



Appeal Decision

Site Visit made on 29 November 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/U1105/W/21/3278600

Mount Pleasant, Exmouth Road, Aylesbeare

- 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 John Lomax against the decision of East Devon District Council.
 - The application Ref 20/2789/FUL, dated 14 December 2020, was refused by notice dated 4 June 2021.
 - The development proposed is a new storage building and demolition of existing water tower.
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Decision

1. The appeal is allowed and planning permission is granted for a new storage building and demolition of existing water tower at Mount Pleasant, Exmouth Road, Aylesbeare in accordance with the terms of the application, Ref 20/2789/FUL, dated 14 December 2020, and subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:

- the effect of the proposal on the character and appearance of the area, and
- whether the development plan would support the proposal in this location.

Reasons

Character and appearance

3. The appeal site is located outside any settlement in a countryside location. There are a scattering of properties within this section of the East Devon Area of Outstanding Natural Beauty (AONB) although predominantly the appearance of the area is of countryside where woodlands and fields dominate.
4. The site itself adjoins the B3180. It includes a fenced compound, with some equipment cabinets, and a water tower which consists of a tall but fairly slender, metal framed support structure with a wider water tank at the top. The site is surrounded by trees and these mature specimens exceed the height of the tower. The metal fencing around the site is clearly visible and prominent at ground level but the open nature of the tower appears as a recessive feature amongst the trees. The water tank, however, is reasonably bulky and with its elevated position it is quite apparent from in front of the site and in some views when approaching along the road from the north. I saw the site when most of the leaves were not on the surrounding trees and at other times of the year the

tank would be more screened. Nevertheless, even with more leaves on the trees I consider that the water tank would still, in all likelihood, be fairly conspicuous. It appears as an unusual feature amongst the trees and, with its height and position close to the road, draws the eye.

5. There is a telecommunications lattice mast to the rear of the appeal site. That lattice mast has a reasonably open form and the antenna were apparent because they are set apart from the tree canopy. In some road views, especially, when coming along the road from the north, the telecommunications mast adds to the built form amongst and adjoining the trees in this location.
6. The appeal scheme would remove the water tower and tank and replace it with a single storey building. This building would have a simple, fairly low key and broadly agricultural appearance. It would extend across much of the rear part of the site within the existing fenced compound. The building would not be particularly deep and therefore the roof, spanning back to front, and with a shallow pitch, would not be especially high or bulky. The building would be apparent when viewed from in front of the site although in part it would be screened by the fence. Looking towards the site from the road to the south, the verdant surroundings and the set back of the building within the site would largely obscure much of the structure.
7. When approaching from the north, the bank along the road side, the trees and the fence would mean that generally only the upper sections of the building would be visible. In these views, the building would be a small element along this section of the road and the appearance of the building, with its timber elevations and limited bulk of roof, would not be unduly conspicuous.
8. The removal of the tower and the water tank would result in a worthwhile visual benefit to the character and appearance of the site in this countryside location. The provision of the appeal building with its low key and modest form would not have an undue visual impact and the result of the scheme would be to deliver a net visual benefit to the character and appearance of the area. Furthermore, I do not consider that the likely level of use and the associated activities on the site, in association with the storage building, would cause harm to the character and appearance of the area.
9. The site lies within the AONB and the National Planning Policy Framework (the Framework) requires that great weight should be given to conserving and enhancing landscape and scenic beauty in these areas, which have the highest status of protection in relation to these issues. This policy requirement would be met as, for the reasons explained, the scheme would enhance the AONB because of the overall visual benefit to the character and appearance of the area.
10. A previous proposal for a storage building on this site was refused at appeal¹. However, that scheme proposed the retention of the tower and water tank, and the construction of a two storey flat roofed building. That scheme is therefore substantially different to the present proposal. I give substantial weight to the views of the previous Inspector but the present appeal scheme is a materially different proposal and would be acceptable in terms of its impact for the reasons explained.

¹ APP/U1105/W/20/3261920 dated 8 March 2021.

11. In the light of the above analysis, I conclude that the proposal would have an acceptable impact on the character and appearance of the area, including the AONB. Accordingly, the scheme would comply with Strategy 46 and Policy D1 of the East Devon Local Plan 2013-2031 (the Local Plan) and the Framework which seek, amongst other things, that development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of the landscape character of East Devon.

Whether the development plan would support the proposal in this location

12. On the basis of the existing water tower storage tank, the main parties agree that the fenced compound can be lawfully used for storage or distribution purposes falling within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposed development does not therefore form a change of use of the site and the appellant has indicated that were permission not to be granted then the external storage of products within the compound would take place. There is limited information on the precise nature of what this storage use could be. However, it seems probable that the owner of the site would wish to receive some form of economic return from the land and that an external storage use would have a real prospect of taking place in the future. In such a case the external storage use could well be comparable in scale and height to the storage use provided by the proposed single storey building on the site. This is a material difference with the present scheme compared with the previous appeal proposal for a larger building.
13. Consequently, there would be some form of traffic movements to and from the site regardless as to whether this appeal is allowed and the fallback situation, in the light of the nature and form of the present proposal, carries moderate weight in favour of the scheme. The dependence of the private vehicle to access the site in this location, for the size of building now proposed, therefore does not weigh against the proposal because such a similar level of movements would be likely to take place in any case.
14. Although the County Highway Authority objected to the proposal, this did not form a reason for refusal and the previous Inspector did not raise objection to the scheme in respect of the access and highway safety. Given the potential fallback position, and the related likely use of the site by commercial vehicles in this rural area, I consider that the traffic movements to and from the site in association with the reasonably modest size of the building would be acceptable.
15. Also, in addition to giving some weight to the fallback position, the site can be considered previously developed land and this also weighs in favour of the proposal in terms of development plan and Framework support.
16. When examining the criteria set out in Policy E5 of the Local Plan, the scheme would constitute small scale economic development in a rural area on previously developed land, would have no unacceptable highway impacts and no demonstrable effect on the amenities of neighbouring properties, wildlife, landscape or historic interests. As I have found the scheme would have an acceptable effect on the character and appearance of the area, it follows that the scheme would comply with the requirements of Policy E5 of the Local Plan in respect of a proposal for economic development in the rural areas of East Devon.

17. As the scheme would comply with Policy E5, and it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, the scheme would also comply with Strategy 7 of the Local Plan concerning development in the countryside.
18. Accordingly, I conclude that the development plan would support the proposal in this location and, in particular, it would comply with Strategy 7 and Policy E5 of the Local Plan, which in this respect sets the policy requirements for small scale economic development in rural areas.

Other Matters

19. I have taken into account the range of objections to the scheme including from local residents, the Parish Council and adjoining estate owners.
20. I have examined the visual and highway issues above and found that there would be acceptable impacts. I do not consider that the proposed use of the building, having regard to its size and its location in relation to adjoining properties, should materially affect the living conditions of neighbouring residents.
21. The trees surrounding the site are subject to a Tree Preservation Order. They are important features that would soften the appearance of the building and should be protected. The Council's Tree Officer has confirmed that, subject to details agreed by conditions attached to any permission, the protected trees, and other trees in the vicinity, should not be adversely affected by the development. I have found no reason to disagree.
22. Concerns are raised regarding the domestic appearance of the building and that it has been designed with conversion to residential use in mind. However, the scheme is required to be determined on its merits and any alternative use is not before me for consideration. Consequently, this is a matter that carries limited weight in the overall considerations.

Conditions

23. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the six tests in the Guidance. The statutory time limit is required and a condition specifying the approved plan is necessary in the interests of certainty.
24. Conditions requiring the agreement to the external materials and the control of external lighting are necessary in the interests of the visual amenities of this part of the AONB. A condition requiring the provision and maintenance of the car parking spaces and manoeuvring areas is necessary in the interests of highway safety.
25. Conditions requiring that works take place in accordance with an agreed Tree Protection Plan and an Arboricultural Method Statement, and that the design of the development minimises the impact on trees, are necessary to ensure the health of the trees in the interests of their protection and the visual amenities of the area. These requirements need to be the subject to pre-commencement agreement because the details need to be designed before any other works start on the site and are of a nature that would be impractical to consider after work has started.

26. A condition restricting the hours that the building can be accessed is not necessary given the relationship to adjoining properties and the modest size of the building. Although raised by the Parish Council, the Council has not sought a condition to restrict permitted development rights for the building and, given the agreed lawful use of the site, such a condition would not be reasonable or necessary having regard to the advice in the Planning Practice Guidance.

Conclusion

27. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that subject to the specified conditions, the appeal should be allowed.

David Wyborn

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 approved plan: Drawing No. 1829/p02r.
- 3) No development above foundation level shall take place until a schedule of materials and finishes to be used for the external walls and roof of the proposed development (including, where so required by the Local Planning Authority, the submission of samples of such materials and finishes) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The building hereby permitted shall not be brought into use until the parking spaces and manoeuvring areas for vehicles shown on the approved drawing have been surfaced and completed. Once operational the parking spaces and manoeuvring areas shall be kept permanently available for their designated purposes.
- 5) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs (both on and off site), shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Local Planning Authority for approval and final discharge of the condition.

- 6) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a plan showing the layout and details of any existing, replacement or new above and below ground services, foul and surface water drainage, building foundations (including details of the screw piles), vehicle parking and manoeuvring areas and any other infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. Such layout, design and implementation shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved layout and details.
- 7) No external lighting shall be installed other than in accordance with a scheme that shall previously have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the

manufacturers' specification of the lighting, indicate its height and angle (including anticipated lux levels on the surrounding area) and the hours of operation. The development shall be carried out in accordance with the agreed details.

End of Schedule