
Appeal Decision

Site visit made on 12 July 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/U1105/W/21/3272290

Home Farm, Road from Honiton Road to Pound Corner, Clyst Honiton EX5 2LX

- 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 Cladir Ltd against the decision of East Devon District Council.
 - The application Ref 20/0191FUL, dated 23 January 2020, was refused by notice dated 23 October 2020.
 - The development proposed is construction of 1 No warehouse building, renovation of brick building, construction of hammerheads and site entrance, installation of palisade fencing, vehicular and pedestrian gates, 2.1m high wall, covered cycle store and refuse store and lockable road barrier.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 1 No warehouse building, renovation of brick building, construction of hammerheads and site entrance, installation of palisade fencing, vehicular and pedestrian gates, 2.1m high wall, covered cycle store and refuse store and lockable road barrier at Home Farm, Road from Honiton Road to Pound Corner, Clyst Honiton EX5 2LX in accordance with the terms of the application, Ref 20/0191FUL, dated 23 January 2020, subject to the conditions contained within the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - a) the character and appearance of the area,
 - b) the living conditions of the occupiers of neighbouring property, with particular respect to noise and disturbance, and
 - c) whether or not the site would be in a suitable location for future occupiers with respect to aviation safety.

Reasons

3. The appeal site is situated towards the end of a lane that runs north-west to south-east from Honiton Road towards a roundabout that connects to the A30. There is however no access to vehicles, other than emergency vehicles, along the stretch of the lane from just beyond the appeal site to the aforementioned roundabout. This effectively means that the appeal site is at the end of a cul-

de-sac. Opposite the site there is a verge area with relatively dense vegetation, behind which are fields. There are two dwellings to the north-west of the appeal site, then a recreation/children's play area followed by further dwellings. Continuous built development on the opposite side of the road starts beyond St Michael's Hill.

4. The site itself contains a range of joined buildings arranged in an 'L' shape that are set back from the frontage, as well as a part two storey and part single storey brick building on the north-western boundary of the site. The proposed development would result in the removal of the existing 'L' shaped buildings and their replacement with a large industrial style building constructed in profiled metal walls with areas of facing brickwork, metal roller doors and a profiled metal roof. The existing brick building will be partially demolished and rebuilt.

Character and appearance

5. The proposed building would undoubtedly be relatively large, with a footprint of about 31m x 26m and a height of about 6.9m to the ridge, the latter about the same as the existing two storey brick building. However, the building would be set back from the road and would have new planting to the front which would help soften its appearance. Furthermore, there is dense planting to the south-east of the site and a series of high trees to the boundary with the neighbouring property. Further planting is proposed along this boundary as well as along the south-west boundary. The brick facing would also help soften the impact of the proposed building.
6. I have been supplied with a Landscape and Visual Impact assessment (LVIA) prepared by Southwest Environmental Ltd on behalf of the appellant. This concludes that there would be no change to the landscape character of the area and a low visual impact. Whilst I do not completely agree with the LVIA's assessment of the wider area I nonetheless agree with the overall findings. The existing and proposed planting, coupled with the positioning of the proposed building and the existence of the existing brick building to the front of the site would mean that views of the building would be hard to come by, except from directly in front of the development. I am also conscious that the site as it stands is unattractive and that the road no longer seems to be a main entrance way into the village.
7. Given my above findings it follows that there would be no conflict with policy D1 of the East Devon Local Plan 2013 to 2031 (LP) which requires that proposals ensure that, amongst other things, the scale, massing, density, height and materials of buildings relate well to their context.

Living conditions – noise and disturbance

8. The design and Access statement indicates that the proposed building would be used for storage (Use Class B8), welfare facilities and an office (Use Class B1a). The renovated brick building would be used for B1 and B2 Use Classes¹. I note that the site has previously been used for the storage and wholesale of antique furniture and for car sales and consequently could be construed to have an existing lawful use for warehousing and retail and wholesale sales. I

¹ It should be noted that as from 1 September 2020 Use Class B1 has been replaced by Use Class E(g)

further note that there were no restrictions in terms of hours of work imposed on these previous uses.

9. I have been supplied with a Sound Impact Assessment (SIA) prepared by Clarke Saunders Acoustics on behalf of the appellant. This is a comprehensive document that concludes that the proposed development would have a low impact, and I have been given no significant evidence to counter this conclusion. The assessment was carried out during the Covid 19 pandemic when travel restrictions were in place and consequently background noise levels due to vehicles and aeroplanes would have been likely to have been lower than normal.
10. I note that the Council have suggested a working hours condition limiting any work at the site to between 0600-2100 Monday to Friday and 0600-1300 on Saturdays with the added proviso that no HGV vehicles or forklift trucks could operate before 0700 on weekdays or before 0800 on Saturdays.
11. Taking into account the foregoing I conclude that there would be no conflict with policy D1 of the LP which makes clear that, amongst other things, development will be permitted where it would not adversely affect the amenity of occupiers of adjoining residential property.

Aviation safety

12. The appeal site falls within the Public Safety Zone at the end of Exeter Airport runway. In such areas development should be restricted to in order to control the number of people on the ground at risk of injury or death in the event of an aircraft accident on take off or landing.
13. A letter dated 3 April from Munster Joinery to the Council identifies how the proposed development would be utilised. In essence it confirms that while there may be 12 people employed in connection with the development only two would be on-site permanently with others coming and going, and that there would be rarely more than six people on the site at any one time. In response to this the Airport Authority accepted that if a condition could be imposed that limited the maximum number of people on site at any one time to six, then they would withdraw their objection.
14. However, it is necessary to consider the existing potential use of the site and the fact that at present there are no restrictions on numbers that could be on the site at any one time. The arguable existing lawful use for warehousing and retail and wholesale sales could result in a considerable number of people on the site at any one time. Given this potential situation the appellant has suggested that a maximum number of ten people would be a reasonable alternative to six and I agree with this. I acknowledge that the Council have concerns with such a condition but I have been supplied with examples of similar conditions and overall, I consider that the suggested condition would comply with the necessary tests.
15. Consequently there would be no conflict with policy RC12 of the LP. This policy restricts permissions that would prejudice the safe operations of aerodromes.
16. I note the Council's comments that the LVIA and the SIA were provided after the application had been refused and that they have not had time to adequately respond to them. However, such submissions at this stage, when dealing directly with Council's reasons for refusal are not at all uncommon and

I cannot accept that any prejudice has occurred. Similarly the boundary mitigation was in response to the council's comments and will result in an improvement in neighbours living conditions compared with the previous position. Once again I cannot accept that any prejudice has occurred.

17. My attention has been drawn to policy E3 of the emerging Clyst Honiton Neighbourhood Plan (NP). This encourages improved business or commercial facilities at three sites within Clyst Honiton including Home Farm. The policy stipulates that support would be given to *proposals for new or improved business and commercial facilities Use Class B1 and some form of non-manufacturing retail A1*. The proposed development would include some B1 use. As regards the non-manufacturing A1 use, this could well cause numbers to visit the site well in excess of those deemed safe by the Airport Authority. The appeal site has also been used for storage in the past. Taking this matters into account plus the fact that the NP has yet to be made and therefore carries less weight than it otherwise would, my overall decision is not altered.

Conditions

18. The conditions contained within the attached schedule are those suggested by the Council and agreed by the appellant apart from condition No 7 which I have discussed above.
19. In the interests of the appearance of the finished development I have imposed a condition requiring details of a landscaping scheme to be submitted. To protect the amenity of local residents I have imposed a condition requiring the noise mitigation measures to be put in place and a further one limiting the hours of use. For highway safety and also amenity reasons I have imposed conditions requiring the re-location of the barrier and the installation of parking and turning facilities.
20. To prevent flooding I have imposed conditions requiring the submission and approval of a drainage scheme and exceedance pathways and overland flow routes and details of the management system for the drainage arrangements. To preserve wildlife I have imposed a condition to ensure that the development will be carried out in line with the submitted Ecological Appraisal and Arboricultural Statement.
21. I have also imposed a condition that requires work on the site to stop if contamination is discovered. In the interest of aviation safety I have imposed a condition limiting the numbers of people on the site at any one time as discussed previously. Finally, to ensure certainty I have imposed a condition detailing the drawings that were submitted to the Council with the planning application.

Conclusion

22. In light of the above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

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: 18895-1001 Rev N Layout, 18895-2000 Rev C Proposed Site Plan, 18895-1007 Rev F Proposed Elevation, 18895-1052 Rev D Proposed Site Plan, 18895-1050 Rev D Proposed Site Plan, 18895-1051 Rev E Proposed Site Plan, 18895-1003 Rev F Proposed Floor Plans, 18895-1004 Rev H Proposed Combined Plans, 18895-1005 Rev D Proposed Site Plan, 18895-1006 Rev F Proposed Elevation, 18895-1054 Rev B Other Plans, ZZ-DR-S-1055 Proposed Site Plan, ZZ-DR-S-1056 Proposed Site Plan, ZZ-DR-S-1057 Proposed Site Plan, 18895-1058 Rev B Other Plans, 1889-1002 Rev J Location Plan.
- 3) No development above foundation level shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
- 4) No development above foundation level shall take place until noise mitigation measures have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be undertaken in accordance with the agreed details.
- 5) In accordance with details of parking provision, which shall have previously been submitted to and approved in writing by the Local Planning Authority, parking shall be installed to accord with the agreed details prior to the development hereby approved being brought into use. The parking shall remain available for use in perpetuity.
- 6) The vehicle turning areas shown in the Site Layout (Drawing number 18895 – 1001 Rev N) shall be installed prior to the development hereby approved being brought into use, and shall remain available for use in perpetuity.
- 7) No more than ten persons shall be present on the site at any time and the renovated brick building shall not be used for any purpose other than storage related to the business taking place on the site.
- 8) No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

- 9) No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.
- 10) No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.
- 11) The development hereby approved shall only be open/operated between the hours of 6am to 9pm Monday to Friday, 6am to 1pm on Saturday, with no opening/operation on Sundays or Public Holidays. However, no Class N3 or above HGV vehicles, or Forklift trucks, may enter/leave, or be used within, the site before 7am Monday to Friday or 8am on Saturdays (for clarity, their use must cease no later than the previously mentioned closing times).
- 12) Prior to the development hereby permitted being brought into use, the barrier on the road to the north of the site shall be relocated to allow the development to be accessed off the roundabout to the east of the site. The site shall then only be accessed via the aforementioned round-a-bout, and not through Clyst Honiton.
- 13) Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.
- 14) The works hereby approved shall be undertaken in accordance with the details provided in the submitted Ecological Appraisal, produced by Devon Wildlife Consultants, and dated September 2018.
- 15) The works hereby approved shall be undertaken in accordance with the details provided in the submitted Arboricultural Statement, produced by Devon Tree Services, and dated December 2018.