
Appeal Decision

Site visit made on 9 December 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/U1105/W/19/3236683

Higher Wick, Road to Lower Wick Farm, Wick, Honiton, Devon, EX14 4TY

- 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 DJ & JY Hooper against the decision of East Devon District Council.
 - The application Ref 19/0298/MFUL, dated 30 January 2019, was refused by notice dated 4 June 2019.
 - The development proposed is construction of manure slurry store lagoon and associated earthworks and landscaping for existing dairy unit complex.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the Area of Outstanding Natural Beauty.

Reasons

3. The appeal site lies in a rural location about 3.5km north of Honiton. It is part of a farm that occupies the west-facing slope of a valley. The main farm buildings abut the western side of a road that runs in a north-south direction, following the contours of the slope. Land on the opposite side of the road rises up to Dumpdon Hill. The appeal site lies immediately to the west of the buildings, on the upper part of a field that runs down to the valley bottom. The buildings adjacent to the road were built pursuant to a planning permission granted in 2010. This permission was part of a suite of interrelated approvals associated with the expansion of the dairy herd. One of these approvals was for a slurry lagoon, but that permission was not implemented. A subsequent application for a slurry store was refused in 2018.
4. The site lies within the Blackdown Hills Area of Outstanding Natural Beauty (the AONB). It is common ground between the parties that the site falls in landscape character type LCT 3A – Upper Farmed Wooded Valley Slopes as defined by the East Devon and Blackdown Hills Landscape Character Assessment (2019). Key characteristics of LCT 3A include undulating valley slopes; pastoral farmland; small to medium size fields with irregular boundaries; low, species-rich hedges with many hedgerow trees; isolated farms and small villages; winding narrow lanes; remoteness and tranquillity with little modern development.

5. The Landscape Appraisal (LA) submitted with the appeal states that the environs of the site largely conform with this landscape type, and that the surrounding landscape is of high quality. I saw nothing at my visit that led me to a different view and, consequently, I conclude that the appeal site lies within an area that makes a positive contribution to the landscape quality of the AONB. Paragraph 172 of the National Planning Policy Framework (the Framework) says that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
6. The proposed slurry lagoon would be located on sloping land behind the agricultural buildings. Its base would be about 32.5 metres X 8.3 metres, but a depth of 6 metres would be necessary in order to provide a capacity of 5050m³. As the base of the lagoon would be roughly at ground level, on the lower part of the slope, artificial banks would need to be created on all four sides to contain the slurry. The surface area of the lagoon, contained by the tops of these banks, would be approximately 60 metres X 35 metres. However, in order to grade these embankments back to existing ground level, the engineering operations would cover a much larger area, and would involve approximately 36,000m³ of imported material, of which approximately a third is already stored on site. The proposals are therefore of a considerable scale.
7. The lagoon would take the form of a geometric shape surrounding a level surface (when full), or an excavation (when empty), which would be uncharacteristic of the surrounding gently undulating valley sides. The slopes down from the embankment tops would be at a gradient of 1:2.5, which would be much steeper than the slopes of the adjacent land, and they would therefore fail to assimilate with the surrounding organic landforms. This would be exacerbated by their height and by their angular corners. A galvanised mesh and barbed wire safety fence would be necessary on the top of the embankment around the lagoon, which would add to the man-made, engineered character of the overall land-form. The scale, shape and form of the overall structure would make it an incongruous feature within this high-quality landscape.
8. The LA considers the visual impact of the proposals from six viewpoints. One of these is from the road by the farm buildings, where it is concluded that the long-term impact would be moderate/neutral. I saw that the site would mostly be hidden by the existing buildings when passing through on the road, so the impact on the AONB from this point would not be significantly harmful. The LA concludes that views of the site from Dumpdon Hill would largely be obscured by trees, particularly in summer. I viewed the site from Luppitt Churchyard, which is some 2.6km away from the site. At this distance, I agree with the findings of the LA, that the long-term impact would be slight/neutral.
9. However, the other three viewpoints lie on the opposite side of the valley, to the west. From here, the site is visible from a long stretch of the road between Pennythorn Cross and Uxford Bridge, at a distance of only about 0.5km. The appellant contends that, from this direction, the lagoon will be seen against the backdrop of the large agricultural buildings. However, I saw that the engineered landform would be clearly visible in front of the buildings from this road. I therefore agree with the conclusion of the LA, in this respect, that the short-term visual impacts of the development would be substantial and

negative. The immediate impact of the proposal would therefore be harmful to the appearance of the AONB.

10. The proposals include measures to mitigate the landscape harm in the longer term, comprising new Devon hedge banks and tree planting. It is argued that within 10 years the earthworks would have grown over and the banks of the lagoon would appear as a steep grassed slope, similar to those evident in adjacent fields. Furthermore, maturing hedgebanks would be evident and, over time, the new trees would improve screening of the landform. The photomontages in the LA illustrate the mitigating impact of the landscaping after 0, 10 and 20 years from Viewpoint 5. They show that the mitigation would not be fully effective for more than 10 years.
11. The photomontages may also overstate the effectiveness, or immediacy, of the mitigation. The landscaping plan indicates that the trees will be planted at heights of between 3 and 4.25 metres, in groups of 2, 3 or 4 with large gaps between. The photomontage at Year 0 appears to show larger trees, with an almost continuous canopy across the site. They are also shown in full leaf, but as deciduous trees this would not always be the case. The Year 10 photomontage indicates that the oak trees planted at the base of the bank will have grown to approximately the height of the embankment, which is 19 metres above the planting level. Whilst perspective may be a factor, as a result of the difference in levels between the site and the viewpoint, this still does seem to represent an optimistic scenario for slow-growing trees.
12. Even if the photomontages represent an accurate portrayal of the ultimate impact of the mitigated development, there would still be considerable immediate harm to the appearance of the AONB. Whilst the landscaping would reduce this harm over time, it would be many years before it would be fully effective. I therefore conclude that the development would have a harmful impact on the landscape character of the AONB, which would be immediate and long-lasting.

Other Matters

13. The council's reason for refusal refers to concerns about the stability of the proposed embankment under all potential scenarios. This concern is understandable, bearing in mind the potentially catastrophic pollution event that could occur in the event of its failure. However, the application was accompanied by a geotechnical engineer's report, which set out recommendations for site preparation, drainage, design, and installation of the embankment. Further details of these matters could have been secured by a planning condition if I had been minded to allow the appeal.

Planning Balance

14. The harm to the landscape character of the AONB must be balanced against the agricultural and economic benefits of the proposals. Paragraph 83 of the Framework advises that planning decisions should enable the development and diversification of agricultural and other land-based rural businesses. The current arrangements for the disposal of slurry do not allow the dairy unit to operate at an economically viable level. The proposed lagoon would enable the dairy buildings to be stocked in accordance with the originally intended levels, providing a viable dairy enterprise. The agricultural and economic benefits of the proposal are, therefore, significant.

15. The evidence before me indicates that there has been a history of pollution events from the existing dairy unit affecting the River Love. The Environment Agency has indicated that a suitable lagoon is required to avoid the potential for further incidents in the future. The proposals would allow the continued operation of the dairy enterprise, whilst reducing the potential for pollution of the watercourse. This environmental benefit weighs in favour of the development.
16. Whilst these economic and environmental benefits are significant, there would be substantial harm to the landscape quality of the AONB. I appreciate that options for the provision of a lagoon are constrained by the need to maximise the distance to the watercourse at the bottom of the valley, whilst also maintaining the stability of the existing buildings. I also recognise that the appellant has explored the alternative of enclosing the slurry store in a building. However, in the context of the Framework's advice that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB, I am not persuaded that the proposed lagoon, with its high embankments, angular features and unnaturally steep slopes, represents the optimal solution in landscape terms.
17. I therefore conclude that the development would be harmful to the character and appearance of the AONB. The proposal would therefore be contrary to Strategies 7 and 46, and Policies D1 and D7, of the East Devon Local Plan 2013 to 2031 (adopted 2016). These policies seek to protect the distinctive landscape character of the AONB and countryside. The proposals would also be contrary to the advice in Section 15 of the Framework, which aims to conserve and enhance the natural environment. The council's decision notice also referred to Policy D2 of the East Devon Local Plan, but I find no conflict with that policy.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR