
Appeal Decision

Site visit made on 5 June 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 19th June 2017

Appeal Ref: APP/U1105/W/17/3167901

Denbow Farm, Lane to Denbow Farm, Farringdon, Devon EX5 2HT

- 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 Stuart Partners against the decision of East Devon District Council.
 - The application Ref 15/2522/FUL, dated 28 October 2015, was refused by notice dated 23 September 2016.
 - The development proposed is for the construction of a lined earth lagoon in order to store digestate which will be injected onto the adjoining arable fields at the appropriate time of the year for nutrient take up.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of lined earth lagoon to store digestate and concrete hardstanding at Denbow Farm, Lane to Denbow Farm, Farringdon, Devon EX5 2HT in accordance with the terms of the application, Ref 15/2522/FUL, dated 28 October 2015, subject to the conditions set out in the attached Schedule to this decision.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is located at the edge of a large field in a generally low lying area of countryside to the north of an extensive industrial estate and within a scattering of farmsteads, including the farm complex of Denbow Farm located to the west. An existing hedgerow largely screens the site from the east, south and north. The surrounding landscape consists of fields, parcels of woodlands, isolated farms and the industrial estate at Hill Barton.
 4. The appeal site is not locally or nationally designated for its landscape value
 5. The proposal would comprise the construction of an earth banked lagoon with the capacity to hold 8000 cubic metres of digestate. The lagoon would be constructed partially underground with 2.1m excavations below ground level and a 3.3m high earth bank. It would measure 82.5m x 40m and incorporate a concrete apron on its northern side adjoining the gravelled land that leads to Denbow Farm. This would enable the digestate to be offloaded. The digestate would be spread across nearby farmland.
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6. The Council's approach to the appeal proposal has been to apply the preamble to Strategy 7 of the East Devon Local Plan 2013-2031 (EDLP) that states that development in the open countryside outside settlements would be resisted unless on the merits of the particular case, there is a proven agricultural need or it will meet a community need that is not or will otherwise not be met or there is another clear policy justification.
7. The proposal would provide a storage facility in connection with the recently commissioned anaerobic digester plant at Enfield Farm at nearby Clyst St Mary, which has also been the subject of a recent appeal¹. A separate proposal to increase the capacity at Enfield was however withdrawn by the operator and this has led to the Council concluding that the need for the proposed lagoon has not been adequately justified in the way that Strategy 7 of the EDLP would require.
8. The appellant believes that Strategy 39 of the EDLP provides support and encouragement of renewable low-carbon energy projects of the type undertaken at the Enfield Farm Anaerobic Digester Plant (ADP). In turn, the facility at Enfield has been designed to meet Environmental Permit requirements for secondary containment, which has resulted in a substantial increase of impermeable surfacing and increased water storage facilities on site. Moreover, due to this additional facility, there are pressures for additional storage of digestate, particularly in the winter months when spreading on fields is not viable. The appellant contends that there is insufficient alternative provision in place for storage.
9. I am satisfied that a need exists at Enfield for storage facilities and given the relationship with Denbow Farm and its particular agricultural requirements, the first part of Strategy 7 is satisfied as the proposal would fulfil an overriding agricultural need as well as meeting the ambitions of Strategy 39. In addition, there are wider sustainability benefits arising from a reduction in CO² emissions through the use of artificial fertilisers, a reduction in road miles required to deliver and deploy the digestate from the Enfield Farm ADP as well as achieving better and more cost effective use of farming resources.
10. Having established need, Strategy 7 of the EDLP would support appropriate developments in the countryside provided they would not harm the distinctive landscape, amenity and environmental qualities within which they are located. Further, Policy D1 of the EDLP establishes a series of criteria by which new developments would be assessed in order to achieve high quality of design and local distinctiveness.
11. Due to the lie of the land, the banks of the lagoon would only be visible when standing close by to the field along the immediate nearby lanes. Therefore although the appeal site is located within a scattering of residential properties, the topography of the land is such that there would be no sight of the lagoon from these houses. The Council has not provided a landscape impact assessment and its objections are based purely on the principle of what it deems as an unjustified development within the open countryside. The evidence in this regard is not convincing.
12. Although the lagoon is of a geometric shape it would be an agricultural use adjacent to the existing farm complex to its east and would not comprise an

¹ APP/U1105/W/17/3167903

unduly alien feature. Any material harm arising from the visual impact of the lagoon could be mitigated by planting and through further measures that might be appropriately secured through condition, such as requiring the creation of a more rounded shape to the visible sides of the lagoon and this, along with the landscaping of unused areas of the site and the planting and maintenance of the bund slopes, would also be further matters appropriately addressed through conditions.

13. Accordingly, I conclude that the scheme would comply with Strategy No's. 7 and 39 of the EDLP and with EDLP Policy D1. I agree with the appellant that Policy D7 relates to agricultural buildings and is not relevant in terms of this development.

Other matters

14. There have understandably been concerns raised by interested parties over the lagoon giving rise to harmful odour effects. The evidence would not support a conclusion of any material harm in this respect. The Environmental Health Officer (EHO) is satisfied that the final products to be exported from the Enfield Farm AD Plant will be a low odour liquid and a low odour solid, which is unlikely to have any significantly harmful effects on the living conditions of local residents. Subject to appropriately worded conditions, the EHO is satisfied that the development can be satisfactorily mitigated.
15. Interested parties have raised concerns relating to the condition of existing roadways, which are considered unsuitable for a high volume of heavy traffic. The appeal proposal is accompanied by a transport plan that sets out the transport route from the Enfield Farm AD Plant to the appeal site. Of particular note is the suggested routing through the nearby industrial estate roads. This together with the anticipated relatively low numbers of vehicles involved would not cause significant harm to conditions of highway safety and convenience.

Conditions

16. The Council suggested that a number of conditions be imposed should planning permission be granted, and I have considered these in the light of the Planning Practice Guidance (PPG). In addition to the standard conditions governing the timescale for commencement (1) and requiring compliance with the approved plans (2), it is necessary to attach conditions to restrict the storage material within the lagoon and to specify the method of spreading of liquid and digestate to protect living conditions of occupiers of nearby residential properties (3 and 4). In order to safeguard highway interests a condition is necessary to secure haulage routes (5). Although not specified by the Council, given what I saw at my site visit and the somewhat over-engineered profile of the lagoon, a condition is necessary requiring prior approval and implementation of a landscaping scheme (6).

Conclusion

17. For the above reasons and having regard to all other representations received, I conclude that this appeal should be allowed.

Gareth W Thomas

INSPECTOR

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: Location Plan; Block Plan Drawing No.1 dated 11 November 2015; Proposed Ground Plan Drawing No. 3 dated 11 November 2015; Sections Drawing No.5, and; Proposed Elevations Drawing No.4.
- 3) The lagoon hereby approved shall only be used to store digestate that has been separated and treated from the Enfield Farm Anaerobic Digester Plant and for no other purpose. The development shall adhere to the odour management plan dated 2nd June 2016.
- 4) Liquid digestate shall not be spread on the surrounding farmland other than by umbilical direct injection into the soil.
- 5) The transportation of the liquid digestate from the Enfield Farm anaerobic digester shall be undertaken in accordance with the route plan submitted to the local planning authority on 27 January 2016. There shall be no variation to the agreed route plan unless this is agreed in writing by the local planning authority.
- 6) No development shall commence until details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) a statement setting out the design objectives and how these will be delivered;
 - ii) earthworks showing existing and proposed finished levels or contours to include a more rounded finish to the bund walls;
 - iii) vehicle parking and turning layouts;
 - iv) hard surfacing materials including fencing;
 - v) implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed thereafter in accordance with an approved scheme of management.

END OF SCHEDULE