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## Appeal Decision

Site visit made on 29 April 2019

**by David Wyborn BSc(Hons), MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 May 2019**

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**Appeal Ref: APP/K1128/W/19/3222189**

**Eden Farm, Plymouth Road, Totnes TQ9 6DN**

- 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 Charlie Wynne against the decision of South Hams District Council.
  - The application Ref 0056/18/FUL, dated 8 January 2018, was refused by notice dated 5 October 2018.
  - The development proposed is described as part retrospective application to dig out part of the slope below the approved bund and re-routing the approved farm track to an existing farm gateway, following grant of prior approval for agricultural building.
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### Decision

1. The appeal is allowed and planning permission is granted for the part retrospective application to dig out part of the slope below the approved bund and re-routing the approved farm track to an existing farm gateway, following grant of prior approval for agricultural building, at Eden Farm, Plymouth Road, Totnes TQ9 6DN in accordance with the terms of application, Ref 0056/18/FUL, dated 8 January 2018, and subject to the conditions set out in the schedule.

### Procedural Matters

2. I noted at my site visit that the area by the agricultural building had been excavated, that the track was substantially in place, that the raised platform by the access had been formed and planting had taken place. The widened access onto the main road had not been created. I will consider the appeal on the basis that elements of the works are retrospective.
3. I am also aware that an enforcement notice has been served by the Council which requires the removal of the banked earthworks used to create the new access track and platform area. These are works that form part of the present appeal. The enforcement notice appeal is not before me and I intend to confine my considerations to the merits of the section 78 appeal.
4. The Council statement also highlights that the agricultural building may not have been constructed in accordance with the approved plans and that they are investigating. The appellant has responded that the open bays were enclosed after the building was constructed and will be addressed. This is not a matter for consideration as part of this appeal as the extent of development set out in the description does not include any part of the building.
5. Since the submission of the appeal, the Council has adopted the Plymouth and South West Devon Joint Local Plan 2014-2034 (the Local Plan). The reason for

refusal references the policies of the then emerging Local Plan as they were at that time and the appellant has been able to assess the scheme against these emerging policies in the appeal statement. The appellant has also had the opportunity in final comments to make further submissions in relation to the Local Plan and therefore the main parties have not been prejudiced by the consideration of the appeal proposal against the policies of the now adopted Local Plan.

## **Main Issues**

6. The main issues are:

- whether the works are reasonably required to support the essential needs of agriculture on the site, and
- the effect of the development on the character and appearance of the area.

## **Reasons**

### *Agricultural need*

7. A reasonable sized agricultural building received prior approval in 2016 and a building has been constructed on site to serve this holding. The building would have been judged at that time to have been reasonably necessary for the purposes of agriculture. As the building is of permanent construction, in all likelihood, it will be available to serve this agricultural holding for the foreseeable future.
8. The building is sited on land towards the lower part of the valley and the main road is set on a higher contour line broadly to the south. To be able to fully utilise the building it would be necessary for a vehicular access to be provided from the main road to the agricultural building.
9. My attention has been drawn to the appellant's comments regarding the suitability of access arrangements when the prior approval application was considered and also when this present proposal was submitted to the Council. However, further reports and submissions have been made at the appeal stage which inform my analysis. I consider this demonstrates that an access is necessary to be of a standard to accommodate reasonable sized vehicles including the case of the lorry of 7.5 tonnes for the hay business that operates from the holding.
10. I note all the evidence on the use of the building for hay storage and whether this meets best and safe practice. However, even if the hay business was not to continue in the future, the building would remain on this farm holding and there would be a need to achieve access for vehicles. An access that can accommodate a lorry of 7.5 tonnes or similar sized vehicles is not an unreasonable requirement at this holding.
11. The additional information explains that the existing road to the west is steep and that the appellant argues that the track which was shown on the prior approval plan is unlikely to be practical because of the slope and the cost involved in relocating the water main. The Council say this access was not authorised as part of the prior approval and that there are no costings for the relocating of the water main. However, based on all the information and my site visit I do not consider that the provision of this track would be a cost

efficient or practical alternative in this case. Furthermore, given the nature of the road to the west, the related evidence and my observations on site, this would not be a suitable route for the required vehicles. Using the grass track across the field to access the building would not be a suitable alternative given the size of vehicles that are required.

12. The building is sited in the western section of this field, and with the holding extending broadly to the east and north east, there are few practical options available to provide an access to the main road with a gradient suitable for the intended vehicles.
13. The proposal provides one such option and there is little robust evidence of any practical alternatives. The proposal would widen an existing farm gate from the road, provide a turning area on a platform so that vehicles could enter the site on the level with the road and turn onto the track and, when leaving, vehicles would be able to egress the site at an appropriate angle. For these reasons, the arrangement is necessary to allow for the safe movement of vehicles.
14. Furthermore, the proposed access would provide better highway visibility sight lines for vehicles leaving the holding than the junction to the west which would be used if the existing road or track as indicated on the prior approval plans was the main access to the site.
15. I also noted the excavated area of hillside adjoining the building. While this provides quite a large level area it would allow turning and access for farm vehicles to the building, and external storage space. I have not been presented with detailed evidence that demonstrates that this is not necessary to assist the farming activities on the site.
16. Based on the evidence before me and my observations at the site visit, I conclude that the various elements of the proposal provide a practical solution to access the approved agricultural building and are reasonably required to support the essential needs of agriculture on the holding. Accordingly, the scheme complies with Policies TTV26 and DEV15 of the Local Plan which seeks, amongst other things, to respond to a proven agricultural need that requires a countryside location.

#### *Character and appearance*

17. The reason for refusal raises concern that the development would result in a change to the rural character of the area. The application was accompanied by a Landscape and Visual Amenity Summary (January 2018). This was analysed in the Council Planning Report and the conclusions reached by the Landscape Specialist was that there was no objection on landscape grounds to the application, subject to the imposition of planning conditions in any approval.
18. The excavated area by the building is not widely visible, is located in association with the building and the planting at the top of the steep bank will help to screen this area further in due course from some views. The track follows the hedgeline and then drops down to the building and is not a harmful feature in the circumstances of this section of landscape.
19. The raised platform is largely screened from the road by existing vegetation although it would become more visible through the enlarged access. In wider views from across the valley the platform is seen against the rising hillside on the broadly southern side of the road and with the planting, once matured, the

overall appearance of these engineering works would be able to be absorbed within the wider landscape without undue harm.

20. In the light of the above, I conclude that the scheme has an acceptable impact on the character and appearance of the area. The reason for refusal does not reference any policies in this respect, however, the proposal would comply with the requirement in the National Planning Policy Framework to recognise the intrinsic character and beauty of the countryside.

### **Other Matters**

21. I have noted the support for the proposal. I have also taken into account the objections from local residents including the concerns expressed in respect of the previous written submissions by the appellant concerning the suitability of the access arrangements. However, for the reasons set out above, the case for the proposal has been demonstrated and there is an agricultural requirement for the works.
22. Concerns regarding future residential development have been raised, however they are not directly relevant and therefore they do not influence the main issues considered above.

### **Conditions**

23. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The standard time limit is not required in this case as the works have commenced. A condition specifying the approved plans is necessary in the interests of certainty.
24. I am not persuaded that a pre-commencement condition requiring the submission and implementation of a Construction Management Plan is necessary or reasonable in this case because much of the works have taken place. The remaining works are reasonably limited and would mainly concern the improvements to the access.
25. A condition is necessary to ensure the implementation of the visibility splays at the access onto the main road and that the access shall be provided with a reasonably level gradient within the site in the interests of highway safety. I noted that there is some minor growth in front of the access gate and therefore it does not appear that the access is presently in use. Accordingly, I will require that the visibility splays are provided before the access is brought back into use. It is not necessary for the condition to specify the gradient within other parts of the site because the works are already in place and they generally follow the level of the land.
26. The submission of a more detailed hard and soft landscaping scheme is necessary as the submitted plans are not sufficiently detailed in this respect. Agreement of these details is important in the interests of protecting the character and appearance of this rural location.

### **Conclusion**

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

*David Wyborn* INSPECTOR

### **Schedule of Conditions**

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- 1) The development hereby approved shall in all respects accord strictly with drawing numbers Site Location Plan (22/11/2017), Site Detail Plan (1:500), Site Block Plan (1:500), Section (1:200), Stock Fencing North Elevation, Stock Fencing East Elevation, Stock Fencing West Elevation, Stock Fencing South Elevation, Stock Fence Plan (1:500); Tree Planting Plan; Landscape and Habitat Enhancement Plan; Widening Gateway Detail (28/12/2017); Widen Existing Gateway (Visibility Splay Measurements) and Plan 0418.501 (Proposed Access Scheme Layout).
- 2) Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.75 metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 160 metres in both directions. The visibility splays shall be completed before the further use of the access.
- 3) The access shall not exceed 1:20 gradient for the first 6m from the public highway.
- 4) Notwithstanding the submitted planting details, full details of a hard and soft Landscape Scheme shall be submitted to, and be approved in writing by the Local Planning Authority by the end of the first planting season following the completion of the development. The Landscape Scheme shall be prepared by an appropriately qualified professional and shall include:
  - (i) details, including design and materials, of ancillary structures such as bin stores and signage;
  - (ii) details of new ground profiles including retaining bunds and banks;
  - (iii) materials, heights and details of fencing and other boundary treatments;
  - (iv) materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas;
  - (v) the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
  - (vi) the method of planting, establishment and protection of tree, hedge and shrub planting;
  - (vii) maintenance schedules for the establishment of new planting and its ongoing management;
  - (viii) a timetable for the implementation of all hard and soft landscape treatment

All elements of the Landscape Scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All work shall be completed in accordance with the timetable agreed in writing.