

Appeal Decision

Site visit made on 27 January 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/U1105/W/20/3260272

Windrush, Road From Heathfield Cross To Bowls Cross, Poltimore EX4 0AB

- 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 Thomas Lowday against the decision of East Devon District Council.
 - The application Ref 20/0848/FUL, dated 21 April 2020, was refused by notice dated 21 July 2020.
 - The development proposed is the change of use from agricultural/residential to School/educational facility, to operate an independent special school.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural/residential to School/educational facility, to operate an independent special school at Windrush, Road From Heathfield Cross To Bowls Cross, Poltimore EX4 0AB, in accordance with the terms of the application Ref 20/0848/FUL, dated 21 April 2020, subject to the conditions contained in the attached schedule.

Procedural Matter

2. The Council's decision notice lists two reasons for refusal, the second of which relates to the ecological effects of the proposed compost toilets. The appellant has opted to withdraw this element from the appeal scheme. As no party would be prejudiced by this omission, I have not considered this matter further.

Main Issue

3. The main issue therefore is the suitability of the site for the proposal having regard to the development plan, with reference to accessibility.

Reasons

4. The appeal site comprises the dwelling Windrush, its grounds, the woodland Vinnicombes Covert, fields, and agricultural buildings around a farmyard just to the south of the hamlet of Ratsloe, within countryside to the north of Exeter.
5. The school subject to the appeal is currently based elsewhere in Devon but for given operational reasons would offer a more optimised educational experience at Windrush. It caters for pupils who are excluded from mainstream school and provides outdoor learning focussed on social emotional development in addition to curriculum learning for students with Autistic Spectrum Disorders or those who have Social Emotional Mental Health needs.
6. Policy Strategy 7 of the East Devon Local Plan 2013 to 2031 (adopted 2016) (EDLP) restricts new development in the countryside to that which meets

specific circumstances set out elsewhere in the EDLP. Where the EDLP supports community facilities such as schools, there is an expectation that the facility will be at or near to an urban location and/or be based on a local need. As Windrush is within the countryside, and as the proposed development would draw pupils from across Devon, the proposal would not meet such stipulations.

7. Furthermore, Policies TC2 and Strategy SB of the EDLP seek, amongst other things, for new development to be located so as to minimise the need to travel by car and where it will encourage and allow for efficient and accessible means of transport. In this case, the isolation of the site from public transport services means that most trips to and from the site would be by way of private vehicle.
8. As such, the site would not be suitable for the proposal having regard to the development plan, with reference to accessibility. The proposal would conflict with the relevant aims of Policies Strategy 5B, Strategy 7 and TC2 of the EDLP.

Other Considerations

9. That said, Paragraph 94 of the Framework identifies the importance that a sufficient choice of school places is available to meet the needs of communities. It goes on to say that the decision maker should give great weight to the need to create, expand or alter schools. It is evident that Devon has a significant need for this type of school, much of which is concentrated around the wider Exeter area. Student numbers are also expected to rise considerably, particularly in East Devon, Exeter and the South Hams. The proximity of Windrush to Exeter and to the M5 motorway make it well placed in this regard.
10. It is also logical that the predication of the facility on outdoor learning requires it to be within a rural location, where it will invariably be beyond the reach of public transport. I also accept that the relatively wide geographical spread of pupils in comparison to mainstream schools and the specific needs of pupils would lead to specialist or private vehicles being the predominant method of school transportation regardless of the school's location. These factors weigh significantly in the scheme's favour. I return to them in the planning balance.

Other Matters

11. I have considered the concerns raised by interested parties regarding highway safety and the highway network. It is evident that safe and adequate visibility can be achieved at the two proposed school entrances. With management of the one-way system and the timing of arrivals, I am satisfied that problems associated with vehicles waiting within the highway would be avoided. No records of accidents in the network between the site and Exeter have been provided, nor is there clear evidence that the increased movements would unacceptably affect the safety of pedestrians or horse riders on the highway.
12. I do recognise that the network around Ratsloe can encounter a level of congestion. However, Paragraph 109 of the Framework states that development should only be refused on such grounds if the residual cumulative impacts on the road network would be severe. Given the anticipated number of vehicular movements, and with a Travel Plan in place, I do not consider that the impact upon the road network would be of such magnitude in this case.
13. Concern has also been raised with regard to the proposed use of Vinnicombes Covert for hosting the outdoor learning. However, with the removal of the proposed compost toilets, and with management of the woodland secured with

a condition, the proposal would not prejudice the value of Vinnicombes Covert either as a habitat or in arboricultural terms.

14. There is no substantive evidence that the children would be imperilled by the proximity of adjacent farming operations. Given the distances involved, the impact upon the living conditions of residents within Ratsloe with regard to noise and smells would be modest and acceptable. Regarding the agricultural use of the land, it seems to me that the proposal would be an opportunity to make better use of the pasture, beyond the grazing of horses that has typically taken place. Given the limited operational development involved, the effect of the proposal on the character and appearance of the area would be negligible.

Planning Balance

15. Planning law and the Framework require proposals to be determined against the development plan unless material considerations indicate otherwise. I have found that the site would not be suitable for the proposal having regard to the development plan, with reference to accessibility. This draws the scheme into conflict with the development plan when read as a whole.
16. However, the other considerations relevant to this case together provide a convincing justification for locating the proposed development at Windrush. Given the circumstances at hand, these other material considerations attract significant weight and constitute an exceptional justification for making a decision which is not in accordance with the development plan.

Conditions

17. In the event that I was minded to allow the appeal, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the advice of the Planning Practice Guidance. I have amended them where appropriate for the sake of clarity and precision.
18. In addition to the standard time condition, a condition is needed to define the approved plans in the interest of certainty. Given that the appeal is to be allowed on the specific circumstances of the case, it is necessary to restrict the use of the development to that proposed. In the interests of the highway network, it is also needed to control the upper limit of student and staff places at the school and to ensure that a Travel Plan is implemented. The cycle storage facilities are required to be delivered to support that plan. To ensure that safe access and egress is provided, it is also essential to secure the proposed access works and parking arrangement prior to the first use of the facility. In the respective interests of visual amenity and Vinnicombes Covert, it is necessary for a lighting plan to be approved and implemented, and for the work to progress in line with the woodland management plan.

Conclusion

19. For the reasons outlined above, and taking all matters raised into account, I shall allow the appeal.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J455R/01, J 455R/02, J455R/03 (excluding compost toilets), Drg 11, Drg 12, 455R/14.
- 3) The site shall be used as an independent special school and for no other purpose (including any other purpose in Schedule 2, Part, Class F.1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) No more than 30 students and 20 members of staff shall be on the site at any one time.
- 5) Prior to the first use of the development hereby permitted, a Travel Plan shall have been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall be implemented and monitored thereafter in accordance with the approved details
- 6) No part of the development hereby approved shall be brought into use until the car parking spaces, turning area and visibility splays have been provided in accordance with the details shown on drawing no J445R/02. These facilities shall thereafter remain in perpetuity.
- 7) Prior to first use of the development hereby approved, details of secure cycle/scooter storage facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 8) Prior to installation, a lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.
- 9) The development hereby approved shall be carried out in accordance with the aims and objectives contained within the woodland management plan prepared by Adam Thompson Arboricultural Services received by the Local Planning Authority on the 23rd April 2020.