



Appeal Decision

Site visit made on 7 January 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/J9497/W/19/3238941

Longford Quarry, Moorshop, Tavistock PL19 9JU

- 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 Mr & Mrs Alford against the decision of Dartmoor National Park Authority.
 - The application Ref 0077/19, dated 1 February 2019, was refused by notice dated 12 April 2019.
 - The development proposed is described as "change of class use from agricultural (*sui generis*) to B1, B8 and *sui generis*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal building is a modern structure sub-divided into 4 units with roller shutter doors. The authorised use of the building is for agriculture. The application form explains that the proposal is to change the use to B1¹, B8² and *sui generis* use. The form and the accompanying Design and Access Statement suggests the proposed uses of the various units.
3. While I note that the proposed use of Unit 3 on the Design and Access Statement says, "sui generis – agricultural storage", this reference to agricultural use is not repeated in the description of the development or in the information in question 18 which simply identifies a *sui generis* use. I consider that in these circumstances, on the information before me, if permission was to be granted and based on the description of the development, this would allow any *sui generis* use of that unit. I will consider the appeal proposal accordingly.

Main Issues

4. The main issues are:
 - the effect of the development on the living conditions of nearby residential properties.
 - whether the development plan would support the proposed mix of uses in the building in this location, and

¹ Use Class B1 (Business) of The Town and Country Planning (Use Classes) Order 1987 (as amended)

² Use Class B8 (Storage or distribution) of The Town and Country Planning (Use Classes) Order 1987 (as amended)

Reasons

The effect of the development on the living conditions of nearby residential properties

5. The reason for refusal does not specify which nearby residential properties are considered to be adversely affected. However, as the site is reasonably close to Longford Chase, I consider that this property would potentially be the most likely to be affected by the proposal and that other properties, such as those further along the road past the site, would be affected to a much lesser extent.
6. From my site visit, it appears that Longfield Chase incorporates a residential property associated with the kennels and cattery. It is therefore part of a commercial site which may generate noise itself. Nevertheless, this property, although with limited openings that face the quarry, is close to the boundary and could potentially be influenced by the adjoining activities on the appeal site, dependent on their nature.
7. The B1 activities within the building, by definition, would be unlikely to lead to harm to the living conditions of the occupiers of Longford Chase. The B8 use within the building itself would also be unlikely to adversely affect the amenities of the adjoining occupiers. However, a B8 distribution use could potentially generate a reasonable level of vehicle movements and those movements could cause disturbance and adversely affect the living conditions of the occupiers of this adjoining property, notwithstanding the commercial use already taking place from that property.
8. The proposal also specifies *sui generis* use and there is uncertainty as to what activities this may involve. This use could include a mixed use. Such a mixed use may incorporate, for instance, elements of Use Class B2 (General Industrial) and the activities in the building could, for instance, be noisy or create odour or dust that would not be conducive to the living conditions of occupiers of the adjoining property.
9. The appellant has suggested at the appeal stage a condition that could restrict the use of the building to B1 and B8 uses. However, this would modify the permission to such an extent that the description of the development would need to be changed. The Planning Practice Guidance states that it would not be appropriate to modify the development by a condition in a way that makes it substantially different from that set out in the application³.
10. Accordingly, I conclude that the mix of uses proposed for the building has the potential to adversely affect the living conditions of the occupiers of the nearby property, Longford Chase, and that planning conditions attached to any approval would not be able to address this harm, having regard to the advice in the Planning Practice Guidance. Consequently, the proposal would not comply with Policy DMD4 of the Development Management and Delivery Development Plan Document (July 2013) (the DPD), which seeks, amongst other things, that development proposal should not introduce levels of noise, vibration, odours, fumes or dust that would adversely affect human health and well-being.
11. Policy COR4 of the Core Strategy Development Plan Document 2006-2026 (the Core Strategy) has been referenced in the reason for refusal. However, it

³ Paragraph: 012 Reference ID: 21a-012-20140306 Revision date: 06 03 2014

relates to design principles and does not have a criterion directly related to impacts on living conditions. I therefore find no conflict with this policy.

Whether the development plan would support the proposed mix of uses in the building in this location

12. While there is the adjoining kennels and cattery business, and the camping and caravanning park broadly to the west, the site is located in a countryside location within the National Park, outside any classified settlement.
13. Policies COR2 and COR18 of the Core Strategy set out a hierarchy for the location of development within the National Park, the latter in relation to business development. Because the proposal is connected to a reasonably sizeable cattle and sheep farm I accept that the scheme can be considered to be a farm diversification proposal. In these circumstances, as these policies do not include detailed criteria which set a requirement related to the level of vehicle movements in association with development outside settlements, and the criteria in respect of farm diversification does not require it to be small scale, unlike other criteria, the proposal would not be in conflict with Policies COR2 and COR18 of the Local Plan.
14. The site is reasonably remote from settlements and it is likely, notwithstanding a bus stop about 550m away, that the tenants of the business units would operate from the site by the use of private vehicles. There is the concern that the use of the units would increase vehicle movements in and out of the National Park, especially if the site compensated for a lack of business space in the general Tavistock area⁴. However, based on the, albeit fairly limited, information, set out in the local representations in favour of the proposal, there appears to be a local need for the business space.
15. I am also conscious that the National Planning Policy Framework (the Framework) advises that in respect of sites to meet local business needs in rural areas they may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
16. The proposal would reuse a modern barn in a secluded quarry location that would have little impact on the character and appearance of the wider area and this weighs in favour of the proposal. The Highway Authority did not object to the proposal. Furthermore, the National Park Authority do not raise objection to the reuse of a building of this size, form and appearance as a matter of principle in the circumstances of this case. Taking all these matters into account and looking at the proposal in the round, I find that the development would not conflict with Policy COR1 of the Core Strategy which sets the overarching approach to ensuring that development within the National Park is undertaken in a sustainable manner.
17. The case is made that the site was a commercial quarry and, therefore, there was associated business activities and vehicle movements. However, the information I have indicates that the mineral working has ceased and, in any case, it is only possible to extract minerals where they are found and this fixes the location. Consequently, I am not satisfied that this past use would in itself justify new business uses on the site. Also, I am not satisfied that the building

⁴ The lack of storage space in the Tavistock area is raised in a number of the representations in support of the proposal.

constitutes previously developed land as the Framework definition excludes land that is or was last occupied by agricultural buildings.

18. Nevertheless, in the light of the above analysis, I conclude that in terms of the location, the development plan would fall in favour of the business use of the building. As a consequence, the scheme would not conflict with Policies COR1, COR2 and COR18 of the Core Strategy and Policy DMD1a of the DPD which seeks, amongst other things, to ensure that development within the National Park is undertaken in a sustainable manner.

Other Matters

19. The submitted plans show that the red line of the application site boundary includes an access up to the roller shutter door of one unit and the application site is also drawn tightly around the building itself. In practical terms the wider site would allow access to the other units, and there is space to provide parking and turning arrangements. However, technically the application site shown on the submitted plans would not allow access to three of the four units, and provides no external parking or turning for vehicles. Were I minded to allow the appeal I would need to address this issue, however, given my overall findings I do not need to consider this matter further.

Conclusion

20. The location of the business development would accord with the development plan. There would be benefits to the local economy and to the farm unit as a whole from the proposal. However, I have also found that the mix of uses proposed would harm the living conditions of the occupiers of the adjoining property. This is a matter of significant weight and this would not be outweighed by the benefits of the scheme which I afford moderate weight given the size and number of units proposed. I have carefully considered and taken into account all the representations, including those from the Parish Council, the objections including those from the occupiers of Longford Chase and those in favour of the proposal. For the reasons explained, I am not satisfied overall that the effect of the development would be acceptable and the harm I have found could not be addressed by suitably worded planning conditions.
21. For the above reasons, and having regard to all other matters raised, the proposal would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and the associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR