



Appeal Decision

Site visit made on 27 June 2017

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 August 2017

Appeal Ref: APP/J9497/W/17/3170757

Foxlands, Ash Park Farm, Willey Lane, Sticklepath EX20 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr & Mrs Mallett against the decision of Dartmoor National Park Authority.
- The application Ref 0491/16, dated 7 September 2016, was approved on 12 January 2017 and planning permission was granted subject to conditions.
- The development permitted is construction of extension and associated works.
- The conditions in dispute are Nos 2 & 3 which state that:
 - 2 – notwithstanding the drawings hereby approved, no rooflights shall be installed in the extension hereby approved; and
 - 3- notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the building shall be carried out, no extension shall be constructed and no windows or roof lights other than those expressly authorised by this permission shall be created, formed or installed, without the prior written authorisation of the Local Planning Authority.
- The reasons given for the conditions are:
 - 2 – to help prevent the creation of additional, unjustified habitable floorspace within the dwellinghouse in accordance with Policies COR1, DMD1b, DMD3 and DMD24 of the Dartmoor National Park Development Plan.
 - 3 – to protect the character and appearance of the building, its setting and the visual amenity of this part of Dartmoor National Park and to prevent the extension of the dwellinghouse or creation of additional, unjustified habitable floorspace within the dwelling house in accordance with policies COR1, COR4 DMD1b, DMD3 and DMD24 of the Dartmoor National Park Development Plan.

Decision

1. The appeal is allowed and planning permission Ref 0491/16 for the construction of an extension and associated works at Foxlands, Ash Park Farm, Willey Lane, Sticklepath EX20 2NG granted on 7 September 2016 by Dartmoor National Park Authority, is varied by deleting conditions 2 and 3 and substituting for them the following condition:

“Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Part 1, Class A (extensions and alterations) of Schedule 2 of that Order shall be carried out other than those expressly authorised by this permission”.

Application for Costs

2. An application for costs was made by Mr & Mrs Mallett against Dartmoor National Park Authority. This application is the subject of a separate Decision.

Background and Main Issues

3. Planning permission has been granted for the construction of an extension and associated works to the property known as Foxlands subject to conditions. The appeal seeks permission to carry out the development without complying with condition 2 which restricts the installation of roof lights and condition 3 which restricts general permitted development rights.
4. The main issues are the effect that removing these conditions would have on the character and appearance of the building, its setting and the visual amenity of the Dartmoor National Park and whether they are necessary to ensure that the proposal does not result in additional, unjustified habitable floor space.

Reasons

5. Foxlands is a modern detached dwelling with dual pitched roof located to the north of Sticklepath. Policy DMD24 of the Development Management and Delivery Development Plan Document (2013)¹ ("the DPD") restricts the extension of residential dwellings where they are limited by condition for workers in agriculture or other rural enterprises and would exceed 120m² of habitable floor space. Foxlands is such a dwelling being subject to a condition limiting its occupation to rural workers.
6. The Council accepts that the external appearance of the proposed extension would not impact negatively on its surroundings. It raises no issues regarding the proposed roof lights as design features and, notwithstanding the size restriction imposed by Policy DM24, has permitted a substantial increase in floor space. Nevertheless, the Council argues that the removal of the roof lights as a design feature is necessary in order to ensure that further habitable floor space is not converted.
7. I do not agree. In permitting the extension, the Council has accepted that the dwelling will exceed the maximum levels of floor space permitted under Policy DMD24. There is nothing in the plans which would indicate that further floor space is required and it is clear that members were advised of the inability of the Council to restrict such an increase in internal floor space. Had they been concerned that the amount of floor space available was becoming too great, it was open to them to refuse planning permission under the restrictions set out in Policy DM24.
8. Planning conditions should only be imposed where they are, amongst other things, both necessary and reasonable. The imposition of a condition which unilaterally alters the design of the proposed extension and seeks to indirectly restrict alterations which do not constitute development is neither reasonable nor necessary. Accordingly, I find that its imposition is not justified.
9. Furthermore, the Council accepts that condition 3, in its present form, is insufficiently precise and should be limited those rights set out in Class A of the General Permitted Development Order². The National Planning Policy

¹ Dartmoor National Park Authority Development Management and Delivery Development Plan Document (2013).

² The Town and country planning (General Permitted Development) (England) Order 2015 SI 2015/596.

Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. It appears to me that the restriction of these permitted development rights is necessary in order to protect the character and appearance of the surrounding sensitive landscape. However, I agree that in its current form it is insufficiently precise and accordingly, I will modify the condition to limit the restriction to Class A only.

Conclusion

10. Consequently, for the reasons set out above, and having taken account of all other matters raised, I conclude that the appeal should be allowed and planning permission varied by deleting conditions 2 and 3 and substituting for them for a condition which limits the restriction of permitted development rights to those falling within Class A of the Order.

Rory Cridland

INSPECTOR