



Appeal Decision

Site visit made on 12 April 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th June 2022

Appeal Ref: APP/U1105/W/21/3287477

Land Adjacent Harepath Hill, Seaton EX12 2QF

- 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 Chris Hammett against the decision of East Devon District Council.
 - The application Ref 20/2887/FUL, dated 16 November 2020, was refused by notice dated 17 September 2021.
 - The development proposed is agricultural storage building and associated works, including new access (resubmission of planning application 19/1141/FUL).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - Whether there is a genuine agricultural need for the proposal

Reasons

Character and Appearance

3. Policy D7 of the East Devon Local Plan 2013 to 2031 adopted 28 January 2016 (EDLP) requires, amongst other things, that agricultural buildings are well integrated with their surroundings, closely related to existing buildings, and in an appropriate location, so as not to harm the character and landscape of the rural area. EDLP Policy D1 and Strategies 7 and 46 include similar requirements.
4. The site is outside of, but close to, the East Devon Area of Outstanding Natural Beauty (AONB). A Landscape and Visual Appraisal November 2020 (LVA) has been submitted by the appellant. It finds that the landscape is characterised as being well-wooded and undulating, with an absence of valued landscape features and so has medium sensitivity to development.
5. The LVA considers that the effects of the proposal would be very localised and would not impact on the appreciation of the qualities for which the landscape (including the AONB) is valued. It concludes that the proposal would not be of a magnitude to bring about harm to landscape, visual amenity or views. The

Council's Landscape Architect considers the extent and magnitude of the identified effects in the LVA to be broadly acceptable.

6. Although the LVA compares the proposal to that previously submitted, I have considered it on its own merits. The LVA makes clear¹ that the effects it identifies can be considered adverse unless otherwise stated. It identifies² that the effect on views from the bridleway to the side of the site would be moderately adverse, given the high sensitivity of users to this type of change, albeit that the duration of the view is short.
7. From my visit, I saw that the proposed building would be prominently visible in the landscape from several points along the bridleway, both where it meets the A3052 and further on towards Holyford Lane. The LVA also states that views from the A3052 from the field gateway and the proposed access would be very localised and of short duration but would also be moderately adverse. This concurs with my understanding of the effects of the proposal.
8. From other public places, views would be slight or non-existent, including from the AONB. Few distant views of the proposal would be available, where the proposal would form a minor element in the landscape. The site is limited in size and the building would be sited adjacent to the rear boundary.
9. The visual impact of the proposal would be localised because of the landform and tree and hedge cover, and landscaping is proposed to further mitigate its effects. However, the building's size, location and design mean that it would appear as a large, intrusive and isolated feature, harming the landscape, particularly when viewed from the bridleway and the A3052. It would also not be well integrated with its surroundings, nor be closely related to existing buildings. Therefore, whilst planning conditions could control the treatment of the lower parts of the building, this would not overcome my concerns.
10. My attention has been drawn to a nearby barn, referred to as north of Harepit Farm, which is prominent in the landscape and forms an integral part of the area's character. Its planning history is unclear, and I do not know its background, but it appears less isolated than the proposal and so is not therefore directly comparable to it. Consequently, in reaching my decision, I have given little weight to this example.
11. I therefore conclude that the proposal would harm the character and appearance of the area, contrary to EDLP policies D1, D7 and Strategy 7. EDLP Policy D2 has also been referred to in the Council's reason for refusal. However, as it relates to requirements for landscaping schemes, I see no conflict with this policy.

Genuine Agricultural Need

12. Strategy 7 of the EDLP only permits development in the countryside where it is in accordance with a specific Local Plan policy. EDLP Policy D7 allows for agricultural buildings subject to certain requirements, including that there must be a 'genuine agricultural need' for the development.
13. I have not been provided with any evidence to suggest that the EDLP offers any additional clarification or explanation as to what constitutes 'genuine

¹ in paragraph 181

² in paragraph 129 and 130

agricultural need' for the purpose of this Policy. In the absence of this, as with the Inspector who dealt with the appeal at Combehayes Farm³, I have taken 'genuine' to have its standard dictionary definition meaning of authentic or sincere.

14. The farm is currently split between the main holding (Holywood Farm) and the separate appeal site. It appears that the appellant intends to organically increase the cattle herd size over the next few years and move to a deep bedding system, housing cattle indoors, in addition to a flock of ewes. As part of this increase, additional straw is required. The appellant's stated intention is to use the proposed building to provide storage of straw for the whole holding, bought elsewhere in bulk and delivered to the appeal site, to take advantage of fluctuating straw prices and to stabilise input costs.
15. The proposed operation would necessitate larger-scale delivery of straw by articulated lorry which the appellant believes could not access the main holding, because of the narrow nature of the road network. I saw from my visit that access to the main holding is constrained and requires difficult movements past dwellings on Holyford Lane and Colyton Grammar School. The track and bridleway also have a narrow width, making them unsuitable for large deliveries.
16. Representations have suggested that an alternative route via Old Sidmouth Road could be used instead, meaning a new building could be located within the main farm complex rather than on the appeal site. However, whilst access to the main site by lorries this way may well be possible, I saw that this route is also narrow and constricted and passes close to dwellings, so is not a suitable alternative.
17. The appellant states that there are no other existing buildings or parcels of land that would meet the stated requirement of access onto the A3052 to accommodate bulk deliveries. Notwithstanding the buildings permitted under an earlier Prior Approval application⁴, no such suitable alternative existing available building has been identified by the Council.
18. The Council has suggested that straw could be delivered to the appeal site then transferred to the main holding using smaller vehicles. However, that is not the appellant's proposal and how the appellant chooses to manage his holding is primarily a matter for him. The fact that there may be alternative practices does not mean that the proposal is not authentic or sincere or that there is not a genuine need for it.
19. The Council and its consultant accept that if and when stock levels increase, the whole of the building would be required for straw. There is a question over whether the space would be sufficient, taking into account other elements of the proposal. However, if anything, this would suggest that a larger building would be justified, rather than meaning there is no genuine need for the building as proposed.
20. I accept that modern cattle and sheep handling systems may mean that the use of a heavy mobile race is not required, but farm management is essentially a matter for the appellant, and this does not go to the heart of the need for the

³ APP/U1105/W/21/3277782

⁴ LPA reference 17/0109/AGR

building. Similarly, there is no policy requirement for the appellant to demonstrate that his proposal is financially viable.

21. Although siting a new storage building on the main holding would have the advantage of increased security, for the reasons stated, access to the main holding by large vehicles would be difficult. In any event, the appellant could install security measures on the appeal site if necessary.
22. Taking all these factors together, for the reasons given above, and based on the evidence before me, I am satisfied that a genuine agricultural need for the proposal has been demonstrated. It would therefore comply with Policy D7 and Strategy 7 of the EDLP in this respect.

Other Matters

23. The site is located relatively close to a scheduled monument, a Promontory Fort on Seaton Down, said to date from the Iron Age and which occupies a highpoint in the landscape. In accordance with the National Planning Policy Framework (the Framework), I have considered the impact of the proposal on the significance of this designated heritage asset, and the Framework's requirement that great weight should be given to its conservation.
24. The monument's significance is its age and position in the landscape. Though the appeal site's proximity means there is potential for archaeological deposits, it is on a lower contour and visually separated from the Fort by an existing belt of tree planting and residential development. It would not therefore result in harm to the designated heritage asset or its setting. Neither the Council nor Historic England have objected to the proposal in this respect, and I see no reason to disagree.
25. S79(1)(a) of the Town and Country Planning Act gives the Secretary of State the power to issue a split decision where the proposed development is clearly divisible into distinct elements. The appellant has invited me to consider whether, in the event that I find the building unacceptable, a split decision could be made to grant permission for the new access and track alone.
26. In this case, a hardstanding area is shown on the submitted plans as surrounding the building on three sides and forming part of the access and track. Although representations have raised concerns about these elements, neither the Council nor the Highway Authority have objected to the access or hardstanding elements, and I am satisfied that there would be no harm to highway safety.
27. However, it is difficult to precisely distinguish between the different elements of hardstanding, track and access. Furthermore, the position, length and extent of the track and hardstanding into the field would, without the building, significantly and unnecessarily encroach into the countryside, harming the landscape's character and appearance. I do not therefore consider that a split decision can be issued for the access and track alone.

Planning Balance and Conclusion

28. It is stated by the appellant that the proposal would result in benefits to animal welfare and highway safety, as well as to the wider holding, because livestock would not need to be moved to the main farm. I also note the appellant's concern that if the proposal is not forthcoming, the whole farming enterprise

would be in jeopardy. However, in seeking permission for the access and track alone if permission is not granted for the building, this suggests that the enterprise would continue at least in some form without the building.

29. Although I have found that there is a genuine agricultural need for the building, this together with any benefits associated with the proposal does not outweigh the harm to the character and appearance of the area that would result. For the reasons given above, having considered the Development Plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

O Marigold

INSPECTOR