



## Appeal Decision

Site visit made on 28 March 2023

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

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### Appeal Ref: **APP/X1118/W/22/3308134**

#### **Hartland View Farm, Shirwell EX31 4LA**

- 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-Mrs A Lewis of DC and MC Lewis & Son against the decision of North Devon District Council.
  - The application Ref 75025, dated 18 March 2022, was refused by notice dated 23 June 2022.
  - The development proposed was originally described as "retrospective application for change of use of redundant agricultural buildings to B8 storage units".
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#### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of redundant agricultural buildings to B8 storage units at Hartland View Farm, Shirwell, EX31 4LA in accordance with the terms of the application, Ref 75025, dated 18 March 2022, and in accordance with the following condition:-
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: NDC001 Location Plan received on the 18/03/22; Dwg Exe/1; Dwg Exe/2; Dwg Exe/3; Dwg Exe/4; Dwg Exe/5; Dwg Exe/6.

#### **Preliminary Matters**

2. The description of development used in the banner heading above has been taken from the application form. However, in allowing the appeal I have left out words which are not acts of development.
3. The application form states that work began in February 2018 and at the time of my visit I saw that the external works to the building were complete. I note that the application has been dealt with retrospectively, though also proposes boundary treatment and landscaping. I have dealt with the appeal on that basis.

#### **Main Issues**

4. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the provisions of local and national planning policy; and (ii) the effect of the development on highway safety.

#### **Reasons**

*Location*

5. The site comprises a well-constructed large agricultural building in a countryside location divorced from any local centres or villages and is on rising land near the classified highway of the A39, Shirwell Road. It is within the setting of a farm on the opposite side of the access road where there are a number of other similar scale rural buildings, and therefore does not appear out of place. Policy DM12 of the North Devon and Torridge Local Plan 2011-2031 (LP) is supportive of employment development within and on the edge of local centres and villages. Paragraph 84 of the National Planning Policy Framework (the Framework) says that decisions should enable the sustainable growth of all types of business in rural areas through conversion of existing buildings.
6. Policy DM14 sets out the Council's strategy for small scale economic development in rural areas through either the *(a) change of use or conversion of a permanent and soundly constructed building; or sites or buildings adjoining or well related to a defined settlement or a Rural Settlement; or (c) the proposed employment use has a strong functional link to local agriculture, forestry or other existing rural activity.* If any one of these criteria is met, in order to comply with the policy as a whole, criteria (d) to (e) then require that there is no adverse impact on the living conditions of local residents, the scale of employment is appropriate to the accessibility of the site and the standard of the local highway network, and proposals respect the character and qualities of the landscape.
7. There is no dispute between the main parties that there is no conflict with criterion (a) of Policy DM14 and therefore, criteria (d) to (e) are engaged. In respect of living conditions, representations relating to noise generated by the site and suggested time restrictions are noted, though I have no substantive evidence before me to demonstrate the development is unacceptable in this regard, or that it would consequently be reasonable to restrict operational hours.
8. 'Small scale' is defined elsewhere in the LP as not exceeding 250 square metres gross external floor area or a site of 0.1 hectares. Despite a large external floor area being marginally in excess of some 0.1 hectares, the description of development is for B8 units rather than a single unit. Furthermore, the submitted plans indicate the building is separated into a number of smaller units, each with their own entrance points that I observed to be suitable for small vehicles. Accordingly, employment associated with each of the units and their use is likely to be very limited due to the scale and size of each one. As such, the development is small scale and therefore would not need to be directed to an existing employment estate in or like Barnstaple, South Moulton, Braunton or Ilfracombe. Therefore, I am satisfied from the evidence submitted that any conflict with Policy DM12 carries very limited weight against the development.
9. At the time of my visit, I saw there was very limited activity on the site, with one other vehicle parked outside a unit. I was also able to gain easy access to the appeal site from the adjoining country lane which has several available passing places. Although my observations only represent a snapshot in time, I recognise there may be busier periods in terms of the use of the site and the local highway network. Nevertheless, the development is of a small scale and therefore is appropriate to its location. Additionally, given the presence of the

building in the landscape, the change of use for B8 purposes does not generate harmful effects on the landscape.

10. Policy DM15 of the LP is supportive of farm diversification schemes where, amongst other requirements, the scale of development is justified by the operational needs of the enterprise, reinforcing the farm's viability where prospects for the building's reuse have been fully explored. Although a B8 use may have little to do with agriculture, the supporting text to the policy notes that *farm diversification, by its very nature can cover a wide range of elements from tourism accommodation to small scale food processing and alternative crop production*. Therefore, within the context of Policy DM15, the use in itself is not inappropriate.
11. The supporting text to Policy DM15 sets out an expectation that proposals are accompanied by a detailed business plan explaining how, in functional and financial terms, proposals support the long-term viability of farm businesses. However, this is not a requirement of the upper-case policy. In this respect, the appellant's submitted documents clearly set out a justification for supplementing the reduction in dairy farming activity over an existing large farming enterprise, in accordance with the aims of the policy. Furthermore, I have not been provided with any substantive evidence to demonstrate that such measures do not reinforce the viability of the existing farm business. Also, despite limited evidence being submitted in relation to alternative uses of the building, the appellant has nevertheless advised that the need for a B8 use derived from an informal local survey.
12. Drawing these matters together, even though the proposal does not have a strong functional link to agriculture and is not adjoining or well related to any settlement, it nevertheless makes use of a soundly constructed building where the scale of employment is appropriate to the accessibility of the site, and also reinforces the farm's viability.
13. Therefore, I conclude on this main issue that the site is a suitable location for the proposed development having regard to the provisions of local and national planning policy, as I have set out above. As such, it does not conflict with policies DM14 or DM15 of the LP or paragraph 84 of the Framework.

#### *Highway safety*

14. Although visibility out of the site in a southerly direction on to the access lane falls short of the recommended standards contained within 'Manual for Streets' I observed there to be very good visibility in both directions onto the adjoining lane when exiting the site. Notwithstanding my own observations, given the reduced visibility to the south it is likely that drivers exiting the site would be more inclined to cautiously approach the highway before completing their manoeuvre. In doing so, their vehicle would be suitably visible at some distance to pedestrians, cyclists, horse riders and traffic approaching from both directions. Additionally, given the well-established presence of the site and nearby farm exits, I find that drivers would be more likely to arrive at the appeal site with caution where the possibility of vehicles manoeuvring on and off the highway would be anticipated.
15. I have had regard to the Council's evidence relating to carriage widths and trip rates. However, even though TRICS data suggests the site is likely to generate 44 vehicle movements per 24 hour period and is shown by the Council to have

narrow access lane road widths, the previous use of the site for agricultural purposes could have generated unrestricted movements of often large, heavy, and slow-moving vehicles onto the adjacent highway and further to the A39. In light of this and my site observations set out above, it is likely that the development generates relatively limited vehicular activity with narrower vehicles in comparison with an agricultural use. Furthermore, the application form and appellant's evidence indicate the use has been operational for a number of years without incident, and I have no evidence that is contrary to this from the Council.

16. Despite being on a bend, the A39 approach road, that provides only one way of accessing the site, includes a junction sign that warns road users of the nearby turning. Furthermore, the Council's Highways Officer acknowledges that visibility at the junction with the A39 exceeds recommended standards contained within 'Manual for Streets'. Consequently, drivers would be more likely to be alert to potential vehicular movements onto the A39 in advance of reaching the junction.
17. Accordingly, even if the existing junction at the A39 doesn't provide adequate visibility from and of emerging vehicles, in the absence of any substantive evidence to the contrary, I find it unlikely the development interferes with the free flow of traffic or causes additional vehicular movements onto the wider highway network. Moreover, the junction with the A39 which joins the land is not within the site edged red.
18. Therefore, I conclude on this main issue that the development is unlikely to cause significant harm to highway safety. As such, it does not conflict with policies DM05 or ST10 of the LP which seek to ensure developments are safe and suitable for all road users. There is also no conflict with chapter 9 of the Framework which says that in assessing applications for development it should be ensured that a safe and suitable access to the site can be achieved for all users.

### **Conditions**

19. I have considered the Council's suggested conditions to ensure compliance with the Planning Practice Guidance and the Framework.
20. The Council has suggested conditions in respect of visibility splays and passing places, though given my findings in relation to highway safety I have not imposed these as they are not reasonable due to the acceptable visibility out of the site on to the adjoining lane and other land not being within the site edged red or the control of the appellant. Additionally, the Council has suggested a condition relating to surface water, though I have no substantive basis to consider that the nature of the development concerned would be such as to result in deposition that would be likely to pose a risk to highway safety.
21. As the building has already existed in the landscape for some time, its parking area is already well screened, I do not consider the Council's suggested landscaping condition to be necessary, despite any associated biodiversity benefits. However, I have included a plans condition in the interests of clarity. The Council has suggested a condition to remove Permitted Development (PD) rights, though paragraph 54 of the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear

justification to do so. In the absence of such justification, I do not find it reasonable or necessary to impose this condition.

**Conclusion**

22. For the reasons given I conclude the appeal should succeed.

*J Hills*

INSPECTOR