



Appeal Decision

Site visit made on 16 November 2023

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

an Inspector appointed by the Secretary of State

Decision date: 20 December 2023

Appeal Ref: APP/X1118/W/23/3317058

Land at Stonelands Cross, Rackenford, Tiverton EX16 8DL

- 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 James Pryce Tractors Ltd against the decision of North Devon District Council.
 - The application Ref 74775, dated 28 January 2022, was refused by notice dated 30 January 2023.
 - The development proposed is described as "Hybrid planning application to provide an Agricultural-Hub comprising: Area 1: Full Planning Permission for the erection of workshop and storage and distribution uses with ancillary offices, shop and showroom, (sui generis), creation of access and associated works (Phase 1) Area 2: Outline Application for the erection of buildings 1, 2 & 3 for agri-business uses falling under Use Classes Class E (a) retail, Class E (e) medical services, Class E (g) Business, B2 workshop and B8 storage and distribution with appearance and scale to be reserved matters (Phases 2 & 3)."
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Decision

1. The appeal is allowed and planning permission is granted for a development described as "Hybrid planning application to provide an Agricultural Hub comprising: Area 1: Full Planning Permission for the erection of workshop and storage and distribution uses with ancillary offices, shop and showroom, (sui generis), creation of access and associated works (Phase 1) Area 2: Outline Application for the erection of buildings 1, 2 & 3 for agri-business uses falling under Use Classes Class E (a) retail, Class E (e) medical services, Class E (g) Business, B2 workshop and B8 storage and distribution with appearance and scale to be reserved matters (Phases 2 & 3)" at Land at Stonelands Cross, Rackenford, Tiverton EX16 8DL, in accordance with the terms of the application, Ref 74775, dated 28 January 2022, subject to the conditions set out in the Schedule at the end of this Decision.

Application for Costs

2. An application for costs was made by James Pryce Tractors Ltd against North Devon District Council. This is the subject of a separate Decision.

Procedural Matter

3. As detailed above, the appeal concerns a 'hybrid' application which seeks both full planning permission and outline planning permission.

Main Issue

4. The main issue is whether the site is a suitable location for the proposed development.

Reasons

Whether a suitable location

5. The site is an undeveloped area of agricultural land which is situated in the open countryside. According to Policy ST07 of the Local Plan¹ new development in the countryside is *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*.
6. The appellant argues that the proposal would meet the terms of this policy because it would provide new premises for James Pryce Tractors in Phase 1 and other rural businesses in Phase 2. These businesses are expected to include a veterinary practice and agricultural suppliers.
7. In my view, these are not business activities which are *necessarily restricted* to a countryside location in the context of Policy ST07. Indeed, I understand that James Pryce Tractors is currently based in Tiverton. Similarly, I see little reason why a veterinary practice or agricultural supplier could not operate from a local centre or industrial estate. While the appeal site may be a convenient location for these businesses, they are not innately tied to the countryside in the same way as farming or forestry operations are.
8. Policy ST07 also allows development in the countryside which meets *local economic and social needs*. The economic need in this case derives from James Pryce Tractors, which has outgrown its current premises and needs to find space in order to expand and thrive. A search exercise has been carried out and no suitable industrial premises were found to be available in either South Moulton, Witheridge or Tiverton.
9. The Council's Statement argues that the search was aimed at finding sites capable of accommodating the large 'agricultural hub' proposed in this appeal. It is suggested that there may be some smaller sites available which could just accommodate the needs of James Pryce Tractors. However, no alternative sites have been suggested by the Council and none appear to have emerged during the lengthy planning application process. Indeed, the Committee Report indicates that the Council carried out a site search exercise of its own in addition to the exercise carried out by the appellant. Hence, based on the evidence presented, I am satisfied that there are no readily available sites capable of meeting the needs of James Pryce Tractors.
10. However, the appeal proposal is a large agricultural hub which contains space for other businesses as well as James Pryce Tractors. Relatively little evidence has been put forward to explain why there is a local economic need for these other businesses to occupy the site. Hence, in my view, it has not been clearly demonstrated that the proposal complies with Policy ST07.
11. Policy ST11 is also cited by the Council in its reasons for refusal. Paragraph 7 of this policy says that *proposals for economic development and diversification of the rural economy will be supported where they do not conflict with other Local Plan policies*. Although the agricultural hub would make a contribution to the rural economy, the proposal would not comply with Policy ST11 overall as it is in conflict with another Local Plan policy (ST07).

¹ North Devon and Torridge Local Plan 2011-2031

12. Policy ST01 promotes sustainable development and is more general in nature. Part (1) establishes the intention of Council to take a positive approach that reflects the presumption in favour of sustainable development. Part (2) advises that planning applications that accord with the policies in the Local Plan are likely to be approved and Part (3) indicates that planning permission will usually be granted if there are no relevant policies, or the Local Plan is out of date. It seems to me that the proposal would not be in direct conflict with any of the general principles which are set out in this policy.
13. Planning law indicates that that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. A material consideration of particular relevance in this appeal is the achievement of sustainable development, which is the overall purpose of the planning system according to the Framework². Sustainable development has economic, social and environmental objectives, as set out in paragraph 3.1 of the Local Plan supporting text.
14. I firstly consider economic sustainability. In this regard, the Committee Report indicates that 25 to 30 jobs would be supported in Phase 1 of the development, which would accommodate James Pryce Tractors. The report goes on to state that up to 36 jobs would be supported in Phases 2 and 3, which would provide premises for other businesses. The jobs supported by the later phases of the scheme are less certain as no legally binding agreements have been made to secure future occupiers. However, this is understandable given that the site does not have planning permission.
15. The Design and Access Statement indicates that many of these jobs would be relocated from elsewhere, although some new roles would also be created. Nonetheless, it is evident that James Pryce Tractors needs to relocate and there appear to be no suitable premises in the area. The appeal documentation indicates that this is a well established enterprise which plays an important role in the rural economy, as well as providing a number of local jobs. These jobs inevitably play a social role, insofar as they help to provide a steady income for households within the local community. Enabling the business to construct bespoke premises would allow it to grow, thereby helping to secure these jobs in the longer term and offering some potential to create further employment opportunities in the future. Hence, I assign a good deal of weight to the economic benefits of the proposal in my overall assessment.
16. Turning to environmental considerations, the site is in a relatively remote location next to the A361. This setting does not lend itself to walking or cycling and there are no public transport links that I am aware of. Realistically, staff and customers would have to drive to the site. This runs somewhat contrary to the objective of minimising greenhouse gasses.
17. However, the evidence indicates that the clients of James Pryce Tractors are mainly based in the countryside. Other businesses planning to occupy the site are likely to have similar client bases if they serve the agricultural community as is proposed. Hence, locating the premises in a settlement would not necessarily result in shorter journeys. It also seems to me that people visiting the site from remote rural areas, where public transport options are more limited, would have a higher propensity to drive in any event.

² National Planning Policy Framework, July 2021.

18. There may also be an opportunity for those driving to the site to visit various agricultural businesses at once, rather than taking multiple trips to different locations in the area. Therefore, while the development would generate vehicle trips, the impact is partially mitigated by the nature of the proposal and its focus on serving the needs of the agricultural community.
19. The proposal would also have a visual impact and I have considered the objections of the CPRE and others in this respect. Although there is nothing particularly noteworthy about the site, it nevertheless forms part of the open and undeveloped rural landscape which characterises this area. Development of the site would erode some of these rural qualities. That said, the site is next to the main A361 near a traffic junction and has already has roads on three sides. The proposal would include tree planting and the introduction of some wildflower areas. As well as helping to mitigate some of the visual impacts, this would also enable a minor gain in biodiversity.
20. Taken as a whole, it seems to me that the economic benefits of the proposal (in terms of supporting local jobs) would outweigh the environmental harms that have been identified. It would therefore be sustainable development in the context of the Framework. While I have found the proposal to be in conflict with Policy ST07 of the Local Plan (and consequently Policy ST11) it would nonetheless meet some development plan objectives. This includes the objective of Policy ST11 to support employment opportunities and the aim of Policy ST01 to promote sustainable development.
21. The Council say that James Pryce Tyres own the site and this is the driving force behind choosing this particular location. Be that as it may, I have determined that the proposal would be sustainable.
22. My attention has also been drawn to an Appeal Decision³ where a proposal was dismissed partly because it was considered to create a precedent for development along the A361. I am not aware of the full circumstances of this case or the evidence that was presented in that appeal. However, I have no reason to assume that my decision in the current appeal would set a precedent for further development along the road. Differing circumstances and the potential for cumulative harm would represent matters to be considered were other similar proposals to be advanced in the future.
23. I therefore conclude on this issue that the site provides a suitable location for the proposed development.

Highways

24. Interested parties have expressed concern about the effect on the highway network. The proposal would clearly intensify use of the Stonelands Cross junction as well as increasing traffic more generally in the vicinity of the site. However, the proposal is supported by estimates of traffic generation and a capacity study of the junction. Although there may be localised congestion at certain times of the day, especially during the tourist season, the evidence indicates that the proposal would have an acceptable effect on the safe and efficient operation of the road network.
25. I note the concerns regarding highway safety and am informed that there has been a serious accident at the site in the recent past. However, there is little

³ Appeal Decision: APP/Y1138/A/09/2108489

before me to indicate that the proposal would result in the junction becoming inherently unsafe, or lead to other road safety issues.

26. I am informed that not all of the traffic data used to inform the development is within the public domain. But even if this is the case, the Highways Authority have been closely involved in the planning application and have considered the information provided by the appellant in some detail. As such, I am satisfied that the proposal has been subject to an appropriate level of scrutiny.

Drainage

27. Devon County Council objects to the proposed drainage solution on technical grounds, though is supportive in principle of the attenuation based strategy which is being proposed. I am not aware of any physical constraints within the site that would prevent a suitable drainage scheme from being implemented. Therefore, a condition could be imposed requiring further details of the drainage scheme to be approved by the local planning authority. This would enable the concerns of the County Council to be addressed.

Conditions

28. For clarity, there are standard conditions requiring the development to be carried out in accordance with the plans and within time limits. Further details are required for the outline elements of the scheme. There are also conditions to ensure that the site is used as proposed. To maintain the visual qualities of the site, and in the interests of nature conservation, there are conditions relating to landscaping, biodiversity, ecology and lighting. In order to ensure adequate drainage, there are conditions requiring further details of surface water management. For highway safety, a construction management plan is required and there are conditions relating to the provision of visibility splays and site access. In the interests of safety, there are also conditions relating to site contamination, the storage of materials and air quality.

Conclusion

29. For the reasons given above, the appeal should be allowed.

Colin Cresswell

INSPECTOR

Schedule of Conditions

- 1) The full part of 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.
- 2) The outline part of the development (units 1-3) to which this permission relates must be begun not later than whichever is the later of the following dates (i) the expiration of three years from the date on which the outline permission was granted; or (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans/details: 20084 LHC 00 00 DR L 0105P1, 20084 LHC 00 00 DR L 0102P1, 20084 LHC 00 00 DR L 9201P3, 20084 LHC 00 00 DR L 9402P3, 20084 LHC XX ZZ DR A 0403P1, 20084 LHC XX ZZ DR A 0402P3, 20084 LHC XX ZZ DR A 0401P3, 20084 LHC 00 ZZ DR A 0301P3, 20084 LHC 00 GF DR A 0201P4, 20084 LHC 00 01 DR A 0203P3, 20084 LHC ZZ 00 DR A 0202P3, 20084-LHC-00-00-DR-L-9201, 20084-LHC-00-00-DR-L-9401.
- 4) Approval of the details of the layout/scale/appearance of units 1,2, 3 and associated parking (hereinafter called the 'reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 5) The site shall only be used for the purposes identified within the following use classes as defined by the Town and Country Planning (Use Classes) Order 1987 or any statutory re-enactment or amendment thereof: Class E (a) retail up to 250m² net sales area only; Class E (g) business; B2 general industrial and; B8 storage and distribution.
- 6) The total retail floorspace hereby permitted in agri-business Units 2 & 3 [Phase 3] shall not exceed than 250 square metres of net retail floor area and shall be used only for the sale of agricultural and/or rural machinery, equipment and supplies including feed, fertilizer and pet/equine and shall not be used for any other purpose including those set out in Class E of the Schedule for the Town and Country Planning (Use Classes) Order Planning 1987 or any Order revoking, amending or reenacting that Order with or without modification.
- 7) As part of the reserved matters application/s for units 1,2 and 3, scaled drawing(s) showing existing levels on the site and proposed finished floor levels of the proposed employment units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved drawings.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations.

- 9) No development shall take place (including demolition. Ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following: a) measures to regulate the routing of construction traffic; b) the times within which traffic can enter and leave the site; c) details of any significant importation or movement of spoil and soil on site; d) details of the removal /disposal of materials from site, including soil and vegetation; e) the location and covering of stockpiles; f) details of measures to prevent mud from vehicles leaving the site / wheel-washing facilities; g) control of fugitive dust from demolition, earthworks and construction activities; dust suppression; h) a noise control plan which details hours of operation and proposed mitigation measures; i) location of any site construction office, compound and ancillary facility buildings; j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto; k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.
- 10) Prior to the development hereby approved being brought into use, the biodiversity net gains as indicated on the approved plans, including a widened woodland corridor adjacent to the A361, shall be provided in full and maintained and retained thereafter. The development shall ensure there is no net loss in biodiversity.
- 11) The development shall be carried out in accordance with the recommendations as detailed in the Ecological Appraisal prepared by Devon Wildlife Consultants dated January 2022.
- 12) The development shall be carried in accordance with the details set out in the LEMP and document labelled Response to Sustainability Officer. This shall include the provision of monitoring reports to the LPA within the life of the LEMP and remedial action agreed with the Planning Authority when and if required.
- 13) No development in any phase hereby permitted shall be completed past damp proof course level until the following information has been submitted to and approved in writing by the Local Planning Authority for that phase: A lighting scheme that that addresses the concerns of the sustainability officer in terms of excessive lighting and light spill onto the adjacent hedgerows and wider area. This shall treat all boundaries as dark corridors with lux levels kept below 0.5lux. The development shall then be carried out in accordance with these details and no further lighting shall be installed unless otherwise agreed in writing with the Local Planning Authority.
- 14) Notwithstanding Condition 3, no development shall be commenced until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the site it shall be demonstrated to the satisfaction of the Local Planning Authority that relevant parts of the scheme have been completed in accordance with the details. The scheme shall thereafter be managed and maintained in accordance with the approved details.
- 15) Should the proposed foul drainage system not be achievable given the Environment Agency permitting requirements an alternative solution shall be submitted to the LPA and agreed in writing. The drainage details shall

thereafter be carried out and completed as agreed prior to the occupation of any of the parts of the site to which they relate.

- 16) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall have previously been submitted to the Local Planning Authority for approval. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%; or 25% of the total volume which could be stored at any one time, whichever is the greater. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground where possible, and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
- 17) No raw materials, finished or unfinished products, parts, crates, packing materials or waste shall be stacked or stored on site except within the buildings forming part of the development or in a suitably screened area details of which shall have been agreed in writing by the Local Planning Authority prior to the occupation of the specific plot.
- 18) Prior to the commencement of development on phase 1, and as part of the reserved matters for phases 2 and 3, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with the Waste Planning Authority, to demonstrate how the construction and operational phases of the development will minimise the generation of waste and provide for the management of waste in accordance with the waste hierarchy. The development shall be carried out in accordance with the details approved.
- 19) Prior to the first use of the site by members of the public visibility splays shall be provided, laid out and maintained for that purpose at the site accesses in accordance with the approved plans.
- 20) The site access onto the public highway shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 20 metres back from its junction with the public highway.
- 21) Provision shall be made within the site for the disposal of surface water so that none drains onto the highway.
- 22) Prior to the site being used by any of the approved uses signage shall be installed at the site exits directing all traffic towards the A361 Stonelands Cross.
- 23) The eastern access shall be used solely for the purposes of staff and deliveries and not for general use by members of the public and customers.
- 24) Should any unexpected contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing

any such unexpected contamination, within that sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

- 25) Prior to commencement of works on any phase an air quality assessment shall be provided and agreed with the LPA. This should demonstrate that there are no significant operational phase effects on local air quality, having regard to guidance contained within the EPUK & IAQM document. Where any potentially significant effects are identified, proposals for a more detailed assessment of air quality impacts should be included. The development shall then be carried out in accordance with any mitigation methods required.



Costs Decision

Site visit made on 16 November 2023

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

an Inspector appointed by the Secretary of State

Decision date: 20 December 2023

Costs application in relation to Appeal Ref: APP/X1118/W/23/3317058 Land at Stonelands Cross, Rackenford, Tiverton EX16 8DL

- 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 James Pryce Tractors Ltd for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for "Hybrid planning application to provide an Agricultural-Hub comprising: Area 1: Full Planning Permission for the erection of workshop and storage and distribution uses with ancillary offices, shop and showroom, (sui generis), creation of access and associated works (Phase 1) Area 2: Outline Application for the erection of buildings 1, 2 & 3 for agri-business uses falling under Use Classes Class E (a) retail, Class E (e) medical services, Class E (g) Business, B2 workshop and B8 storage and distribution with appearance and scale to be reserved matters (Phases 2 & 3)."
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Decision

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

Reasons

2. The appellant argues that the search exercise proved that there were no other sites available that could accommodate the proposed development. However, the Council's Statement says that the search exercise should have been focused on finding sites capable of accommodating Phase 1 of the development and not Phases 1-3. This is a reasonable point for the Council to have raised in defence of its position.
3. Besides, the Council's reasons for refusing the proposal did not rely on this argument. Concerns were also expressed at the relatively remote location of the site and the need to drive there, as well as conflict with the development plan. Whether the economic benefits of the proposal are sufficient to outweigh these concerns is a matter of planning judgement which the Council was entitled to reach its own view on. Hence, this is not a case of preventing or delaying development which should clearly be permitted.
4. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR