



Appeal Decisions

Site visit made on 24 September 2019

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 30 September 2019

Appeal A Ref: APP/J9497/18/3216327

Lower Hole, Bridford, Devon, EX6 7HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs J A Tulley against an enforcement notice issued by Dartmoor National Park Authority.
 - The enforcement notice, numbered NS/CF/ENF/0238/17, was issued on 24 October 2018.
 - The breach of planning control as alleged in the notice is operational development consisting of the erection of two timber stable buildings on the land as shown edged in blue on the plan attached to the notice.
 - The requirements of the notice are:
 - 1 Permanently remove the said timber stable buildings from the land, including debris and materials;
 - 2 restore the land to its former profile and condition.
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: appeal dismissed and notice upheld.**
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Appeal B Ref: APP/J9497/18/3216327

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs J A Tulley against the decision of Dartmoor National Park Authority.
 - The application (Ref. 0085/18), dated 5 February 2018, was refused in part by the Council by notice dated 10 April 2018.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the use of land for the siting of two field shelters ancillary to the agricultural use of the land.
 - **Summary of Decision: appeal dismissed.**
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Appeal site and relevant planning history

1. The appeal site is a small field in open countryside that slopes towards a watercourse to the north. It is used by the appellant for the grazing of Shetland ponies. Within the site are two structures of about 3.6m x3m x3m in height. These are constructed of timber and metal with pitched metal roofs that overhang the front and the two-section lockable stable doors. They appear to be constructed on a metal base which incorporates skids. They are sited on previously sloping land that has been excavated and stoned to provide two

level areas. The floors consist of rubber mats. At the time of my site inspection, one shelter appeared to be used as a stable and the other as a store for hay, tools and other items.

2. Application 0231/17 sought the change of use of land to equestrian and erection of four field shelters and associated hardstanding. This was refused in June 2017.
3. The LDC appeal follows on from a decision of the Authority in April 2018 to issue an LCD in part for use the land for the purposes of agriculture but refused in respect of the field shelters.

Reasons

Appeal A: The appeal on ground (b)

4. An appeal on this ground is that the breach of control has not happened as a matter of fact.
5. The appellant considers the allegation to be factually incorrect as no operational development has taken place. It is stated that mobile field shelters have been placed on the land which are field shelters and not stables and this represents an ancillary use to the lawful agricultural use of the land.
6. It was evident that, as a matter of fact, two structures have been located on the land in the positions shown on the map attached to the notice and these have the appearance of stables rather than field shelters which, in my experience, would normally be open on one or more sides where animals can come and go as they please. Whilst the appellant may wish to argue that what has occurred is different to the allegation, a breach has clearly occurred.
7. The appeal on this ground fails.

Appeal A: The appeal on ground (c)

8. An appeal on this ground is that there has not been a breach of planning control.
9. The main issue is whether the structures are ancillary to the agricultural use of the land or whether they are permanent structures constituting development under s55 requiring planning permission. The Council has referred to relevant caselaw¹ and to a recent appeal decision² in their submissions.
10. The appellant considers that as the structures are on skids and not connected to services, they represent moveable structures. However, the established tests as to whether a building operation has taken place relate to size, permanence and physical attachment to the ground. Although the size of the structures is relatively modest and they have been brought to the site from elsewhere, they have been in position since before the Case Officer's site visit in February 2018. No evidence has been submitted to indicate that the structures have been regularly moved around the site and in view of the engineering operations necessary to provide level bases for the structures, it

¹ Barvis v SoS[1971]; Skerritts of Nottingham Ltd v SoS (No 2)[2000]; R(Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council [2012]

² APP/J9497/C/17/3169342

appears unlikely that this could be achieved without similar engineering operations.

11. The placing of the structures has resulted in a modest physical change to the characteristics of the land by reducing openness and consequently fail to conserve or enhance the character or appearance of this part of the Dartmoor National Park.
12. The Authority has not misdirected itself in their interpretation of planning law as claimed by the appellant.
13. The facts lead me to conclude as a matter of fact and degree that the structures represent operational development within the meaning of s55, for which planning permission is necessary, and not mobile structures ancillary to an agricultural use.

Appeal A: Conclusions

14. For the reasons given above I consider that the appeal should not succeed.
15. As there is no appeal under ground (a) I am not in a position to consider the agricultural need for the structures or to balance this against the harm caused to the character and appearance of the National Park.

Appeal B

16. As I have found in the ground (c) appeal above, that the structures represent operational development, it follows that the appeal against the refusal in part of the LDC also fails.

Decisions

Appeal A

17. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

18. The appeal is dismissed.

P N Jarratt

Inspector