



Appeal Decision

Site visit made on 4 January 2021

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/X1118/W/20/3260179

Whiddon Service Reservoir, North Lane, Muddiford, Barnstaple EX31 4HG

- 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 Neil Woofenden against the decision of North Devon District Council.
 - The application Ref 71476, dated 24 April 2020, was refused by notice dated 10 June 2020.
 - The development proposed is conversion of a water tank (reservoir) and the land within its curtilage from (Use Class B8) to one dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) the effect of the development on the character and appearance of the area;
 - (ii) the effect on highway safety;
 - (iii) the effect on biodiversity interests; and
 - (iv) whether appropriate foul drainage facilities would be provided.

Reasons

Character and appearance

3. Permission has previously been refused and an appeal¹ dismissed for the change of use of this reservoir to a dwelling. While there are no particular landscape designations or protections, the earlier Inspector found that the building operations required to facilitate the conversion of the structure would cause significant harm to the character and appearance of the area. This was found to have resulted in a conflict with the aims of Policies ST01, ST14, DM04 and DM27 of the North Devon and Torridge Local Plan 2011-2031 (LP) and the National Planning Policy Framework (the Framework). Although timber cladding and a green roof would go some way to assimilating the building into the landscape, the current proposal would also result in this harm.

¹ Ref. APP/X1118/W/19/3220870

4. Since the previous Decision, timber fencing and solar panels have been erected at the site. At the time of my site visit, the solar panels were lying down and barely visible, but the fencing was intrusive in the landscape. These items would be removed as part of the development, and permitted development rights could be withdrawn to prevent further structures being erected at the site.
5. However, while the removal of the fence and solar panels (if re-erected) would result in some visual improvement over the current situation, the residual, previously identified, long-term harm from the building operations, presence of cars, and any domestic paraphernalia that could not be prevented through planning conditions would remain. Therefore, there would not be an overall improvement to the character and appearance of the area or the setting of the building and a conflict would remain with the aims of LP Policies ST14, DM04, and DM27 that seek to ensure that development protects the quality of the natural environment, landscape character, and has a positive impact on the immediate setting of the building.

Highway Safety

6. The previous Inspector found that visibility was restricted in one direction, could not be improved, and that there would be a harmful effect on highway safety if vehicles were to reverse out of the site. It would be possible to reverse into the site instead of out, but this driver behaviour could not be controlled. The plans indicate that the likely small number of future users would be able to manoeuvre within the site so that two parked vehicles could be accommodated, but do not demonstrate that turning would be possible.
7. There are likely to have been some traffic movements at the access in connection with the reservoir use. However, the appellant's claim that it has been in frequent use by servicing and maintenance vehicles is unsubstantiated by evidence, so I attribute this limited weight. I, therefore, find that an increase in movements would be a likely consequence of the change of use.
8. The road past the site is an unclassified rural lane, unlikely to accommodate a large amount of traffic. However, for the reasons given, the evidence before me does not demonstrate that the previously identified visibility shortcomings would not result in unacceptable harm to highway safety. The proposal would, therefore, conflict with those aims of LP Policy DM05 and the Framework that seek to ensure that development proposals provide a safe and well designed vehicular access and egress.

Biodiversity

9. The existing structure is a sealed, subterranean tank, which would appear to provide limited opportunities for access by protected species. However, there is no robust evidence to demonstrate that it has no ecological interest. While a green roof and managed planting would be provided as part of the development, there is no substantive evidence that this would result in a biodiversity enhancement over the existing situation.
10. It may well be that the Council validated the application without an ecological survey but, that the Council did not seek such information while considering the application does not indicate that there would be no effect. Moreover, in the absence of this type of evidence, the previous Inspector found a conflict

with LP Policy DM08 relating to the conservation of the natural environment. There is insufficient evidence to lead me away from that conclusion. While a condition could be used to secure a construction and environmental management plan, the evidence does not demonstrate that any adverse effects could be avoided in this way.

11. I have no doubt that the appellant could provide mitigation for any effects on the Braunton Burrows Special Area of Conservation, through a planning obligation or similar. However, no such mitigation is before me so I cannot conclude that adverse effects on the integrity of this site, in combination with other development, would not arise. The proposal would, therefore, conflict with LP Policies ST14 and DM08 which seek to ensure the protection of designated sites.

Foul drainage

12. The Council is concerned that the appellant has not demonstrated why foul drainage methods that it considers to be preferable to the proposed cess pit have not been proposed. However, there is no substantive evidence that the development would result in pollution of the water environment. As such, I find no conflict with those aims of LP Policies ST03, ST14, DM02, DM04 or DM08 that seek to ensure that development is well designed, does not cause pollution or harm biodiversity interests. The lack of harm is a neutral consideration.

Other matters

13. The proposal would make a small contribution to meeting the District's housing needs. However, given that only one additional dwelling would be provided, I give this benefit limited weight. The harm that I have identified, therefore, significantly and demonstrably outweighs the benefits of granting permission.
14. Prior approval has been given for the change of use of the reservoir to residential under permitted development rights, which could result in similar effects to this scheme on highway safety and biodiversity. However, that Decision did not allow any building operations and so would not have a comparable effect on the character and appearance of the area. Moreover, there is no substantive evidence that it would proceed without a proposal for building operations, such as those proposed here and, so, I give that extant permission limited weight.

Conclusion

15. There would be adverse effects on the character and appearance of the area, highway safety and biodiversity. For these reasons, the proposal would conflict with the development plan, read as a whole. Material considerations do not indicate otherwise that permission should be granted.
16. Accordingly, the appeal is dismissed.

M Bale

INSPECTOR