



Appeal Decision

Site visit made on 6 January 2026

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2026

Appeal Ref: APP/Q1153/W/25/3373159

Harling Farm, Bere Alston PL20 7JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by conditions of a planning permission.
 - The appeal is made by Mr & Mrs W Richardson against the decision of West Devon Borough Council.
 - The application Ref 0519/25/ARC sought approval of details pursuant to conditions Nos 7, 8 & 9 of a planning permission Ref 2530/21/FUL, granted on 2 March 2022.
 - The application was refused by notice dated 26 March 2025.
 - The development proposed is erection of indoor equestrian arena.
 - The details for which approval is sought are conditions 7 (lighting strategy), 8 (landscape and ecology management plan (LEMP)) and 9 (construction environment management plan (CEMP)).
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Decision

1. The appeal is allowed, and Condition Nos. 7, 8 and 9 attached to planning permission Ref 2530/21/FUL granted on 2 March 2022 are hereby discharged in accordance with the terms of the application 0519/25/ARC and the details submitted with it, including the document 'Discharge of Conditions Document February 2025' and Appendix 7 of the appellants' Statement.

Applications for costs

2. Applications for costs were made by the appellants against the Council and separately by the Council against the appellants. These applications are subject of separate decisions.

Preliminary Matters

3. Condition 1 of planning permission ref 2530/21/FUL states that "*The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted*". The planning permission was dated 2 March 2022.
4. Conditions 7, 8 and 9 of the planning permission required details to be submitted to and approved by the Local Planning Authority prior to the commencement of the development.
5. Although the application subject of this appeal was submitted to the Council within the 3-year time limit for the implementation of the planning permission¹, it was determined after this time-limit. The Council allege that conditions 7, 8 and 9 of the planning permission are therefore no longer capable of being discharged.

¹ And evidence suggests that one of the appellants attempted to submit details to the Council at an earlier point in time (08 June 2023), albeit without the appropriate forms, fee or assistance of their agent

6. Nevertheless, further to the Whitley & Sons Court of Appeal ruling² there is nothing to prevent a decision being made on an application for agreement of details required by condition if the time limit for the implementation of the planning permission expires during the decision-making process. This is so long as the application has been validly made before the expiry date of the permission.
7. I have no reason to doubt that the application subject of this appeal was validly made before the expiry date of the permission. Consequently, it is within the scope of this appeal to determine whether the details submitted pursuant to conditions 7, 8 and 9 of the planning permission are acceptable and can be approved.
8. In terms of the commencement of development, the appeal application form records that the development was commenced on the 2 October 2023, which was prior to the end of the three year time limit stated in condition 1. The Council's decision notice refers to the development having commenced. I have proceeded on the basis that this appeal concerns the acceptability or otherwise of the details pursuant to the conditions.
9. The appeal Statement includes a number of appendices, one of which (No 7) supplements the details submitted in connection with the conditions. I have accepted and considered this document and do not consider that any prejudice has been caused to the Council. With particular focus on the appeal site, the submitted information appears to correlate with my observations on site.

Main Issues

10. The main issues are:
 - whether the details submitted in respect of the lighting strategy meet the requirements of condition No 7;
 - whether the details submitted in respect of the LEMP meet the requirements of condition 8; and
 - whether the details submitted in respect of the CEMP meet the requirements of condition 9.

Reasons

Condition 7

11. Condition 7 requires a detailed Lighting Strategy to be submitted to and approved by the Council. The Strategy is required to minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities, and demonstrate how the best practice guidance has been implemented. The reason given for the condition is to safeguard the ecological interest of the site. The Council's ecologist did not provide a response on this particular condition.
12. The appellants indicate that they only intend/and have so far undertaken works during the day, so will not need lighting for the construction phase. The appellants have also decided that the existing farm sensor lighting will be sufficient.
13. As the appellants do not intend to install any additional external lighting at the site but simply continue to use their existing 'farm sensor lighting', no further Lighting

² F G Whitley & Sons v SSW & Clwyd CC [1992] JPL 856

Strategy is required and the details can be approved. Clearly, in the absence of such a Lighting Strategy, and notwithstanding that the permitted hours of use whether for personal use or external hire purposes may overlap with some hours of darkness, no lighting is permitted either external to the building or from internal lights that could create external light spill.

Condition 8

14. Condition 8 requires a LEMP to be submitted to and approved by the Council which shall include details of habitat creation and management. The reason given for the condition is to safeguard the ecological interest of the site.
15. Condition 8 of the planning permission does not detail the specific requirements of the LEMP, but the Council's ecologist's response on the appeal application has provided an extensive list of what a LEMP ought to contain. This was not explicit from the wording of the original condition and nor does it specify that it must be prepared by an appropriately qualified professional.
16. A number of documents were submitted with the original planning application of relevance, including a Hedgerow Assessment, and BNG Metric and Biodiversity Net Gain Statement (all Quantock Ecology). These are approved documents under condition 2 of the original planning permission so adherence thereto is required by the original permission in any event.
17. The appellants' evidence indicates that soil was extracted from the arena area to create earth banks surrounding the arena as follows all between November 2023 and March 2024. The methodology of construction of the banks is specified in the evidence and 2 2-year-old transplants were planted on top of them at least 450 millimetres (mm) to 600mm high on top of the new soil banks. All of the species are native³, with no one species making up more than 70% of the total and they were planted in a staggered double row 40 centimetres (cm) apart with a minimum of 6 plants per metre.
18. As an ongoing management regime, the evidence details that they will be kept clear of weeds by weeding and have installed tree guards on each plant. Guards will be removed once the plants are established and all tree failures will be replaced in the following planting season. In addition, the newly planted hedges will be trimmed in at least the first 2 years to encourage growth, allowing the hedge to become taller and wider at each cut.
19. The non-habitat enhancements bat and bird boxes specifically recommended for the site⁴, including a general purpose woodstone bat boxes such as the 'Schwegler 2F universal bat box' (or similar) and two bird boxes comprising one 'Schwegler 1B bird box, 32mm hole' and one 'Schwegler 2H open front bird box' (or similar). Even if others have been placed elsewhere on the holding, it appears that these units are yet to be placed on the arena site prior to completion.
20. The appellants' evidence refers to the creation, over the entire holding, of over 1000 meters of new soil bank and planted over 5000 native trees on top of them with additional stockproof fencing on both sides of the new hedgerow to avoid damage from grazing livestock, all of which was facilitated by a Rural Payments Agency grant in line with the appellants' Countryside Stewardship Management

³ Including hazel, hawthorn, blackthorn, holly, dogwood, field maple, oak, ash, beech and sycamore, see Statement appx 7

⁴ From the Quantock Ecology Report 2021

Plan. It is also anticipated that 40-50 new 2-meter-tall native trees will be transplanted into the existing hedgerows throughout the holding, protected with a tree guard and wood stake. Similarly, elsewhere on the holdings, wildflower meadow seed has been successfully planted in margins and cut each year after flowering, removing cuttings to encourage regrowth.

21. Whilst there is evidence of environmental management plans and other regimes more relevant to the wider holding, the submitted information pertaining to the appeal site is acceptable relative to the scale and nature of the development.

Condition 9

22. Condition 9 requires a CEMP to be submitted to and approved by the Council which shall include details of environmental protection to be implemented during the construction phase. The reason given for the condition is to safeguard the ecological interest of the site.
23. Condition 9 of the planning permission does not detail the specific requirements of the CEMP, but the Council's ecologist's response on the appeal application has provided an extensive list of what a CEMP ought to contain. This was not explicit from the wording of the original condition and nor does it specify that it must be prepared by an appropriately qualified professional.
24. It is noted in relation to the works already undertaken, that excavations and bank creation were undertaken between November 2023 and December 2024 when most wildlife was dormant and did not affect any existing hedgerows as the works were based at a distance from them. The evidence also details that no evidence of mammals was present at the time.
25. The detail also specifies that within the site now enclosed by the banks with establishing hedgerows, works will be undertaken during daylight hours only, with construction workers accessing the site via the current tarmac driveway and through the existing gate. As such, from the evidence, the construction phase has commenced in an environmentally responsible way and the remainder of the construction phase will be undertaken to avoid harmful effects on the ecological value of the site and surroundings, relative to the established baseline and the scale and nature of the development permitted.

Other Matters

26. The appellants question the reasonableness of the conditions in the context of the proposal, which is ostensibly similar to an agricultural barn. For whatever reasons the appellants elected to accept the conditions, they have been imposed and the appeal application was not made as under Section 73 of the above Act to vary or remove them. In any event, this is not a determinative matter in this appeal.

Conclusion

27. For the reasons above, the appeal is allowed and Conditions 7,8 and 9 are hereby discharged in accordance with details above and as paragraph 1 of this decision.

H Nicholls

INSPECTOR