



Appeal Decision

Site visit made on 6 December 2022

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2022

Appeal Ref: APP/W1145/W/22/3294552

Plot 1b, Land at Grid Ref 233424 118058, Ashmansworthy, Woolsey, Devon, EX39 5RF.

- 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 Barry Hayden against the decision of Torridge District Council.
 - The application Ref 1/0838/2021/FUL dated 17 July 2021, was refused by notice dated 16 December 2021.
 - The development proposed is the change of use of land to animal rescue centre, including erection of office building and animal shelters.
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Decision

1. The appeal is dismissed.

Procedural Matters

Formal Description and Retrospective Appeal

2. The above description of the development is taken from the refusal notice, as most aptly defining the appeal proposal. The development has been commenced but this makes no difference to the manner in which the planning issues that arise in the appeal are considered.
3. Mr Hayden, the Appellant, states that, following the refusal of the application, he and his family are operating the appeal site as registered agricultural smallholding. This is now the permanent home for rescued pedigree pigs and sheep. Turkeys and chickens are also kept for rearing to serve the local community, with future provision for ducks. The family have been accepting cats, rabbits and small pet rodents on an emergency basis for rehoming. Be that as it may, this appeal must proceed on the basis of the original description as an animal rescue centre, as described on the application form and below.

Previous Applications and Council Procedure

4. It is evident that the Mr Hayden and his family felt encouraged by positive pre-application advice from a former case officer of Torridge Council to apply for permission for an animal rescue centre on the appeal land. Subsequently, on the advice of the same officer, Mr Hayden amended his proposals and withdraw the first proposals and submitted a new application. It was the refusal of that second planning application, under a different case officer, which has led to this appeal.

5. It is understandable that Mr Hayden considers the previous officer advice, both at the pre-application stage and regarding the withdrawn application, to be relevant to the present appeal. He also raises concerns regarding the handling of the application, including in comparison with other neighbouring applications, and the length of time taken by the Council in its determination. However, it is fundamental that pre-application advice is given without prejudice to the outcome of any subsequent application and that this appeal must be determined strictly with respect to the proposals in the second application, as refused by the Council. This must be undertaken in light of the evidence directly related to that decision. Any other matters concerning previous applications or Council procedure may remain at issue between the Applicant and the Council but are not for this appeal.

Land Ownership Issues

6. The Appellant and some respondents refer to land ownership issues but these are not a matter for this appeal, which is judged on planning merits alone.

Appeal Site and the Development

7. The 0.4ha site comprises approximately the middle third of a rectangular agricultural field in rural surroundings. Access from the public road is currently via an adjacent bridleway and footpath.
8. The operation is described on the application form as a small-scale, private, non-profit animal rescue centre, potentially of charitable status, to accommodate a varied range of animals, including wild animals, agricultural livestock and domestic pets (except dogs). One person would work on the site to tend the animals and another would conduct the rescue, rehoming of animals and the provision of supplies.
9. Sheds and enclosures have been erected to accommodate the animals and provide an office. A future access direct from the highway is proposed over adjacent land outside the appeal site boundary.

Planning Law and Policy

10. The law requires all development to comply with the development plan unless material considerations, including the National Planning Policy Framework (NPPF), indicate otherwise.
11. The development plan includes the adopted North Devon and Torridge Local Plan (LP), wherein Policies ST04 and DM04 require development to be appropriate in and respectful to its context and setting, whilst Policies ST14 and DM08A together require development to respect the character of undesignated as well as designated landscapes.
12. LP strategic Policy ST07 states that, in the countryside, development will be limited to certain categories, including development necessarily restricted to a countryside location or meeting local economic and social needs.
13. Policy DM14 provides for small-scale, economic development in the countryside, subject to a range of criteria, including that the site is well-related to a settlement or to employment on the site or has a strong functional link to local agriculture or other rural activity. That is provided that the scale of employment is appropriate in terms of accessibility and the standard of the

local highway network and that the development respects the character and quality of the landscape.

14. There is nothing to say that any of these policies are inconsistent with the NPPF.

Main Issues

15. The main issues are the acceptability of the appeal development in principle and its effect on the appearance and character of the landscape of the surrounding countryside.

Reasons

Principle

16. The appeal development is located in the countryside where the landscape is safeguarded by LP Policy DM08A from unwarranted development, irrespective of whether the landscape is subject to any particular protective designation.
17. An animal rescue centre is not dependent upon a countryside location and might be sited within a town, albeit not close to residential development. Nor is the proposed small-scale operation likely to meet any local or social needs, save for minimal poultry supplies, given that it would be remote from any settlement. Moreover, it follows that such limited employment as the development would provide would have no significant or strong functional link to local agriculture or other rural activity.
18. Therefore, the development is unacceptable in principle with respect to LP Policies ST07 and DM14.

Landscape

19. The development is relatively well-screened by mature hedgerows from the surrounding countryside, apart from immediately neighbouring land within the remaining parts of the original field. Even so, an animal rescue centre, which, in planning terms, could equally be situated in or near a town, is still incongruous and inappropriate in the context of the surrounding pastureland, failing to respect its rural setting.
20. Accordingly, in this regard, the development fails to comply with LP Policies DM08A, DM04 and ST04.

Other Matters

Access

21. There is no highway authority objection to the proposed access over adjacent land, subject to it being provided, along with the requisite vision splays, secured by planning condition.
22. However, the land required for the access does not form part of the appeal site and is not in the ownership or control of the Appellant, so no such condition could properly be imposed and the achievement of a satisfactory access that is not reliant upon the adjacent bridleway is uncertain. Although not determinative, this factor weighs in some measure against the grant of permission.

Personal Considerations

23. The animal rescue centre is operated by the disabled daughter of the Appellant, supported by her own daughter and Mr Hayden himself. They have operated such centres from rented property over a number of years but such premises are no longer available. Mr Hayden and his wife have invested heavily in the appeal site and the development to provide a secure base in their ownership to continue operating an animal rescue centre.
24. The plight of Mr Hayden's family is deserving of some sympathy and consideration and this is a material factor in favour of their appeal.

Amenity, Ecology and Drainage

25. There is no substantive objection to the development on grounds of residential amenity, due to the remoteness of the site. Nor is there any outstanding objection on grounds of ecology or drainage, subject to planning conditions to secure appropriate mitigatory measures.

Planning Balance and Conclusions

26. The conflicts with the development plan policies cited above in terms of the principle and landscape impact of the development carry substantial weight, to which must be added the potential that the provision of the proposed access is uncertain. Against that, the unfortunate personal circumstance of the Appellant and his family carry weight in favour of the development but not, as a matter of judgement, to a sufficient degree to override the significant planning objections identified above.
27. Having duly considered every other matter raised in connection with the appeal, including the concerns of the Woolsery Parish Council and other interested persons, I accordingly conclude that the appeal development is contrary to the development plan taken as a whole and that this appeal should be dismissed.

B J Sims

Inspector