



Appeal Decision

Site visit made on 7 January 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2020

Appeal Ref: APP/Y1138/W/19/3238524

Land adjoining Mardles Gate, Colebrooke, Crediton EX17 5DJ

- 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 G Pitts against the decision of Mid Devon District Council.
 - The application Ref 19/01205/FULL, dated 17 July 2019, was refused by notice dated 20 September 2019.
 - The development proposed is the use of former slurry lagoon as a reservoir for storage of rainwater to be used for agricultural purposes.
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Decision

1. The appeal is allowed and planning permission is granted for the use of former slurry lagoon as a reservoir for storage of rainwater to be used for agricultural purposes at land adjoining Mardles Gate, Colebrooke, Crediton EX17 5DJ in accordance with the terms of the application, Ref 19/01205/FULL, dated 17 July 2019, subject to the following condition:
 - 1) The lagoon shall be used for the storage of surface water only and shall not at any time be used for the storage of slurry or manure.

Procedural Matter

2. The lagoon and the surrounding earth banks are in place and I have noted the background history in respect of the previous proposal for slurry storage purposes. A slurry lagoon has been permitted elsewhere on the holding and this proposal is for the storage of rainwater. I have dealt with the proposal on that basis.

Main Issues

3. The main issues are:
 - the effect of the lagoon and earth banks on the living conditions of the occupiers of Mardles Gate and Manor Croft.
 - whether the location is acceptable having regard to the impact on the best and most versatile agricultural land and whether the lagoon is reasonably necessary to serve the agricultural holding.

Reasons

Living conditions

4. The lagoon with its earth banks is sited in an elevated location and largely screened from the adjoining lane by the established hedge. Mardles Gate is

located on the same side of the road as the lagoon and from the front garden area, which appears to be the main external amenity space, the side bank of the lagoon is clearly visible further up the slope. The end gable of the dwelling faces broadly towards the lagoon, while the main windows of the dwelling generally face back and front.

5. It is explained that the dwelling is occupied by a worker on the farm, nevertheless, this does not indicate that the occupants should be subject to a lower standard of living conditions than other residents. However, in this case, the lagoon is a reasonable distance from Mardles Gate, there is an intervening section of agricultural land and the height of the bank does not appear overbearing or lead to a material loss of light to this neighbouring property, either in my view, within the dwelling itself or its garden. While the lagoon bank has a presence further up the slope when viewed from Mardles Gate, it does not have an undue or adverse effect on the living conditions of the occupiers of Mardles Gate.
6. Manor Croft is located on the other side of the road and on lower land. Parts of the banks of the lagoon are visible from the garden area and from some windows of this property. While the lagoon banks have a presence in these views, there are intervening hedges and with the separation distance the appeal development does not have a size, scale or siting that has a dominant or materially harmful effect on the living conditions of the occupants of Manor Croft.
7. As the lagoon would be used to store rainwater, it is unlikely to create a odour nuisance and, in any approval, it would be appropriate and necessary to attach a condition limiting its use to storing water.
8. Based on an assessment of all the evidence, my site visit and taking into account the objections expressed from local residents, in particular those of the occupiers of Manor Croft, I conclude that the lagoon and earth banks has an acceptable impact on the living conditions of the occupiers of Mardles Gate and Manor Croft. Consequently, the proposal complies with policies DM2 and DM22 of the Mid Devon Local Plan Part 3 (Development Management Policies) (2013) (the Local Plan) and the National Planning Policy Framework (the Framework) which seeks, amongst other things, to sensitively locate agricultural development to limit any adverse effect on the living conditions of local residents.

Location

9. The information indicates that the agricultural holding is an established and reasonably sizeable dairy unit. It is understood that the farming activities draws on water resources including for drinking water and for washing down farm building areas. It is estimated that the daily water usage is 30,000 litres of which 20,000 litres is supplied by a borehole and the remainder is drawn from the mains supply.
10. The intention would be to take rain water from the roofs of the farm buildings and pump it up to the lagoon. The water would then gravity feed the farm complex when required. In these circumstances, the principle of storing water is considered to be directly related to the farming activities and to be reasonably necessary to serve the agricultural holding.

11. The lagoon is located on Grade 2 agricultural land and the Council argue that the lagoon could be located on lower quality land closer to the farm group. The Framework advises that decisions should take into account the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality.
12. In this case, the appellant has explained that there would be material financial benefits to the holding as it would save the farm from purchasing about 3.5 million litres of water per year, the unit would become more sustainable and, if the lagoon was located near the yard, it would be necessary to pump water into and out of the lagoon, the latter to provide sufficient water pressure for activities such as washing down yards.
13. The lagoon and its banks takes up a modest area of land such that the loss of this Grade 2 agricultural land from productive crop use is relatively minor compared to the size of the wider field and especially the acreage of the farm holding as a whole. As there would be economic and sustainability benefits of reusing the water that falls on the roofs of the farm buildings, that the Council do not raise objection to the landscape impact of the lagoon and its banking in this location, and that the lagoon is reasonably necessary on the holding, the loss of this area of Grade 2 agricultural land is not considered to be harmful or contrary to the advice in the Framework in this respect.
14. I have not been provided with detailed evidence that an alternative site near the yard would provide the agricultural benefits that the present proposal would deliver. In any case, I have considered the present scheme on its merits and find it acceptable.
15. Taking all these matters into account, I conclude that the lagoon is reasonably necessary for the purposes of agriculture on the holding and that the loss of the land from productive agricultural use is not harmful such that overall the location of the development is acceptable. Consequently, the proposal does not conflict with Policies COR2 and COR18 of the Mid Devon Core Strategy 2026 (adopted 2007), DM22 of the Local Plan and the Framework which seeks, amongst other things, to sustain environmental assets through the efficient use and conservation of natural resources of land, water and energy.

Other Matters

16. I have had regard to the objections from local residents to the proposal. Most of the issues raised have been examined above. I have carefully considered this proposal on its merits and therefore any previous planning condition to return the land to a field affords limited weight in my analysis. The requirements of health and safety and the inspection of the lagoon contents would be on-going management matters that I afford limited weight in terms of the main planning issues for consideration in this appeal.
17. Other matters such as the potential evaporation from the site because of its exposed location, biodiversity issues, the pumping of water and soil erosion in the area, are issues of minor weight in terms of the issues in this appeal, and do not outweigh my findings on the main issues.

Conditions

18. I have had regard to the condition suggested by the Council in the event that I was to find the proposal acceptable. I agree it is necessary to attach a condition restricting the lagoon solely to the storage of water in the interests of the living conditions of local residents. Given that the lagoon and its banks are in place and that the outer sides have grassed over, it is not necessary to attach a landscaping condition to the decision.

Conclusion

19. Having regard to the above, and taking all other matters into account, I conclude that the appeal should be allowed.

David Wyborn

INSPECTOR