
Appeal Decision

Site visit made on 9 February 2015

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2015

Appeal Ref: APP/K1128/A/14/2220204

Site of Former Woodpecker Inn, Avonwick, South Brent, Devon, TQ10 9ES

- 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 Laurie De Mel Properties against the decision of South Hams District Council.
 - The application ref. 57/3054/13/O, dated 28 May 2013, was refused by notice dated 20 March 2014.
 - The development proposed is: redevelopment of the former Woodpecker Inn site to provide 20 low cost live/work units, office hub and associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the information on the application form, the appellant confirms that the only matters of detail reserved for future determination are the appearance and landscaping of the development.

Main Issues

3. The main issues in this appeal are:
 - (a) the effect of the proposal on the area's character and appearance;
 - (b) whether the proposal would accord with policies of the South Hams Local Development Framework (LDF) that seek to reduce private car usage and encourage alternative forms of sustainable transport;
 - (c) the scheme's effect on highway safety;
 - (d) whether satisfactory living conditions would be created for the scheme's proposed occupiers;
 - (e) whether adequate drainage would be achieved; and
 - (f) whether the scheme's lack of provision towards affordable housing, open space, sport and recreation, and education is justified.

Reasons

Character and Appearance

4. The appeal relates to a triangular area of vacant land that was previously occupied by a public house (now demolished). It is bounded on all sides by roads: to the north-west lies the busy A38 dual carriageway and slip-road,

while to the south the site is adjoined by a quiet lane with fields beyond on rising land. To the north-east of the site runs the road from South Brent to Avonwick and Totnes. The A38 at this point forms the southern boundary of the Dartmoor National Park.

5. It is not disputed that the appeal site is in a poor condition, appearing derelict and somewhat overgrown. It comprises previously-developed land and has been the subject of a previous planning permission for two office buildings. Nevertheless, the A38 dual carriageway provides a clear visual separation between the appeal site and the settlement of South Brent. As such, and notwithstanding the obvious presence of the A38 itself, the site's surroundings have a predominantly rural character.
6. The appeal scheme proposes a central access road flanked on two sides by live/work units and parking. An office hub building would be located at the site entrance. The new units would lie close to the site's boundaries, with the rear elevations of those on the south side (a terrace of 10 units) being set back a minimum of only some 1-2 metres from the adjoining lane. This would allow little, if any, space to introduce significant landscaping along the site's southern boundary. The resulting effect would create a hard urban edge along the lane that would be uncharacteristic of the site's rural surroundings.
7. While the units on the northern side of the site would lie somewhat further from nearby roads than those on the south, the resulting separation distances (a minimum of some 5-6 metres) and the terraced nature of the new units themselves would combine to create a similarly urban character. Given that much of the intervening space would consist of road verges lying outside the site, and outwith the control of the appellant, there is no certainty that the landscaping shown on the submitted drawings for those areas could be secured in practice. Taken together, and irrespective of the units' final design, these factors would create an uncharacteristic density of development within this predominantly rural location. Given the site's proximity to several roads, most notably the A38, this adverse effect would be easily seen by passers-by.
8. As such, I conclude that the area's character and appearance would be unacceptably harmed. In this regard the scheme would be contrary to policies CS7 and CS9 of the South Hams LDF Core Strategy (CS) and policies DP1 and DP2 of the South Hams LDF Development Policies Development Plan Document (DP DPD). Bearing in mind the degree of visual separation that is provided by the A38 between the appeal site and land to the north within the National Park, I agree with the appellant that the scheme would not materially harm the Park's setting. Although raised by the National Park Authority, this concern did not appear as one of the Council's refusal reasons. However, this matter does not over-ride my conclusion above.

Sustainable Transport

9. Although the site lies close to South Brent, which contains a range of local services and facilities, it is (as already described) separated from it by the A38 dual carriageway. A nearby bridge carries the A38 over the road from South Brent to Avonwick and Totnes, which runs past the site. The section of that road between the site and the village lacks pedestrian facilities such as footways and lighting. Bearing in mind the arrangement of road junctions next to the site, and noting that vehicles approaching the A38 tend to accelerate along the slip road, the resulting environment would act to discourage

pedestrian movement between the site and South Brent. As a result, journeys by private car would be encouraged.

10. The appellant states that the 'the previous use of the site and the approved development for offices did/would generate far more traffic than the current proposal'. However detailed comparative trip generation information using an accepted methodology has not been submitted. Furthermore, it is noted that the previous office scheme was approved subject to off-site footpath improvements taking place, including a pedestrian crossing and footway linking the site to South Brent. Given that the present scheme would include trips associated with both its residential and business elements, I have seen no substantive evidence that it would be likely to involve fewer overall movements than the previously approved office development. Indeed, it seems to me that the inclusion of a residential element would be particularly likely to require the provision of effective pedestrian linkages to facilitate trips, for example, to local shops or recreational facilities.
11. For these reasons, and notwithstanding the appellant's concerns about the cost implications of the previously-proposed pedestrian works, I conclude that the proposal would not accord with policies of the South Hams LDF that seek the reduction of private car usage and the encouragement of alternative forms of sustainable transport. In particular, it would conflict in this regard with CS policies CS1 and CS11 and DP DPD policies DP7 and DP15.

Highway Safety

12. The Council's concerns in respect of this matter, which are shared by the local highway authority, relate to the lack of appropriate pedestrian facilities and the absence of detailed information about the nature of the proposed access. In respect of the first of these, and in view of my comments above, I share the concerns of both authorities about the unsatisfactory nature of the existing linkage between the site and South Brent. While journeys on foot would be discouraged for the reasons discussed, they could not be prevented. The absence of safe crossing places and the need to use highway verges or the road carriageway itself would create a clear potential for safety conflicts.
13. Details of the site's vehicular access, which already exists, are shown on the application drawings. I have seen no evidence either that the arrangements proposed would be inadequate or that additional details, such as the provision of visibility splays, could not be appropriately required by planning condition were matters otherwise acceptable. However, in view of my comments about pedestrian movements I conclude that highway safety would be unacceptably harmed, contrary in this regard to CS policy CS8 and DP DPD policy DP7.

Living Conditions of Proposed Occupiers

14. While the appeal site lies close to a busy dual carriageway, the Council's Environmental Health section has raised no technical objections to the principle of the scheme on the grounds of noise disturbance or air quality. Bearing in mind the information submitted by the appellant, I have no reason to take a different view in respect of these matters.
15. However, I share the Council's concerns about the scheme's arrangements for amenity space. As already discussed, the new units would lie very close to the site boundaries. Land to the front of the units would be predominantly used for

parking. As such, very little outdoor amenity space would be available to the site's residents. While the appellant points to the availability of formal and informal recreational activities in nearby settlements, I have already commented about the inadequacy of pedestrian linkages to and from the site.

16. It is accepted that the scheme proposes live/work units rather than a solely residential development. At paragraph 21, the National Planning Policy Framework (the Framework) requires local planning authorities to facilitate flexible working practices such as the integration of residential and commercial uses within the same unit. However, one of the Framework's core planning principles (at paragraph 17) is to always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings. I have seen no evidence that the provision of workspace within a unit justifies the provision of a lower level of amenity for its residents. Indeed, it seems to me that, in the present case, the poor nature of pedestrian linkages to local recreational facilities would increase the need for adequate on-site amenity space provision.
17. The appellant states that it is unlikely that the occupiers of the site will have children. However, although not explicitly designed as family housing, the two-bedroom units now proposed could clearly accommodate a small family. Such occupation could not be prevented and, indeed, it would appear unreasonable to deny a family the opportunity of occupying a live/work unit. Taking these matters together, it seems to me that the combination of inadequate on-site amenity space and unsatisfactory pedestrian linkages to off-site recreational facilities would result in a poor standard of amenity for the site's residents. Accordingly, I conclude that satisfactory living conditions would not be created for the scheme's proposed occupiers, contrary in this respect to CS policy CS7 and DP DPD policies DP1 and DP3.

Drainage

18. The appellant states that South West Water has withdrawn its objection to the scheme's proposed drainage arrangements, which would involve foul drainage being discharged to a package treatment plant. However, an objection is maintained by the Environment Agency (EA).
19. National Planning Practice Guidance (PPG) states that connection to a package sewage treatment plant can be considered when connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality)¹. In the present case, I share the EA's concern that the appellant has failed to demonstrate that connection to a public sewage treatment plant is not feasible. Furthermore, given that much of the application site area would be covered by either the proposed new units or associated hard-standing – and noting that the scheme's layout is not a reserved matter – it has not been shown that adequate space would be available within the appeal site to incorporate any required facilities (such as soakaways) associated with a non-mains system. For these reasons, I conclude that it has not been demonstrated that adequate drainage would be achieved, contrary in this regard to CS policy CS8.

Affordable Housing and Developer Contributions

20. The Council requires the scheme to provide or contribute towards the following: affordable housing; open space, sport and recreation; and education. The

¹ PPG reference ID. 34-020-20140306.

appellant disputes the need for such provision and has not submitted a planning obligation.

21. While the proposed units are aimed at people wishing to use them for both living and working, it is clear that they would have a residential component. As already discussed, the scheme's particular nature does not provide an exemption from the requirements that would normally apply to residential development. Live/work units are not excluded from such consideration in the Council's Open Space, Sport and Recreation Supplementary Planning Document (SPD). Bearing in mind my comments above, it cannot be assumed that the development would not place some demands on local schools. Policy AH1 of the Council's adopted Affordable Housing DPD (AH DPD) contains no exception for live/work schemes; indeed, it specifically includes mixed use developments. As such, I see no reason in principle why this scheme should not provide contributions in line with this policy.
22. Paragraph 173 of the Framework requires that careful attention is paid to viability and costs in decision making. The appellant refers to a viability report that was submitted with the application. This seeks to demonstrate that – irrespective of the appellant's objection to the principle of the contributions – the scheme would not generate sufficient profits to contribute to open space, recreation and sport and education provision.
23. However, the submitted document simply consists of a spreadsheet showing various costs, fees and profits. No commentary is provided to explain or justify the particular assumptions that have been made: for example it is unclear whether the build costs are based upon appropriate data such as the Building Cost Information Service. As such, this does not amount to the robust evidence of costs that is required by the PPG². Taking these matters together, I conclude that the scheme's lack of provision towards affordable housing, open space, sport and recreation, and education has not been justified. In this regard the proposal would conflict with relevant policies including CS policy CS6 and AH DPD policies AH1 and AH3.

Overall Conclusion

24. For the reasons set out above, and having regard to all other matters raised, my overall conclusion is that the appeal should not succeed.

M J Hetherington

INSPECTOR

² PPG Reference ID: 10-022-20140306.