
Appeal Decision

Site visit made on 1 October 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/X1118/W/19/3228617

Land adjacent to Hillside Industrial Units, Manor Road, Landkey, Barnstaple EX32 0JW

- 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 Mrs Lee against the decision of North Devon District Council.
 - The application Ref 65578, dated 19 September 2018, was refused by notice dated 14 November 2018.
 - The development proposed is described as change of use to form equestrian centre, including erection of stable blocks, entrance road and manege.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to form equestrian centre, including erection of stable blocks, entrance road and manege at Land adjacent to Hillside Industrial Units, Manor Road, Landkey, Barnstaple EX32 0JW in accordance with the terms of the application, Ref 65578, dated 10 September 2018, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The Council has drawn my attention to an enforcement investigation related to a change of use of the field from agricultural land to a commercial equestrian centre. I have not been provided with full details. Furthermore, though ponies were present during my visit, none of the works for which planning permission has been sought had been carried out. As such, whilst I acknowledge the investigation, I have considered the appeal on the basis of the development proposed, as set out on the submitted plans.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - whether the site is a suitable location for development with regard to access and supervision requirements.

Reasons

Character and appearance

4. The site is a strip of land which covers part of a hillside. The development would be located towards the lower part of the slope, at the lowest end of the

site, and would be terraced into the slope. Whilst the broader landscape is agricultural in character, the settlement of Landkey nonetheless lies immediately adjacent, and the surrounding area contains numerous scattered developments of various type. For these reasons, and given that background traffic noise is a persistent feature, there is little sense that the site is either remote from other development, or tranquil.

5. As the ground rises steeply to the south of the site, the development would not be visible from outside it in this direction. Towards the west the ground rises more gently, however very limited views would again be possible from outside the site in this direction. Towards both the north and the east the land falls and then rises again. Consequently, the development would be exposed within long views from these directions.
6. Views of the site from locations towards the east would be across a considerable distance. These views would include Landkey, and the industrial units adjacent to the site, in the foreground. The combination of distance and existing development would obscure clear views and perception of the site. This would mean that to the extent that the proposed development was visible, it would not be visually conspicuous.
7. Views of the site from locations towards the north would be over more open ground. Within these views the adjacent industrial site is reasonably well screened by trees. It is apparent that some screening by existing trees would also help to obscure the proposed development, albeit existing boundary vegetation is modest in height and amount. In this regard significant potential exists for increased planting along the north edge of the site. Though this is indeed proposed, a further increase in the level of planting would be desirable, and, could be secured by condition. Use of surfacing and building materials of a colour which would not draw attention to the development within its setting could also be secured in this way.
8. These measures would be particularly effective in screening and obscuring the development within views from lower ground towards the north of the site. They would however be little less effective in screening views from higher ground. These views would nonetheless be across a longer distance, and would feature an extensive backdrop provided by the rising open landscape towards the south of the site. This, combined with further planting within the site, would mean that though the development would be partially visible, it would be largely absorbed within a wider landscape panorama, and again not unduly conspicuous.
9. It is apparent that cutting into and terracing the hillside would be intrinsically at odds with its character. Such terracing has however already taken place in relation to industrial units immediately adjacent to the site, and would thus not occur in isolation. For this reason, and given that, as outlined above, the development could be well contained and obscured by landscaping, the extent to which the terracing was apparent or perceived as harmful would be limited.
10. As the development would be accommodated on the site through excavation, and thus the proposed buildings would be set well down, they would not be dominant in scale, bulk or massing. Indeed, the fact that they will be constructed close to the edge of the site, would mean that they would additionally benefit from existing screening provided to the adjacent industrial site.

11. Works to provide safe access to the site would result in enlargement of the access and modification of the site boundary. However, with careful landscaping this would not cause any undue harm to the character of the lane.
12. For the reasons outlined above I conclude that the site would have an acceptable effect on the character and appearance of the area. It would therefore comply with Policy DM16 the North Devon and Torridge Local Plan 2011-2031 adopted October 2018 (the Local Plan), which states that amongst other things equine development should be well integrated, with the surroundings and is of a scale and design so as not to harm the character and landscape of the rural area; Policy DM14 of the Local Plan, which amongst other things requires rural economic development to be respect the character and qualities of the landscape; and Policy ST14 of the Local Plan, which amongst other things seek to protecting and enhancing local landscape. Though the Council also cited the Joint Landscape Character Assessment for North Devon and Torridge Districts in its decision, no specific indication of conflict with this assessment has been provided.

Location

13. The proposed development does not include any on-site residential accommodation. There would therefore be a need for the appellant to travel to the site from home. Such travel would, most likely, be by private motor vehicle. This would generate emissions, causing environmental harm.
14. The commute in question would not however be excessively long. Furthermore, the need to locate such a development within the countryside, within which scope for residential development is otherwise subject to restriction, places obvious limitations on access. In this context, the need for the appellant to travel to the site is not unreasonable or remarkable in itself.
15. Whether or not the appellant had to commute, it seems likely that most users of the development would themselves also need to travel to access the site, regardless of its particular location. No control over such travel would exist. With this in mind, the very limited amount of environmental harm caused by a single vehicle used by the appellant to access the site on a daily basis, would not be unacceptable.
16. The Council also objected the site location on the basis that the horses kept within the proposed stables would require 24 hour supervision. It is however unclear why a permanent physical presence by staff on site, or such intensive supervision, should be considered necessary. Indeed, I see no reason why supervision could not be adequately covered by the on-site presence of staff during the day, and secure stabling and camera surveillance during the night. Further details of surveillance measures to ensure the security of the site can be secured by condition.
17. Though the Council additionally notes that the appellant has not demonstrated that the site is the only suitable location, it is not immediately apparent that any such requirement exists. Furthermore, given my findings above, this is unnecessary, as the location is suitable.
18. For the reasons outlined above I conclude that the site is an appropriate location for the proposed development with regard to access and supervision requirements. It therefore complies with Policy ST01 of the Local Plan, which

seeks to secure sustainable development, and relevant provisions within the National Planning Policy Framework.

Other matters

19. An interested party has raised safety concerns in relation to a likely increase in traffic along the lane. However, the Highways Authority has raised no objection, noting the provision of an adequate splay the site entry. As this, and a sign directing traffic towards the main Mount Sandford Road, rather than along adjacent lanes, can be secured by condition, I see no reason to reach a different view.
20. There is an acknowledged potential for the hedgerow on site to support dormice. Dormice are protected under the Wildlife and Countryside Act 1981 (the WCA) and are a European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2017.
21. Though no survey work has been undertaken, and a further requirement for this is noted, the submitted ecology report has been prepared on the basis of the assumption that dormice will be affected. This would be through a very modest loss of habitat resulting from widening the site access. Mitigation is proposed which would involve a scheme of increased hedge planting. This is outlined on the submitted plans, albeit further details of both planting and future management could be secured by condition.
22. Given the effect on a EPS, I am required to have regard to the 3 tests set out for EPS Licensing, which are: whether the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest; there is no satisfactory alternative; and, the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
23. Widening the site access is necessary in the interests of highways safety. There is no obvious alternative way of gaining safe access to the site. Given that the loss of hedgerow would be very modest, and could be amply mitigated, it appears highly unlikely that the population status of dormice would be adversely affected. As such I am satisfied that the works would not have an unacceptably adverse effect on dormice. In so saying it is however important to emphasise that this decision does not itself constitute the grant of an EPS license, or indeed alter the requirement for the appellant to adhere to relevant legislation.

Conditions

24. In addition to standard conditions which provide a timescale for the commencement of the development, and specify the approved plans for sake of certainty, the Council has recommended a number of planning conditions. I have considered these in the light of the advice contained within the Planning Practice Guidance (PPG), and in allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG.
25. Condition 3 requires development in accordance with the recommendations of the ecological appraisal. This is necessary in order to ensure no adverse effect on biodiversity including potential effects on dormice.

26. Condition 4 requires that enhancement measures set out in the ecological appraisal are implemented within 6 months of the commencement of the use of the development. This is in order to ensure that the measures are carried out as specified. This condition has been separated from condition 3 as the two conditions cover different matters.
27. Condition 5 requires the provision and agreement of a detailed scheme of landscaping. This is notwithstanding the scheme already submitted, which lacks adequate detail. This condition is necessary with regard to ensuring that the visual and ecological impacts of the development are successfully mitigated. It covers much of the same ground as the conditions proposed by the Council relating a 'LEMP', albeit this particular term is not used. A pre-commencement condition is not essential in this instance, albeit given the subject matter there is a need to strictly limit the scope of works possible prior to the submission and agreement of details.
28. Condition 6 requires specific details of materials to be employed in the approved buildings and retaining wall to be agreed. This is in order to ensure that the appearance of the development relates well to its landscape setting. As originally drafted the suggested condition reiterated the generic schedule of materials otherwise set out on the plans. As redrafted it allows for more specific details of these materials to be agreed.
29. Condition 7 requires the provision of the junction, visibility splays, hard surfacing and signage at the site access, and is required in the interests of the safe and efficient use of the highways. This again draws together conditions recommended by the Council which relate to provision of the access, and takes account of the request for signage by the Highways Authority.
30. Condition 8 requires the provision of the access track and parking spaces. This is in order to ensure that proper access to the development exists prior to its use, and that the development can cater for the parking demand it will generate.
31. Condition 9 requires that a manure management plan be agreed. This is necessary in the interests of the health and safety of future users.
32. Condition 10 requires additional details relating to the provision of CCTV. This is required in order to ensure that the development is capable of functioning safely and securely.
33. Condition 11 restricts the addition of lighting other than that approved. The condition is necessary in order to limit light pollution.
34. Whilst the Council suggested a condition in relation to foul water drainage, this is otherwise addressed within the context of the Building Regulations.

Conclusion

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

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise modified by compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 284/017/001; 284/017/002 Rev. C; 284/017/003 Rev. C; 284/017/015 Rev C; 2001 Rev. A.
- 3) The development hereby permitted shall be carried out strictly in accordance with the recommendations set out in Version 3 of the Preliminary Ecological Appraisal dated August 2018.
- 4) The biodiversity enhancements set out in section 6.2 of Version 3 of the Preliminary Ecological Appraisal dated August 2018 shall be implemented with 6 months of the first use of the development hereby permitted.
- 5) No removal of hedgerows or earth in relation to the development hereby permitted shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. These details shall be fully informed by the recommendations of Version 3 of the Preliminary Ecological Appraisal dated August 2018, and shall include:
 - i) a statement setting out the design objectives and how these will be delivered;
 - ii) identification of trees and hedgerows to be retained and measures for their protection throughout the course of the development;
 - iii) a schedule and locations of new hedgerow and tree planting;
 - iv) a schedule and locations of all other planting;
 - v) finished levels or contours;
 - vi) materials to be used for surfacing of the manege, paths, the access road, parking and turning areas;
 - vii) the types and specific positions of fencing;
 - viii) minor artefacts and structures;
 - ix) proposed functional services above and below ground;
 - x) the design and materials to be used for construction of the retaining wall; and
 - xi) an implementation programme.

The landscaping shall be carried out in accordance with the approved details in accordance with the agreed implementation programme. The completed scheme shall thereafter be managed and maintained in accordance with an approved scheme of management and maintenance.
- 6) Construction shall not commence until specific details of the materials to be used for the external surfaces of the buildings and retaining wall hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the first use of the development hereby permitted, the junction, between the site access road and public highway, including associated visibility splays and drainage, shall be constructed in accordance with the approved

plans. This will include hard surfacing for a distance of not less than 6 metres back from its junction with the public highway and the installation of a sign directing traffic leaving the site towards Mount Sandford Road in accordance with details that have first been submitted to and agreed in writing by the local planning authority. The visibility splays shall thereafter be retained free from obstruction at all times.

- 8) The approved site access road and parking spaces shall be fully constructed prior to the first use of the development hereby permitted. The parking spaces shall thereafter be retained and kept available for parking at all times.
- 9) Prior to the first use of the development hereby permitted, a manure management plan shall be submitted to and agreed in writing by the local planning authority. Manure generated by use of the development shall thereafter be managed in accordance with the approved plan.
- 10) Further details of security measures, including the location, view paths and design of CCTV equipment shall be submitted to and approved in writing by the Local Planning Authority. The CCTV equipment shall then be installed in accordance with the approved details, and shall be fully operational prior to the first use of the development. The CCTV equipment shall thereafter be retained in a fully operational state at all times.
- 11) Unless with the express consent of the Local Planning Authority, no external lighting other than that shown on plan 284/017/015 Rev C, and specified in the letter from Blackdown Environmental dated 21 September 2018, shall be installed around the manege.