



Appeal Decision

Site visit made on 10 September 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 05 October 2020

Appeal Ref: APP/U1105/C/20/3250819

Land opposite Woodbury Business park, Woodbury, Devon EX5 1AY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by G B House and Son against an enforcement notice issued by East Devon District Council.
 - The enforcement notice was issued on 19 March 2020.
 - The breach of planning control as alleged in the notice is the construction of a vehicular parking/storage area by the removal of top soil and laying of hardcore with the resulting change of use of the land from agriculture to a vehicle parking/storage area use in association with Woodbury Business Park.
 - The requirements of the notice are:
 - I. Permanently remove from the Land the hardcore surface of the vehicle parking/storage area shown edged red on the attached plan
 - II. Permanently cease the use of the Land for vehicular parking/storage
 - III. Reinstate the surface of the land to its condition before the breach took place by levelling the ground to the level of the adjoining field
 - IV. Permanently remove all materials associated with compliance with steps I, II and III
 - The period for compliance with the requirements is within 7 days for Step II, and within 16 weeks for Steps I, III and IV.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a vehicular parking area at land opposite Woodbury Business park, Woodbury, Devon EX5 1AY as shown on the plan attached to the notice and subject to the conditions in the Schedule at the end of this decision.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The appeal is solely under ground (a), that in respect of any breach of planning control which may be constituted by the matter stated in the notice, planning permission ought to be granted.

4. The main issues relate to the Council's reasons for issuing the notice, namely whether the parking/storage area would result in unacceptable harm to the local landscape and to the setting of the nearest Grade II listed farm building.

Reasons

Description of the site and its context

5. Woodbury Business Park provides premises of various sizes for over 25 local businesses, which have created full and part-time employment for 146 people. It is located approximately 850m south west of Woodbury village, on the south side of the road to Exton and the A376. Immediately to its east is Venmore Farm and its various outbuildings, many of which – including the Grade II listed former agricultural barn running 20m along the road frontage – have recently been converted into additional office units known as The Courtyard.
6. The appeal site lies directly opposite on the north side of the road. It is a roughly rectangular area of 0.13 hectares providing sufficient parking space for up to 59 cars or vans. It occupies the south east corner of the large field – currently occupied by a maize crop – opposite the Business Park. Earth bunds have already been laid to its north and west boundaries.

Landscape and Visual Impact

7. The parking/storage area is visually separate from the Business Park because it is on the other side of the road. It has obviously eaten into the size and shape of the large roughly rectangular shaped field on the north side of the road. To this extent it has a degree of landscape and visual impact.
8. However, the land this side of the road is more or less level. There is a bus stop on this side of the road, so people travelling eastwards by bus from the Business Park already need to cross the road. The existing earth bunds help to contain and subdivide the site from the agricultural land behind it.
9. I observed on my visit that the land to the south of the Business Park itself rises fairly steeply on its southern side, where there currently exists a high retaining bank. This means that any extension to the south contiguous with the Park's boundary would have a much greater landscape and visual impact than the appeal site does. I note that the Council does not challenge the appellant's assessment of the need for the additional parking spaces in order to ensure the continued productivity and efficiency of the Business Park, albeit it considers that the car park urbanises part of an agricultural field.
10. I note that the appellant's proposed site plan submitted with the planning application that was refused earlier this year¹ also sets out proposals for new tree planting to the site's northern and western boundaries, for a new stock-proof post and rail fence atop the bunds and for a new hedge to shield the new car park from the road. These proposals would have the added effect of further minimising the car park's landscape and visual impact. They demonstrate the appellant's willingness to properly landscape the car park.
11. The appellant states that the Council's landscape officer raised no objection to the planning application for the car park.² That is incorrect. The landscape officer stated that the scheme should be refused due to its landscape and

¹ 19/1204/FUL – Refused 9 January 2020

² Appellant's appeal statement, paragraph 6.30

visual impact, albeit the planning officer's recommendation on balance was that the application should be approved.³

12. The landscape officer raises a number of specific concerns about the appellant's proposed landscaping scheme, for instance in terms of the space necessary for the roadside hedge and queries regarding the tree planting proposed to apparently take place in the retained agricultural field. I believe the landscape officer's concerns can be satisfactorily overcome by the submission of a revised detailed landscaping scheme pursuant to a suitable condition. For this reason, I am not accepting the appellant's proposed site plan (drawing number 7949-03 revision G) and consider the landscaping condition below is necessary to secure adequate mitigation to the proposal's landscape and visual impact.
13. Subject to this and other conditions and for the reasons stated above, I conclude that the minor landscape and visual harm engendered by the new car park can be satisfactorily mitigated by an acceptable landscaping scheme for the car park. In concluding this I am conscious that the site and its surroundings do not comprise a designated or protected landscape and is not a valued landscape in terms of paragraph 170 a) of the National Planning Policy Framework (NPPF).

Heritage Issues

14. The Grade II listed barn building at Venmore Farm fronts the road for about 20m and is directly opposite the eastern part of the new car park, such that the two are viewed together when driving down the road in either direction. The listed building is consequently seen in conjunction with parked cars and vans. There is no dispute between the parties that the car park would have a limited adverse impact on the listed building's setting and that this would give rise to 'less than substantial harm' in terms of NPPF paragraph 196.
15. However, under that paragraph, this harm to a designated heritage asset should be balanced against the public benefits of the proposal. The public benefits here relate to the provision of an undisputed need for additional car parking for commercial occupiers of the Business Park and their clients/visitors, because such provision would support local economic growth and productivity in this rural area, as encouraged by NPPF paragraphs 80, 83(a) and 84.
16. The Council acknowledges that the harm to the listed building's setting would be limited. I agree because such harm would be limited to the hard surfacing of the car park and the view of vehicles in conjunction with the listed barn across the road. The view down the road and south down Rydon Lane to some extent urbanises the setting of what was originally a rural building facing an agricultural field. But the barn's front elevation and setting is not significantly challenged by vehicles, whose roof heights are considerably lower than the barn's roof.
17. The listed barn is of course located within the context of the adjacent Business Park and is viewed as such from the opposite side of the road and when proceeding south west down the road. For the above reasons the car park does not significantly or cumulatively worsen the Business Park's impact on the

³ Report to Committee of 7 January 2020

listed barn. The landscaping scheme discussed above would also help to minimise the limited degree of harm that has arisen to date.

18. For this reason, I conclude that the public benefits of the car park outweigh the limited harm to the building's setting, which results in a less than substantial impact to its significance.

Development Plan Policies

19. Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013-2033 (LP) states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy. LP Policy E7 permits the small-scale expansion of employment sites that are at or near full occupancy in a manner proportionate to the existing size and scale of site operations providing three criteria are met in full. There is no dispute between the parties that all three criteria are met here, including criteria 3: that no protected landscape or historic interests are adversely affected. The development therefore complies with Policy E7 and consequently with Strategy 7 of the LP.
20. LP Policy EN9 repeats the statutory test in NPPF paragraph 196: that development leading to less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal. For the reason set out above, the public benefits of the car park outweigh the less than substantial harm to the Grade II listed barn across the road.

Conditions

21. The Council has suggested six conditions. The first one relating to the approved plans is unnecessary since there aren't any such plans. The last one relating to the submission of a revised Travel Plan is unnecessary and unreasonable because the Council does not challenge the appellant's assessment of the need for the additional parking spaces, so there is no need to update the existing Travel Plan. The landscape maintenance condition suggested by the Council is incorporated in Condition 3. My reference to Condition numbers refers to those in the Schedule below.
22. Condition 1 is necessary because the proposal is justified on the basis of the Park's business need for additional car parking only. The car park should only therefore be used as such during the Park's business hours. In particular, it should not be used for caravan or commercial vehicle storage or for any other business purpose, which could adversely affect the landscape character of the area and increase the harm to the setting of the listed barn opposite. Equally, Condition 2 prevents floodlighting of the car park.
23. Condition 3 is imposed to ensure that the required details of landscaping are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the landscaping before the development takes place. The condition will ensure that the development can be enforced against if the landscaping details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on

appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

24. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the car park as described in the notice subject to the conditions below.

Nick Fagan

INSPECTOR

Schedule of Conditions

- 1) The car park hereby approved shall only be used for overspill car parking for cars and light commercial staff and visitor vehicles in conjunction with the use of Woodbury Business Park during the opening hours 8am to 9pm. No vehicles shall be permanently stored on site or left parked outside of the opening hours. For the avoidance of doubt, the car park shall not be used for any commercial storage or any business purpose.
- 2) No external flood lighting shall be installed in the car park.
- 3) The use of the car park hereby permitted shall cease, all materials including the hardstanding material shall be removed, the surface of the land restored to its condition before works to establish it commenced by levelling the ground to the level of the adjoining field, and all equipment and materials brought onto the land for the purposes of such use shall be removed within 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a landscaping scheme to include: -detailed drawings showing construction details of any proposed fences, walls, surfacing, site furniture and signage; - proposed site levels, retaining walls and indications of slopes greater than 1:3, -means of surface water drainage ensuring no discharge onto the highway; - a schedule of maintenance of such scheme for a minimum period of 10 years, such schedule to include arrangements for its implementation shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. Soft landscape proposals shall be accompanied by a specification detailing the proposed species, their planting size, the density at which they will be planted, any specific planting matrices, the number of plants of each species and notes and preparation of subsoil and topsoil, tree and shrub planting and grass seeding, mulching, staking and means of protection.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Conditions