would be wider economic benefits and a degree of social benefit by providing a café that would be accessible to local residents and visiting tourists. I also attribute moderate weight to these benefits.
38. There would not be any specific harm arising from the number of car trips and the proposal would be capable of maximising sustainable transport, to an extent appropriate to its location. However, the absence of harms attracts only neutral weight in the overall balance.

39. The location of the development has been addressed relative to flood risks through the sequential assessment, but my finding of acceptability only amounts to an avoidance of harm. The exceptions test prescribed by Local Plan Policy DEV35 and the Framework further require that the broader sustainability benefits outweigh the identified harm.
40. However, taken together, the modest benefits of the scheme do not outweigh the identified harm and thus, do not indicate that a decision should be taken other than in accordance with the development plan.
41. For the reasons stated above and taking into account all other matters, the appeal is dismissed.

Hollie Nicholls

INSPECTOR