

LIST OF APPEAL DECISIONS FROM 19 October 2016 to November 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00406/OUT	Outline for the erection of up to 5 dwellings and associated access	Land at NGR 303818 111567 Muxbeare Lane Willand Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed

Summary of Inspectors Comments

The main issues were whether or not the loss of employment land was justified and the effect of the proposal on the character and appearance of the area. The Inspector noted that policy DM21 broadly accords with the NPPF's objective of securing economic growth. The Inspector stated that the first criteria of DM21 was met, in that, taking into account the Employment Land Review, there was a sufficient range of suitable and alternative sites in the area. However, the Inspector stated that the second and third criteria of DM21 had not been met, in that the required marketing exercise had not been undertaken and the appellant had not carried out a sequential viability test as required by the policy. The Inspector concluded that she was not satisfied that it had been demonstrated that there was no reasonable prospect of the site coming forward for employment uses, conflicting with the development plan in this regard and weighing against the proposal.

The Inspector noted the Council's lack of a 5 year housing land supply and the site's location in relation to jobs, services and facilities, and the financial contributions towards public open space, education and air quality improvements, and weighed these in favour of the proposal. She also weighed in favour of the proposal the social advantages of the provision of self-build plots.

The Inspector stated that the removal of a length of mature landscaping across the front of the site and the introduction of a suburban form of development into the rural area, at odds with sporadic development along Muxbeare Lane, would not reinforce local distinctiveness or provide a positive impact on the local environment. The proposal would be harmful to the character and appearance of the area and conflict with policies COR2, DM2 and DM14 and the environmental role of sustainability. This would weigh against the proposal.

The Inspector concluded that although there would be economic, social and environmental benefits associated with the proposal, significant harm would be caused to the character and appearance of the area which would significantly and demonstrably outweigh the benefits of the scheme.

16/00061/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Land at NGR 306742 119851 (Wardmoor) Holcombe Rogus Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The wording of the original condition placed a restriction on alternative uses of the building, despite not expressly restricting the use of permitted development rights. The Inspector stated that the original permission was justified on the basis of the agricultural need and the compliance with the policies of the development plan, it was clearly the Council's intention to retain the building for agricultural uses as an appropriate form of development in the countryside, and not for other uses. The Inspector held that the proposal conflicts with Article 3(4) of the GPDO due to the condition imposed on the original permission, therefore the proposal would not accord with the requirements under Class Q.

16/00064/NUCU	Appeal against	Green Acres Coldridge Crediton Devon EX17 6BW				Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

Enforcement Notice issued on 21 April 2016 against the material change of use of the land from use for agriculture to a mixed use for agriculture and use for the siting of a caravan for human habitation.

The Enforcement Notice required the appellant to cease use of the land for human habitation, remove any caravans from the land and remove the lorry container from the land. The period for compliance was 6 months.

Ground c appeal - that no breach of planning control has occurred as the use of the caravan falls within the scope of permitted development in connection with the construction of a barn.

The Inspector acknowledges that the appellant is undertaking the works to the barn himself, but found that progress has been very slow in the almost 2.5 years since the prior approval for the barn was granted. The Inspector states that "the rate of progress is far too slow to justify the use of a caravan for residential purposes on site". The Inspector considers the primary reason for the appellant stationing the caravan on the land is to provide his main residence. In addition, the appellant admits that his daughter also resides at the caravan on occasions. The Inspector considers the primary use of the caravan as a main residence does not fall within the scope of permitted development and would require planning consent.

For this reason, the appeal fails on Ground C,

Ground G - time for compliance.

The Inspector does not accept the appellants argument that he cannot acquire alternative accommodation. The Inspector considers that the appellant has a preference for living on site rather than an inability to live elsewhere. The Inspector considers a 6 month period an acceptable time frame for a single person to find alternative accommodation and remove the caravan and lorry container from site.

For the reasons above, the appeal is dismissed and the Enforcement Notice upheld.