
Appeal Decision

Site Visit made on 9 June 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/X1118/W/21/3270711

Strawberry Fields, Shute Lane, Combe Martin, EX34 0HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Roger Turner against the decision of North Devon District Council.
 - The application Ref 72014, dated 19 July 2020, was refused by notice dated 15 October 2020.
 - The development proposed is an agricultural barn.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application for determination as to whether prior approval was required for the construction of an agricultural building was made under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Paragraph A.2(2) of the GPDO requires, amongst other things, that a determination be made as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building.
3. There is no dispute between the parties as to whether or not the development proposed falls within the definitional scope of Schedule 2, Part 6, Class A of the GPDO.

Main Issue

4. The main issue is whether the siting of the agricultural development is appropriate considering the location of a neighbouring dwelling.

Reasons

5. The proposal is for a barn to house dung within a farm complex. It is understood that the current location is already used to store dung, but the covering would help prevent rainwater penetration and runoff, which is advised by both the Environment Agency and Natural England, due to water contamination issues that have affected Coombe Martin Bay.
6. There is no dispute between the parties that this is development permitted under the criteria of Part 6, paragraph A.1 the GPDO. Furthermore, there is no dispute with regards the benefits that the barn store covering would provide.

However, the Council objection is that the dung store barn would be sited inappropriately due to the proximity of a neighbouring dwelling known as Coombe View, which is in close proximity to the site of the proposed development. This has led to an objection from the Environmental Health Officer.

7. The concern is that dung being stored in an open sided barn in this location could result in significant odours and possible fly infestations affecting the living conditions of the occupiers of Coombe View, who have objected on this basis. The occupiers have also implied there is already an issue due to dung stored in this location. The prevailing wind direction would potentially worsen the impact. Indeed, it is my view that a dung store this close to a neighbouring dwelling would likely result in significant odour issues particularly, adversely impacting the living conditions of those living at Coombe View. Being open sided, I am not convinced a roof covering would provide much mitigation.
8. The appellant explains that the site of the proposed barn is already used to store dung. However, there is no substantive details or information of this area and how it has been used for dung storage currently or in the past. It is not clear whether the barn as a more formal large structure to house dung would result in greater quantities being stored in this location and/or for longer periods. These are matters which may result in a greater adverse impact to the neighbour living conditions than the current circumstance.
9. The site is on a hillside and I recognise that topography may be difficult for the identification of alternative sites for the dung barn. I also accept that there would possibly be a greater cost to the appellant and that moving dung could have some pollution risks. However, this is a relatively large farm and there is not enough detailed information on these matters for me to conclude that the proposed siting is the only possible location and there are no alternatives for a dung store barn which would likely have a lesser impact to the occupants of Coombe View and still meet with Environment Agency/Natural England advice.
10. The appellant argued that the neighbouring property is not a 'protected building' (being that it is part of an agricultural holding) and so should not be in a position to object. The Council is not stating that the proposed barn is either not permitted or conflicts with the condition under A.2 (1) on the basis that Coombe View is a 'protected building'. In any case, the GPDO when referring to 'protected buildings' under Part 6, Class A is with relation to proposals for new buildings for livestock housing or for the storage of slurry or sewage sludge within 400m of a 'protected building'. However, the proposal is for dung storage.
11. Furthermore, the consideration of the siting of the proposed dung store barn under the Prior Approval process, as explained under paragraph A.2 (2) of Part 6, does not reference the exclusion of 'protected buildings' in this consideration. As such, it is my interpretation that if Coombe View is not a 'protected building' it does not mean that impact of the siting of the barn cannot be considered in relation to the living conditions of occupants of this house, whether this is a 'protected building' or not.
12. To my mind, even if Coombe View is within agricultural land, it should not mean that the proximity and the potential impacts of the proposed dung store barn should be ignored when considering the siting of this building.

13. I recognise the benefits of the covering of dung from a pollution control perspective, but this does not outweigh the inappropriate siting of a dung store building relatively near to a neighbouring house. I am not convinced by the evidence submitted that this site is the only functional location for the dung store building, or that an alternative siting would necessarily create a pollution problem.

Conclusion

14. Prior approval of the siting, design and external appearance of the barn is required. For the reasons set out above, the barn would result in an unacceptable impact to neighbour living conditions as a result of its proposed siting. Consequently, prior approval is refused.

Mr S Rennie

INSPECTOR

