



Appeal Decision

Site visit made on 15 November 2023

by C Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/W1145/W/23/3319020

Yatton Court, Lane to Yatton Court, Beaford, Devon, EX19 8AH

- 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 Miss Richardson against the decision of Torridge District Council.
- The application Ref 1/1031/2022/FUL, dated 6 October 2022, was refused by notice dated 12 January 2023.
- The development proposed is new ancillary building to be used for dog agility training.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Miss Richardson against Torridge District Council. An application for costs was also made by Torridge District Council against Miss Richardson. These applications are the subject of separate Decisions.

Main Issues

3. The main issues in this case are:
 - whether the site is a suitable location for the proposed building, having particular regard to planning policies which seek to control new development in the countryside.
 - the effect of the proposal on the character and appearance of the area.
 - the effect of the proposal on the setting of Yatton Court, a Grade II listed building and Old Parsonage, a Grade II* listed building.

Reasons

Location

4. The appeal concerns a grassy field which is situated in the open countryside. Part 4 of Policy ST07 of the Local Plan¹ states that in the countryside, *development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.*
5. The appellant says that the proposed building would address her own social need to train dogs for national competition. While I appreciate that the

¹ North Devon and Torridge Local Plan 2011-2031

appellant may have a personal interest in these activities, not a great deal of supporting evidence has been put forward to explain why this amounts to a 'need' as opposed to a hobby or recreational pursuit.

6. Furthermore, it seems to me that the reference to social need in Policy ST07 is community focused. Paragraph 4.13 of the Local Plan supporting text indicates that the policy *seeks to assist rural communities to become more sustainable, enabling housing, economic and community based development directed at meeting local needs*. The building would be for private use by the appellant and there is little to indicate it would meet a social need within the wider community, or otherwise contribute to the objective of achieving a sustainable pattern of development in the countryside.
7. I appreciate that it is not possible for planning policies to specify all forms of local need that may be of relevance and that circumstances change over time. This principle is reflected in paragraph 4.16 of the Policy ST07 supporting text which says the Local Plan *is responsive to a range of economic and social needs*. However, Policy ST07 still requires developments to meet a social need of some description. For the reasons given above, I do not consider that the proposal meets a relevant social need. Given that the building would be for personal rather than business use, nor could it be said to meet a local economic need in the context of the policy.
8. Policy ST07 also allows development which is *necessarily restricted to a countryside location*. It seems to me that some activities are necessarily restricted to a countryside location by their very nature. Among other things, this may include farming and forestry activities. With regard to the current proposal, I appreciate that dog agility training is likely to generate noise through barking and so would need to be located away from residential areas or places where people could be disturbed. However, not a great deal of evidence has been provided to further this point. The search exercise carried out by the appellant shows that there were no alternative sites in nearby settlements able to accommodate the proposed building at that time. It does not show that the building would be inherently unsuitable for such locations. As such, I am unable to determine that the proposal is necessarily restricted to a countryside location in accordance with Policy ST07.
9. Paragraph 4.16 makes it clear that that the Local Plan seeks to control dispersed development in the countryside. In recognition of this, the proposal requires an appropriate level of scrutiny. While the appellant goes some way to justifying their position, the evidence provided in support of the appeal is not sufficiently robust to demonstrate compliance with Policy ST07.
10. I therefore conclude on this issue that the site is not a suitable location for the proposed building.

Character and appearance

11. Due to the hedgerow along the road frontage and field boundaries, the building would be partially screened from public vantage points, especially when the trees are in leaf. It would also maintain a relatively low profile as it would be partially dug into the slope of the land.
12. While these features would help to reduce the visibility of the building, it would nonetheless be noticeable from the lane outside through the trees. The building

would also be seen from some more distant vantage points in the wider landscape, including agricultural land to the north and east.

13. I appreciate that the development would broadly be in keeping with the style of agricultural buildings seen elsewhere in the landscape. However, the proposed building is a relatively large structure and it would add to the quantum of built development in the vicinity of the site. The local landscape is characterised by open agricultural fields with minimal built development. By introducing a new building into a previously open space, the proposal would represent an incremental erosion of this rural landscape.
14. I therefore conclude on this issue that the proposal would cause incremental harm to the character and appearance of the area. There would conflict with Policies ST04 and DM04 of the Local Plan in terms of the visual impact of the building on the surroundings. The proposal would not conflict with Policy DM08 which concerns biodiversity. While some pruning of the hedgerows would be necessary, the effect on biodiversity would be minimal.

Listed building setting

15. The proposed building would in the vicinity of both Yatton Court (Grade II) and Old Parsonage (Grade II*). However, the building would occupy lower ground than these properties and would not form a prominent addition to their immediate surroundings or otherwise undermine their significance. The setting of the listed buildings would be preserved.
16. I therefore conclude on this issue that the proposal would not harm the setting of Yatton Court or Old Parsonage. There would be no conflict with Local Plan Policies ST15 and DM07 which aim to protect heritage assets.

Other matters

17. The appellant suggests that paragraph 11(d) of the National Planning Policy Framework is engaged. This indicates that, in most cases, planning permission should be granted where *there are no relevant development plan policies, or the policies which are most important for determining the application are out of date*. There nothing before me to indicate that the Local Plan is out of date. Although the plan contains no specific polices about dog training facilities, there are more general policies relevant to the development such as Policy ST07 and the design and heritage policies cited by the Council its reasons for refusal. Therefore paragraph 11(d) is not engaged.

Conclusion

18. While there would be no harm to the setting of the listed buildings, the proposal would cause incremental harm to the character and appearance of the countryside by increasing the quantum of built development within the rural landscape. While I appreciate the appellant's wish to train dogs, the Local Plan seeks to limit development in the open countryside. Based on the information put forward in this appeal, there is insufficient evidence of need to outweigh the harm to character and appearance that has been identified. The appeal is therefore dismissed.

C Cresswell

INSPECTOR



Costs Decision

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Costs application in relation to Appeal Ref: APP/W1145/W/23/3319020 Yatton Court, Lane to Yatton Court, Beaford, Devon, EX19 8AH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Miss Richardson for a full award of costs against Torridge District Council.
 - The appeal was against the refusal of the Council to grant planning permission for new ancillary building to be used for dog agility training.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The appellant argues that the Council should have given more weight to the material considerations put forward in support of the appeal, especially as there are no development plan policies that specifically address proposals for dog training facilities. However, the weight given to material considerations in the overall planning balance is a matter of judgement which the Council was entitled to reach its own opinion on. In my view, the Council's written evidence covered all of the main points raised by the appellant.
3. While the Officer Report said there would be visual harm to the setting of the listed buildings, relatively limited information was provided to explain why this was considered to be the case. However, a more detailed analysis was set out in paragraphs 5.1 to 5.5 of the Council's Appeal Statement. The findings of the Heritage Impact Assessment are referred to and it is argued that the proposed development would be seen from the listed buildings. The Council's statement goes on to explain why harm has been identified and why this was considered to have a less than substantial impact.
4. It therefore seems to me that the Council justified its stance on these matters and did not rely on vague or generalised assumptions. Evidence is framed around national and local planning policies. Although no objections were raised by the Conservation Officer, it was entirely fair for the decision maker to reach their own conclusions on the proposal.
5. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

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Decision

1. The application for an award of costs is refused.

Reasons

2. The Council say that the appeal was unreasonable because the proposal is clearly not in accordance with the development plan. However, whether the proposal is compliant with the policies cited by the Council in its Decision Notice is largely a matter of planning judgement. Policy ST07 requires an assessment of need, whereas the heritage and landscape policies require a visual assessment of the site and surroundings. These are subjective matters which the appellant was free to reach their own view on. Detailed evidence has been provided to explain why, in the appellant's opinion, the proposal would comply with these policies. Overall, the appellant was fully entitled to appeal the decision of the Council to refuse the development.
3. The Council also say the appellant has ignored the findings of their own Heritage Impact Assessment and has not correctly addressed the impact of the proposal on landscape character. In my view, these are criticisms of the planning merits of the case rather than a demonstration of unreasonable behaviour that would lead to an award of costs. While I am informed that the Council spent 14 hours of officer time responding to the appeal, it seems to me that this is just part and parcel of the planning process.
4. Overall, the appellant acted reasonably in making the appeal and was able to substantiate their case. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR