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## Appeal Decision

Site visit made on 31 January 2017

**by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

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

**Decision date: 21 March 2017**

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**Appeal Ref: APP/U1105/W/16/3163494**

**Axehayes Farm, Lane to Axehayes Farm, Clyst St Mary, Devon EX5 1DP**

- 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 & Mrs Precious against the decision of East Devon District Council.
  - The application Ref 16/1621/FUL, dated 7 July 2016, was refused by notice dated 1 November 2016.
  - The development was originally described as *"the erection of 7 business units in a courtyard formation with access road and parking."*
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 7 no. business units (use class B1 (a)) with associated access road and parking at Axehayes Farm, Lane to Axehayes Farm, Clyst St Mary, Devon EX5 1DP in accordance with the terms of the application, Ref 16/1621/FUL, dated 7 July 2016, subject to the conditions in the attached schedule.

### Preliminary Matters

2. For the purposes of clarity I have used the description of development from the decision notice and appeal form in the formal decision.
3. The appellant submitted, on the 6 March 2017, a photograph of the previously approved units that were under construction at the time of my site visit. The difference in level of completion of the external structure illustrated on the photograph to that at my site visit is minor in nature. I am satisfied that no party would be prejudiced by my consideration of the photograph.

### Main Issue

4. The main issue is whether the site is a suitable location for business units with regard to local and national policies.

### Reasons

5. The appeal site mainly comprises a paddock currently used as a site for touring caravans. It forms part of the overall Axehayes Farm site which includes the farmhouse, agricultural buildings and existing and partially complete business units. The site is some distance from the settlement of Clyst St Mary and it is located on a lane off the A3052. I noted at my site visit that the Hill Barton and Greendale Business Parks are located adjacent to the A3052 with parts of the former being in close proximity to the appeal site.
  6. The proposal would involve the construction of 7 business units (class B1(a)) and associated access road and parking areas adjacent to the existing and partially complete business units. I noted at my site visit that the majority of the previously approved units were complete and occupied with one building to
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- the rear still under construction. The latter appeared to be substantially complete externally with internal works being carried out. There is no dispute between the 2 main parties that the site is within the countryside/rural area.
7. Policy E5 of the East Devon Local Plan (LP) relates to small scale economic development in rural areas. The Council's reason for refusal states that the proposal is not small scale in nature but no further explanation of why it considers that it is not small scale has been provided. Furthermore, the Council's Officer Report states that the proposed buildings are not considered to be excessive in size and could be considered to relate reasonably to their context.
  8. There is no definition of small scale within the policy or its supporting text. However, taking into account the limited floorspace that would be provided and the overall scale of the units it is reasonable to consider the proposal as a relatively small scale development that would provide jobs for local people. I noted that the existing units contain offices for an architectural practice and building surveyors.
  9. The proposal would not involve the conversion of existing buildings and there are no permanent buildings on the appeal site. I note that the appellant considers that the site can be treated as being previously developed land but they have provided no additional evidence to support this. I do not have any detailed evidence in relation to the planning history of the site and the curtilages of the numerous uses on the overall site. Consequently, the evidence on this matter is inconclusive and I have treated the proposal as a greenfield site for the purposes of LP Policy E5.
  10. As such, LP Policy E5 states that the proposal should be well related in scale and form and in sustainability terms to the village and surrounding areas. I acknowledge that the appeal site is not within Clyst St Mary. However, the proposed units would be similar in scale, design and materials to the recently completed units. I note that a regular bus service runs on the A3052 and that the junction of the lane to Axehayes Farm with that road is equidistant between bus stops near the Cat and Fiddle Park and Hill Barton Business Park.
  11. I also note that the Highway Authority have confirmed that all the necessary improvements conditioned by previous developments have been completed in relation to the lane to the site. Even though the bus service may no longer stop on demand at the junction of the lane to the site and the A3052, as observed by the Inspector on the previous appeal decision<sup>1</sup>, I consider that in relation to the surrounding area the appeal site is well related in sustainability terms. Furthermore, the proposal would be as accessible in sustainability terms as the existing units or the adjacent Hill Barton and Greendale Business Parks.
  12. LP Policy E5 goes on to state that a number of additional criteria also need to be met. I note the concerns of the Parish Council regarding the amount of traffic on the A3052 and the impact of the proposal on the highway network. I recognise that local residents are very familiar with local road traffic conditions. However, I also note that the Highway Authority did not raise any highway objections subject to a condition.
  13. I saw that the A3052 is a busy road but there was no congestion in the vicinity of the site at the time of my site visit (mid-morning). I acknowledge that at other times of the day that there may be congestion but I have no reason to

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<sup>1</sup> APP/U1105/A/12/2171968 – 26 June 2012

dispute the Highway Authority's view that access to Axehayes Farm from the A3052 is suitable for increased development. Furthermore, the relatively small scale of the development and associated individual uses is unlikely to materially add to the use of the highway network.

14. I have no evidence before me to indicate that the proposal will harm any wildlife or historic interests. I note that prior approval was granted in 2015 for the conversion of agricultural buildings to 3 dwellings but I do not have the details of the scheme before me. Moreover, the proposed use of the units as B1(a) offices would be unlikely to cause any significant noise and disturbance in relation to any existing or future neighbouring occupiers.
15. The site is set well back from the A3052 and is screened by hedges and landscaping on the boundary of the site with the lane. Furthermore, the buildings would be single storey and would be seen in context with the adjacent buildings. As such, the proposal would not have a detrimental effect on the landscape of the surrounding area and the buildings would blend into their location. The appellant has stated that the buildings will be constructed in a sustainable manner using highly insulated techniques and I have no reason to dispute this.
16. LP Policy E7 relates to the extension of existing employment sites. There are occupied business units on the overall site and as such the proposal can be treated as an extension to an employment site. The units that are complete appeared to be fully occupied at the time of my site visit. As stated above there is one building nearing completion that is yet to be occupied.
17. However, the majority of existing units are occupied and taking into account the time taken to ensure full occupancy of the completed units it is likely that the remaining units will be occupied in the near future. Consequently, it is reasonable to consider that the employment site is near full occupancy. The proposal would be a small scale development and as such the expansion would be small scale. The expansion would be similar in size, scale and form in comparison to the existing units. As such, it would be proportionate to the existing size and scale of the site operations. There are a number of additional criteria attached to LP Policy E7 that are similar to those attached to LP Policy E5. Based on my findings above these additional criteria would be met by the proposals.
18. In conclusion, taking into account all of the above, I consider that the proposal would be a suitable location for business units and it would comply with LP Policies E5 and E7. Consequently, it would also comply with LP Strategy 7 which, amongst other things, states that development in the countryside will only be permitted where it is in accordance with a specific Local Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located. It would also comply with LP Policy D1 which, amongst other things, seeks to ensure that new development is of a high quality design.
19. The proposal would also comply with a core planning principle of the National Planning Policy Framework (Framework) which states that planning should support sustainable economic development to deliver the business units and thriving local places that the country needs.

### **Other Matters**

20. The Parish Council object to the proposal on a wider basis, including in respect of the loss of the caravan park and the planning history of the site. I note that the Council's Officer Report states that LP Policy E18 relates more to the loss of

buildings used for holiday accommodation rather than caravan/camping sites. This policy is not before me and as such I have no reason to dispute this. I note that the site has an extensive planning history but I am required to determine the appeal based on its own merits.

21. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

### **Conditions**

22. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the suggested conditions has been amended.
23. I have imposed a condition specifying the relevant drawings as this provides certainty. The conditions in relation to materials, the storage enclosure and landscaping are necessary in the interests of amenity and character and appearance of the area. The condition in relation to the access and parking is necessary in the interests of highway safety.
24. The condition in relation to drainage is required to ensure that surface water from the development is discharged as high up in the drainage hierarchy as possible and is managed satisfactorily. I have amalgamated the suggested conditions 8 and 9 to avoid duplication. I have removed reference to BRE Digest 365 Soakaway Design (2016) as the Council have control over whether the tests have been carried out satisfactorily. I have also removed reference to the Council's consultations with Devon County Council as this is a matter which the developer would not be able to comply with (as it relies on the actions of the Council). Consequently, such a condition would fail the test of enforceability.
25. I consider that a condition restricting the use of the development is reasonable in the interests of ensuring that the Council retains control over any future change of use taking into account traffic and highway safety and the rural location. I also consider it to be necessary and reasonable to effectively confine the offices to occupation by the small businesses for which they are intended by preventing subsequent alteration to amalgamate individual office units so as to create unduly large single offices potentially occupied by larger organisations.
26. I have not imposed suggested condition 10 in relation to car parking as it duplicates condition 6.
27. The PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In the case of the pre-commencement conditions, I consider that resolution of the matters specified to be so fundamental to the development that it would otherwise be necessary to refuse the application.

### **Conclusion**

28. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

*D. Boffin*

INSPECTOR Attached – Schedule of Conditions

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: D016-16-001, D016-16-100, D016-16-101, D016-16-102, D016-16-103, D016-16-104 , D016-16-105 , D016-16-106 , D016-16-107, D016-16-108, D016-16-109A.
3. No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the business units hereby approved shall not be used for any purpose other than for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987(as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the business units hereby approved shall only be sub-divided in accordance with the details shown on the approved plans and no amalgamation of individual units shall take place.
6. No part of the development hereby approved shall be occupied until the parking facilities, drop off point, turning areas and access drive have been provided, in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority, and those areas shall thereafter be kept available at all times for the parking, turning and loading of vehicles.
7. No part of the development hereby approved shall be occupied until details of the refuse and cycle storage enclosure has been submitted to and approved in writing by the Local Planning Authority, and this enclosure shall thereafter be kept available at all times for the storage of refuse and cycles.
8. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out and the results of the percolation tests and a detailed permanent surface water drainage management plan, based on the results of the percolation tests, have been submitted to and approved in writing by the Local Planning Authority. The management plan shall include a timetable for implementation and maintenance. The development shall be carried out in accordance with the approved management plan.