
Appeal Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 8 August 2017

Appeal Ref: APP/Q1153/W/16/3159609

**Meadow View Farm, Road from Beare Farm to Farthingland Cross,
Exbourne, Devon EX20 3SH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Carvil against West Devon Borough Council.
 - The application Ref 0348/16/FUL, is dated 3 February 2016.
 - The development proposed is livestock barn.
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Decision

1. The appeal is allowed and planning permission is granted for livestock barn at Meadow View Farm, Road from Beare Farm to Farthingland Cross, Exbourne, Devon EX20 3SH in accordance with the terms of the application, Ref 0348/16/FUL, dated 3 February 2016, subject to the following 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: 1:1250 Location Plan, 1:500 Block Plan, Ground Floor Plan and Elevations & Floor Plan.

Procedural Matter

2. The Council did not determine the application and has not formally stated what decision it would have made, had it been in a position to do so. However, I have been supplied with an officer report which recommends approval subject to conditions. I have treated this as a form of evidence but my consideration of the case is made *de novo*.

Application for costs

3. An application for costs was made by Mr J Carvil against West Devon Borough Council. This application is the subject of a separate decision.

Main Issues

4. I consider the main issues in this case to be firstly whether the livestock barn would be of an appropriate size for its proposed function and secondly whether it would be acceptable in terms of its effect on the landscape.
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Reasons

5. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. This must be the starting point for my assessment.
6. The main issues set out above flow directly from saved Policy ED18 of the West Devon Borough Local Plan Review¹ (2005) (LPR). This states that new agricultural buildings will be permitted where they are of an appropriate size for their proposed function and are designed and located so as to minimise their impact on the landscape. This policy wording is consistent with paragraph 17 of the National Planning Policy Framework which states, amongst other things, that planning should take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.
7. The proposed barn is being sought to provide winter housing for the appellant's established livestock farming enterprise which focuses on rare breed sheep and pig breeding. I understand that some of the sheep are at extreme risk during prolonged wet or cold periods due to the unique nature of their fleeces. This could adversely affect their welfare, but also successful breeding. Hence the need for them to be kept indoors at certain times of year.
8. I have not been provided with details of current and projected livestock numbers, nor for that matter the size of the agricultural holding overall. This makes it difficult to judge whether the size of the proposed barn would be appropriate for its function. That said, the floor space does not strike me as being particularly excessive. The design is typical of an agricultural building and in my view the barn would appear wholly unsurprising in its rural setting. The development would be located close to an existing polytunnel and barn and this would further help to ensure that there is no significant harm to the landscape.
9. Having regard to the above I am satisfied that the appeal scheme would be compliant with saved Policy ED18 of the LPR. Even if the barn were larger than is necessary for the agricultural enterprise, the Council's decision that prior approval is not required for an identical proposal² means that it could be constructed anyway under permitted development rights. This genuine and realistic fallback position is a significant material consideration which would outweigh any conflict with the development plan in this particular case.

Other Matters

10. It is put to me that the proposed building should be located convenient to the highway. However, I must determine the appeal based upon the plans submitted. In my judgement the proposed siting is acceptable. Whilst I note the concerns regarding lack of screening, I do not consider that any landscaping is necessary – notwithstanding the indication within the Planning Statement that additional planting will be carried out in any event.
11. Concerns have been raised regarding the use of the building should the current farming activity come to an end. I must make my decision on the evidence presented which indicates an agricultural requirement for livestock housing.

¹ As amended by the adopted West Devon Borough Council Local Development Framework Core Strategy Development Plan Document (2006-2026) (April 2011)

² Ref 0010/17/AGR, decision notice dated 31 January 2017

What may or may not happen in the future is unknown and therefore it is not a matter which attracts any significant weight.

12. I acknowledge the concerns regarding heavy vehicle movements through Exbourne. Given the modest scale of the proposed building it is unlikely that there would be a material increase in traffic. Even if I am wrong on this point, the same impacts could arise from an identical barn constructed under permitted development rights. Consequently, dismissal of the appeal on highway grounds would not be reasonable.

Conditions

13. In addition to the standard commencement condition I have attached a condition identifying the approved plans, to provide certainty. Although the Council has requested a condition restricting the use of the building to agriculture, such a condition is unnecessary. Furthermore, there is no firm evidence to indicate that the appeal site may be contaminated and therefore I can find no justification for a contaminated land condition.
14. I have given careful consideration to the suggestion of a condition which requires removal of the building in the event of the agricultural use ceasing. However, given that I have found the building to be acceptable in landscape and visual terms, this would not pass the test of reasonableness.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR