
Appeal Decision

Site visit made on 25 July 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 22nd August 2017

Appeal Ref: APP/P1133/W/17/3169885

Westwood Farm, Westwood Lane, Longdown, Exeter, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Messrs A & J York against the decision of Teignbridge District Council.
 - The application Ref 16/01334/FUL, dated 9 May 2016, was refused by notice dated 2 November 2016.
 - The development proposed is described on the application form as a 'general purpose agricultural building'.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form describes the proposal as a 'general agricultural building'. However this building, yet to be constructed, is only part of the development to which application Ref 16/01334/FUL relates. The appellants' appeal statement refers to the development as including a new track and ground level changes.
3. The plans supporting the application show the building proposed, the track created, hedgerow removal and ground level changes undertaken.¹ I have considered all these elements in reaching a decision, as is consistent with the approach of the main parties at appeal. For brevity, in this decision the phrase 'the proposal' relates both to relevant development proposed and undertaken.
4. Nearby residents have expressed concern that ground level changes, which the appellants describe as having occurred 'over the years',² may have been undertaken via the deposit of waste materials from elsewhere without the necessary consents. Waste licensing is principally regulated under different statutory provisions than apply in this appeal (administered by the County Council and Environment Agency in the first instance). My decision is therefore confined to the planning merits of the proposal, and has no bearing on any waste disposal consents that may be required.

¹ Including plans entitled 'Proposed Agricultural Building', 'Elevations & Floor Plan', 'cross sections of track – original levels', 'cross sectional drawings of land as existing and original'.

² Within their Design and Access Statement.

Main issues

5. The main issues are whether or not the appeal site is an appropriate location for the proposal with regard to local and national planning policy, and the effects of the development on biodiversity and nearby watercourses.

Reasons

Appropriateness of location

6. The appeal site is not accessed via Westwood Lane but rather via a track which joins Longdown Road (the B3212). It is part of a field within Westwood Farm, which falls in the open countryside. The appellants describe Westwood Farm as a working farm, predominantly livestock, totalling approximately 24 hectares (the 'holding'). There is, however, no evidence before me related to the number of livestock currently or proposed to be supported by the holding. The Council's officer report observes that 'the cattle business is not started', a statement the appellants do not specifically dispute.
7. In a previous appeal, the inspector observed that a different building of Westwood Farm had been used by livestock.³ It may be that the previous appeal and this appeal relate to different elements of the holding (Westwood Farm may have been subdivided). Nevertheless the addresses given in the previous appeal and in this appeal are the same. The proposal in the previous appeal was to convert an agricultural barn to a dwelling. Whilst not determinative, this undermines the appellants' position that there is the need for a further agricultural building within the holding.
8. The appellants explain that two buildings on site currently used for general storage are unsuitable for accommodating livestock. The larger of the two buildings, however, has the form of an agricultural barn. There is no clear evidence before me as to why its use for livestock would be impractical.⁴ There is furthermore no robust evidence before me as to why, in practical terms, it is necessary to site the building approximately 100 metres away from these two existing buildings or on an area of made ground.⁵
9. The appeal site falls within an Area of Great Landscape Value ('AGLV'). It is part of the West Exeter Slopes Landscape Character Area defined in the Teignbridge District Landscape Character Assessment (dated 2009, the 'LCA'). The LCA describes the surrounding area as undulating farmland with traditional field boundaries and wooded elements. These are features clearly reflected by the appeal site and its surroundings. The LCA describes how this landscape is highly sensitive to change, and how agricultural intensification 'may lead to a loss of traditional field boundaries and a change to existing landscape pattern'.
10. The agricultural building proposed would fall within a natural fold in the topography near the course of a stream (despite the deposit of waste which has occurred). For this reason, given the presence of a nearby copse, and as a landscaping condition could add additional screening, the agricultural building proposed would to some extent be obscured from public vantage points.

³ Ref APP/P1133/W/16/3149464, dated 8 September 2016.

⁴ This is simply stated to be the case in the appellants' Design and Access Statement.

⁵ A measurement given in paragraph 4.17 of the appellants' statement of case.

Nevertheless the building proposed would be apparent from the public right of way which runs through the same field as the appeal site approximately 75 metres away, resulting in additional built development in a landscape accorded protection on account of its natural character.⁶

11. As noted above the track is approximately 100 metres in length. As a consequence of its length and location spurring away from the nearest existing buildings, it is an incongruous feature. Whilst I accept that the track may become overgrown in time, it is not screened from view along the public right of way. Furthermore the Council explains, and the appellants do not dispute, that the development to date has resulted in the removal of approximately 35 metres of established hedgerow.⁷
12. The development has therefore already eroded features identified in the LCA as being characteristic of the landscape, to the detriment of the AGLV. Whilst the visual effects of the building proposed would be moderated to some extent by its surroundings, nevertheless some further harm would result from this element of the proposal. Whilst I accept that the proposal is for an agricultural barn which would not be incompatible with surrounding land uses, I am not satisfied on the basis of the evidence before me that the proposal before is justified with reference to the operational needs of the holding.
13. I therefore conclude that the proposal would conflict with the relevant provisions of policy S22 'Countryside' of the Teignbridge Local Plan 2013-2033 (adopted 6 May 2014, the 'Local Plan') and policy EN2A 'Landscape and protection'. Amongst other aims, the former seeks to ensure that development in the countryside is limited to that which must necessarily be thus located. The latter aims to conserve and enhance the character and distinctiveness of the locality. The proposal also conflicts with the encouragement given in the National Planning Policy Framework (the 'Framework') to recognising the intrinsic character and beauty of the countryside, and to protecting valued landscapes.⁸

Biodiversity and nearby watercourses

14. Policies EN8 'Biodiversity protection and enhancement', EN9 'Important Habitats and Features', and EN12 'Woodlands, Trees and Hedgerows', in summary, seek to ensure that the effects of all development on ecology or habitats is appropriate. This approach is consistent with that of paragraph 109 of the framework, i.e. that planning should minimise impacts on biodiversity.
15. Various elements of the development which have been undertaken will have had a negative effect on the quantity of natural habitat on site and, by consequence, will have adversely affected ecology. These include the hedgerow removal, track creation, and potentially the effects of changes in ground level. If undertaken insensitively the construction of the building may also adversely affect trees nearby.
16. I accept, in the abstract, that it may be possible to mitigate such effects through the imposition of suitably worded conditions. However there are no

⁶ Measurement specified in the Council's officer report.

⁷ Ibid.

⁸ As referred to in particular in paragraphs 17 and 109 of the Framework.

habitat, ecological or arboricultural studies before me to indicate what the effects of the proposal have been, or would be.⁹ Accordingly, based on the evidence before me, I cannot construct suitably precise conditions to ensure that the effects of the proposal on biodiversity would be acceptable.

17. Policy EN4 'Flood risk' of the Local Plan sets out that development must not 'pollute the water environment'. Likewise paragraph 109 of the Framework establishes that planning should prevent both new and existing development from contributing to unacceptable levels of water pollution. I acknowledge that dealing with livestock waste is intrinsically part of farming. However, as established in respect of the first main issue, my understanding is that the development proposed would result in an increased number of livestock present within Westwood Farm, and therefore an increase in the quantity of animal waste that must be dealt with.
18. The appellants explain that the effluence from the livestock within the building proposed would be dealt with via 'deep litter bedding'. This is described in the appellants' statement of case as regularly covering the floor of the building with straw or grass hay, which is periodically spread over the adjoining land.¹⁰ Whilst I accept that this approach may contain effluence to a greater degree than traditional slurry storage, there is no evidence before me to support the appellants' position that this approach provides 'total containment of waste'.¹¹
19. The building proposed would be approximately 20 metres away from a stream, in a natural depression in the topography.¹² This, combined with the additional levels of animal waste that would need to be dealt with may pose risks from surface water run-off from higher ground carrying waste into the nearby watercourse. Again there is no robust evidence before me to indicate that the effects of development proposed in this regard would be acceptable, or to justify why the building proposed must necessarily be situated in this location.
20. I am therefore not satisfied based on the evidence before me that the proposal would have appropriate effects on biodiversity or nearby watercourses, or that this could be ensured via the imposition of suitably-worded conditions. For the above reasons I therefore conclude that the proposal conflicts with the relevant provisions of policies EN8, EN9, EN12 and EN4 of the Local Plan and with relevant elements of the Framework.

Other matters

21. I accept that the proposal would be beneficial to the appellants by enabling the creation of a livestock building constructed to modern standards. I also note that the Framework seeks to support thriving rural communities, economic growth, and recognises that decisions need to take local circumstances into account.¹³ However based on the limited evidence before me I can accord the benefits of the proposal in these respects very little weight.

⁹ There is no specific reference to policies EN8, EN9 or EN12 within the appellants' appeal statement.

¹⁰ Appellants' appeal statement, paragraphs 4.22 to 4.24 in particular.

¹¹ Appellants' appeal statement, paragraph 4.23.

¹² As set out in the Council's officer report.

¹³ Including in paragraphs 17, 18 and 10.

22. Nearby residents have expressed concern that, were I to dismiss the appeal, this would necessitate the removal of any waste previously deposited on site. With reference to paragraph 4 of this decision, waste licensing is not a matter within the remit of this appeal.
23. The appellants refer to whether level changes are classified as 'development', and to the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO').¹⁴ Level changes of the extent that have occurred here would in my view clearly fall within the scope of engineering operations (a form of development pursuant to Section 55 of the Town and Country Planning Act 1990 as amended).
24. Whilst the use of waste materials is permissible under circumstances as set out in the GPDO referred to above, any development in Part 6, Class A thereof relating to agriculture must be 'reasonably necessary for the purposes of agriculture'. Pursuant to my findings in respect of the first main issue, I am not satisfied that this test would be met here. Therefore neither this, nor any other matter, is sufficient to outweigh or alter my findings in respect of the main issues in this case.

Conclusion

25. For the above reasons, and having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

¹⁴ Appellants' statement of case, paragraph 4.6 in particular.