



The Planning Inspectorate

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Alderman David Atkins
Councillor of Lympstone Parish
Council
Potters Farm
Exmouth Road
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Your Ref:

Our Ref: APP/U1105/W/17/3192810

Date: 12 December 2018

Dear Alderman Atkins

LONGMEADOW ROAD, LYMPSTONE, DEVON, EX8 5LF

Thank you for your letter dated 13 November 2018, in relation to the appeal decision dated 31 May 2018 for the above address.

I am sorry that you have found it necessary to write to us. I will do my best to address your concerns.

I note what the extract from the Neighbourhood Planning review report says. With respect however, having carefully read Policy 3 of Lympstone Neighbourhood Plan (NP) it is not clear to me how the Inspector's reasoning in paragraph 12 of the appeal decision is flawed, as alleged. From my reading, he sets out the correct policy test; namely that development will not normally be permitted in the Green Wedge unless there is no harm to its character and purpose, and one of four criteria are met. He goes on to explain why in his view one of the criteria was met by the proposal before him, with reference to his reasoning earlier in the decision.

That said, I appreciate there is strong disagreement with the conclusions he reaches for two of the three main issues in dispute (set out in paragraph 3 of the decision). However, you will no doubt be aware from your long experience that planning decisions are not simply about questions of fact. The decision-maker normally needs to reach a series of planning judgements (what will be the impact on the character and appearance of the area; on highway safety; on the living conditions of neighbours *et cetera*). Where matters of judgement are concerned, there is usually scope for a range of views that are not inherently unreasonable. For this reason, even the Courts will not interfere with an Inspector's planning judgement (the only exception being if the Judge concludes that the judgement is so unreasonable that no reasonable person could have reached it – the *Wednesbury reasonableness* test; such cases are extremely rare). I do not wish to come across as dismissive of your concerns, but whilst I note the arguments you make against the Inspector's planning judgement, against this background I am afraid there is no remit under the complaints procedure to reconsider matters relating to the planning merits of the appeal. This could only have happened if the decision had been successfully challenged in the High Court on a point of law.

Whilst I cannot enter into a discussion on the weight accorded to the arguments against the appeal, I will answer your numbered points as fully as possible

1. Regardless of whether there was ever an intention to use the building as a garage/workshop, the Inspector had to reach a decision based on the planning merits of the proposal before him; in other words, he was required to consider it against the relevant planning policies. Planning permission ultimately 'runs with the land', rather than with the motives of a developer.
2. East Devon District Council's (EDDC) report acknowledges that the access to the proposed property would be "*far from perfect*". However, they did not regard it as sufficient grounds for refusing planning permission. The Inspector saw nothing during his site visit to lead him to a different conclusion.
3. The Planning Officer's report carries the following comments from the Environment Agency: "*We are now satisfied that the proposal will be acceptable provided it is carried out in accordance with the submitted flood risk assessment*". The Inspector did not see any substantive evidence to justify refusal on grounds of flood risk.
4. It is a firm principle that each development proposal is considered on its own merits (and circumstances are rarely identical). Please be assured that the Inspector's conclusions do not set an automatic precedent with respect to other proposals for the Green Wedge.
5. I note that the Parish Council has been notified of wastewater capacity problems. However, from what I can see there was no evidence before the Inspector to support such concerns; in fact, this does not appear to have been mentioned at all.
6. The Inspector does not state that "*access to the village shops, pub etc is via a level surface*". What he actually says is "*Distances to the Exeter and Exmouth bus stops are contested by the parties, but at my site visit I saw that this walk was **relatively** short and level, as was the walk to the village shop, village hall and a number of other facilities*" (my highlight). In any event, he did not consider the distances and gradients to be such as to render the proposal unsustainable, in terms of reliance on travel by private car (thereby conflicting with policy D8 of the Local Plan). I realise you may not agree, but he reached his own judgement, as the appointed decision-maker, from the evidence before him and what he saw during his visit.

Public Inquiries are normally only held for appeals where the issues in dispute are complex, and there is a need for evidence to be tested through formal questioning by an advocate. For this appeal the issues were reasonably straightforward, allowing an Inspector to reach an informed decision from the written evidence submitted by the parties together with a site visit to put the proposal into its context 'on the ground' (however if, on his appointment, the Inspector had considered a public Inquiry to be necessary, the procedure could have been changed). Local residents had a full opportunity to make their views known through the submission of written representations, both at the application and appeal stages. We are entirely satisfied that the written procedure was appropriate for this appeal.

Finally, any concerns about the approach taken by EDDC on local planning policies will need to be raised with them directly. We can only investigate complaints and queries relating to our own decisions.

I hope this is helpful.

Yours sincerely

Bob Palmer

Customer Quality Team